

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA**

**ADMINISTRATIVE GUIDE
TO
PRACTICE AND PROCEDURE**



SUPPLEMENT TO THE LOCAL RULES

(Current as of 12/1/2011)

The Administrative Guide to Practice and Procedure has been prepared as a supplement to the Local Bankruptcy Rules to facilitate publication of changes in practice and procedure in the Eastern District without the necessity for a revision to the Local Rules.

The format for the Guide is set to correspond to the governing rule.

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GENERAL INFORMATION PUBLIC ACCESS TO INFORMATION

VCIS

(Voice Case Information System)

Telephonic access to the court's electronic records may be obtained at the toll-free telephone number listed below. The system provides information about debtors by using the numbers or letters on the telephone keypad. A search may be performed by name, case number, and, if known, the full social security number or tax identification number. A social security number or tax identification number is unique to an individual or business and may be more reliable than a name search. To access the court's VCIS system by telephone, the number is:

(888) 513- 9765

INTERNET

Public Access to Court Electronic Records* may be obtained at the following

locations: Home web page: <http://www.nceb.uscourts.gov>

Pacer Case information web page: <http://ecf.nceb.uscourts.gov>

Electronic e-filing: <http://ecf.nceb.uscourts.gov>

*There is a fee for using the Public Access to Court Electronic Records System (PACER).

LIST OF COUNTY CODES FOR NORTH CAROLINA

North Carolina-Eastern

37013 Beaufort
37015 Bertie
37017 Bladen
37019 Brunswick
37029 Camden
37031 Carteret
37041 Chowan
37047 Columbus
37049 Craven
37051 Cumberland
37053 Currituck
37055 Dare
37061 Duplin
37065 Edgecombe
37069 Franklin
37073 Gates
37077 Granville
37079 Greene
37083 Halifax
37085 Harnett
37091 Hertford
37095 Hyde
37101 Johnston
37103 Jones
37107 Lenoir
37117 Martin
37127 Nash
37129 New Hanover
37131 Northampton
37133 Onslow
37137 Pamlico
37139 Pasquotank
37141 Pender
37143 Perquimans
37147 Pitt
37155 Robeson
37163 Sampson
37177 Tyrrell
37181 Vance
37183 Wake
37185 Warren
37187 Washington
37191 Wayne
37195 Wilson

North Carolina-Middle

37001 Alamance
37025 Cabarrus
37033 Caswell
37037 Chatham
37057 Davidson
37059 Davie
37063 Durham
37067 Forsyth
37081 Guilford
37093 Hoke
37105 Lee
37123 Montgomery
37125 Moore
37135 Orange
37145 Person
37151 Randolph
37153 Richmond
37157 Rockingham
37159 Rowan
37165 Scotland
37167 Stanly
37169 Stokes
37171 Surry
37197 Yadkin

North Carolina-Western

37003 Alexander
37005 Alleghany
37007 Anson
37009 Ashe
37011 Avery
37021 Buncombe
37023 Burke
37027 Caldwell
37035 Catawba
37039 Cherokee
37043 Clay
37045 Cleveland
37071 Gaston
37075 Graham
37087 Haywood
37089 Henderson
37097 Iredell
37099 Jackson
37109 Lincoln
37111 McDowell
37113 Macon
37115 Madison
37119 Mecklenburg
37121 Mitchell
37149 Polk
37161 Rutherford
37173 Swain
37175 Transylvania
37179 Union
37189 Watauga
37193 Wilkes
37199 Yancey

LISTS, SCHEDULES AND STATEMENTS; TIME LIMITS
[Rule 1007-1]
(See *Administrative Guide to Practice and Procedure Rule 5003-4*)

MAILING - LIST OR MATRIX
[Rule 1007-2]

(a) **PETITION ACCOMPANIED BY MATRIX.** For register of mailing addresses of Federal and State Government Units, see *Administrative Guide to Practice and Procedure Rule 5003-4*.

(b) **PREPARATION OF MATRIX.**

(1) Filing petitions electronically through CM/ECF.

Filing users must create a mailing list by entering all creditors for each petition into the petition preparation software. The creditor matrix must be saved in an ASCII (.txt) format or a format required by the users software before it can be successfully uploaded. The matrix must be uploaded into the electronic filing system at the same time the petition is filed electronically

(2) Filing petitions in paper.

All bankruptcy petitions submitted in paper for filing must be accompanied by a paper matrix which lists all creditors and their addresses.

In order to ensure that creditor names and addresses are scanned to create a clear image for display on the Internet and properly read by the Optical Character Reader (OCR) for transfer into the court's database, compliance with specific standards and requirements is necessary.

(3) **Instructions for Preparation of Mailing Matrix.**

(a) The paper matrix should be prepared on plain white 8 ½ X 11 unruled or unblocked paper and shall not contain any extra marks such as letterhead, dates, debtor name, stains or handwritten marks on the front of the matrix.

(b) The only writing on the paper matrix should be the typed names and address of the creditors. The certification of mailing matrix must be attached as a separate page from the matrix.

(c) Use good letter quality print to print the matrix. LaserJet or InkJet printers provide better quality print than dot matrix printers.

(d) Do not use unreadable type faces or print styles such as proportionally-spaced fonts or exotic fonts (such as Olde English or script) or bold print. Twelve (12) pitch

Times New Roman and Courier New fonts create good print quality that allows the Optical Character Reader (OCR) to accurately read the matrix.

(e) Provide the original paper matrix. Poor quality photocopies are not readable by the scanner.

(f) List creditors in alphabetical order.

(g) Do not include the following parties on the creditor matrix, as the name and address of each of these parties are added during case opening procedures by court staff:

Debtor

Joint Debtor

Attorney for the Debtor(s)

Bankruptcy Administrator

Trustee

(h) Names should be shown as first name <space> last name.

(i) Names and address must be typed so that letters are no closer than 1½ inches from any edge of the paper.

(j) Each line of the address may have a maximum of 35 characters.

(k) The maximum number of lines per address is 5.

(l) Make every effort to obtain a complete address for each creditor.

(m) Leave one blank line between each address.

(n) Never use the following symbols in names and/or addresses:

Ampersand (&). Type the word “and” instead

Percent (%). If used to signify “care of” in a creditor’s address, type “c/o” instead.

(o) Do not type a lower case “L” to signify the number one (1).

(p) Do not type an upper or lower case letter “o” to signify the number zero (0).

(q) Avoid misaligned lists caused by removing the paper from the typewriter before completing the list, or improperly inserting the paper into the typewriter.

(r) Type in upper and lower case as you would on a letter.

(s) States should be abbreviated using two capital letters without periods or other punctuation.

(t) A comma must appear between the city and the state.

(u) The last line of the matrix must be the city, state, zip code.

(v) Do not type the attention line on the last line of the address. The attention line should be the second line of the address.

(w) Do not include account numbers in the address.

(x) The ZIP Code must be typed on the last line of each address. If only a five digit ZIP Code is used, Do not add extra zeroes (0000s) to make nine digits. Separate the 5-digit ZIP code with the “plus four” with a dash, not a space.

(y) Address examples:

123 Incorporated
P.O. Box 123
City, NC XXXXX

Finance Company
P.O. Box 123456
City, NC XXXXX

Mr. and Mrs. Landlord
c/o Mr. Joe Attorney
879 Rent Avenue
City, NC XXXXX

Mr. and Mrs. Carolina
1111 Carolina Avenue
City, NC XXXXX

Business Company
1992 Inc. Street
City, NC XXXXX-XXXX

M and M Business
Company
1212 Candy Lane
City, NC XXXXX

Paper Business
213 Pulp Mill Road
City, NC XXXXX-XXXX

DIVISIONS - BANKRUPTCY COURT
 [Rule 1071-1]
 Effective January 1, 2010

<u>Name of Division</u>	<u>Counties</u>		
Greenville	Beaufort Bertie Camden Chowan Currituck	Dare Gates Greene Hertford Hyde Martin	Pasquotank Perquimans Pitt Tyrrell Washington
Fayetteville	Cumberland	Robeson	Sampson
New Bern	Carteret Craven	Jones Lenoir	Onslow Pamlico
Raleigh	Franklin Granville Harnett	Johnston Nash Vance	Wake Warren
Wilmington	Bladen Brunswick	Columbus Duplin	New Hanover Pender
Wilson	Edgecombe Halifax	Northampton Wayne	Wilson

NOTICE TO CREDITORS AND OTHER INTERESTED PARTIES
[Rule 2002-1(c)]

GUIDE TO SERVICE AND NOTICE REQUIREMENTS

This chart is a guide to common service and notice requirements in this court. It should be used in conjunction with the following explanatory notes.

1. Bankruptcy Rule 9014 requires all contested matters to be served in the manner provided by Bankruptcy Rule 7004. This chart has no effect on the methods of service prescribed by that Rule, including the special rules for service upon the United States federal officers and agencies, state or municipal governments, and insured depository institutions. Service pursuant to Rule 7004(h) on an insured depository should be either by first class mail addressed to the servicing agent for the bank or by certified mail addressed to any officer.
2. In chapter 11 cases, a trustee appointed under 11 U.S.C. § 1104 should be served.
3. Filing fees referenced in the chart are authorized by 28 U.S.C. § 1930 and by the appendices thereto prescribed by the Judicial Conference of the United States.
4. This chart does not address filings by trustees in chapter 7 cases.
5. The service and notice requirements of any pleading not listed in this chart are subject to judicial discretion.
6. If a case has been previously converted to a case under another chapter and a motion to reconvert is filed, the notice of the motion to reconvert should be served upon the trustee in the previously converted case.

Codes for parties to serve:

D = Debtor
DA = Debtor's attorney
AP = Affected parties

T = Trustee
BA = Bankruptcy Administrator
All = All creditors on matrix

20 LUC = 20 Largest Unsecured Creditors
UCC = Unsecured Creditor's Committee or
its counsel

NOTE: The BANKRUPTCY ADMINISTRATOR must be served with all case pleadings in CHAPTER 7 AND 11 CASES. Therefore, this chart does not itemize service requirements on the Bankruptcy Administrator for chapter 7 and 11 cases. In chapter 12 and 13 case pleadings, only serve the Bankruptcy Administrator (1) when a fee is requested above the standard base fee or (2) when an additional fee is requested above the presumptive non-base fee. The BA should not be served in adversary proceedings unless named as a party.

Pleading	# of Notice Days	Chapter	Parties to Serve	Comments
11 U.S.C. § 506(c) Fees & Expenses, Application for	14*	All	AP	*21 days' notice is required if the fees/expenses applied for are over \$1000.00
Abandon, Motion to	14	All	All, T, DA, D	Fee required except for Debtor-in-Possession See 11 U.S.C. § 554; Rule 6007
Accept/Reject/Assign Executory Contract/Lease, Motion to	14			See 11 U.S.C. § 365; Rule 6006, Rule 9014
(1) Debtor's		(1) 11	(1) AP, 20 LUC/UCC	
(2) Creditor's		(2) 11	(2) D, DA, T, 20 LUC/UCC	
(3) Debtor's		(3) 12, 13	(3) T, AP	
(4) Creditor's		(4) 12, 13	(4) D, DA, T	
Amendment to Schedules	None	All	AP, T	Fee may be required. See 28 U.S.C. § 1930; Rule 1009. Certificate of Service should show that a copy of the Meeting of Creditors Notice was served on creditors affected by the amendment.
Approval of Consent Order under Rule 4001(d), Motion for	15	11	D, DA, 20 LUC/UCC	
Avoid a Lien under 11 U.S.C. § 522(f), Motion to	14	All	AP, T	
Cash Collateral	14			For emergency situations, see Rule 4001(b)
(1) Debtor's Motion to Use		(1) 11	(1) AP, 20 LUC/UCC	
(2) Creditor's Motion to Prohibit		(2) 11	(2) D, DA, T, 20 LUC/UCC	
(3) Debtor's Motion to Use		(3) 7, 12, 13	(3) T, AP	
(4) Creditor's Motion to Prohibit		(4) 7, 12, 13	(4) D, DA, T	
Confirm Stay is Not in Effect, Motion to	14	7, 11, 13	D, DA, T	Only in individual debtor cases
Compensation and Expenses, Application for	21	All	All, T, D, DA	See Rule 2002(a)(6)
Compensation for Additional Presumptive Non-Base Fee, Application For	None*	13	T, D, BA	*Amounts in excess of \$1000 should be served on All, T, D, DA pursuant to Rule 2002(a)(6)
Compromise, Motion to	21	All	All, D, DA	See Rule 9019
Contempt/Sanctions, Motion for	14	All	D, DA, T, AP	See Rule 9020 for pleading requirements

Pleading	# of Notice Days	Chapter	Parties to Serve	Comments
Continue Hearing/Conference, Motion to	None	All	D, DA, T, AP	Motion to be filed as soon as the need for a continuance arises.
Convert from chapter 7 to 11, Motion to (1) Debtor's (2) Creditor's	(1) None (2) 21	7	(1) T (2) All, T, D, DA	(1) Fee required (2) No fee required
Convert from chapter 11 to 7, Creditor's/Debtor-not-in-Possession's Motion to	21	11	All, D, DA, T	Fee required for all motions. For exceptions, see 11 U.S.C. § 1112(a)
Convert from chapter 13 to 11 or 12, Motion to (1) Debtor's (2) Creditor's	21	13	(1) All, T, BA (2) All, T, D, DA, BA	(1) Fee required. (2) No fee required; if debtor is a farmer, see 11 U.S.C. § 1307(f)
Convert from chapter 12 to 7, Debtor's Notice of	None	12	T	Fee required
Convert from chapter 12 to 7, Creditor's Motion to	14	12	D, DA, T	See 11 U.S.C. § 1208(d)
Convert from chapter 7 to 13, Debtor's Motion to	21	7	All, T	If the case previously converted, see 11 U.S.C. § 706 and serve the trustee in the formerly converted case.
Convert from chapter 11 to 13, Debtor's Motion to	21	11	All	If the case previously converted, serve the trustee in the formerly converted case.
Convert from chapter 13 to 7, Debtor's Notice to	None	13	T	Fee required
Convert from chapter 13 to 7, Creditor's Motion to	21	13	All, D, DA, T	
Dismiss, Motion to (1) Debtor's (2) Creditor's (3) Debtor's (4) Creditor's (5) Trustee's	(1) None* (2) 21 (3) 21 (4) 21 (5) 21	(1) 13 (2) 13 (3) 7, 11, 12 (4) 7, 11, 12 (5) 13, 12	(1) T (2) D, DA, T (3) All, T (4) All, D, DA, T (5) D, DA	See Rule 2002(a)(4) *In chapter 13 cases which have previously been converted from a 7, 11, or 12, 7-day service is required upon the chapter 13 trustee and any trustee appointed under the previous chapter.
Employ Professional Person, Application to	None	7, 11, 12	T, BA	See Rule 2014

Pleading	# of Notice Days	Chapter	Parties to Serve	Comments
Employ Debtor's Attorney Under a Flat Fee Arrangement, Application to	21	11	All	<u>In re Pineloch</u> , 192 BR 675 (Bankr. E.D.N.C. 1996)
Employ Professional Person under § 328 under a Fixed or Percentage Fee Basis, Contingency Fee Basis, etc., Application to	21	All	All	Fees will be further reviewed by the court upon completion of services, after service and notice to all creditors
Examination under Rule 2004, Application for	None	All	D, DA, AP, T	Motion should be filed at least 14 days prior to the examination date, unless consented to by all parties
Examination by interrogatories in lieu of attendance at 341 Meeting of Creditors, Motion for	None	All	T	If request is made due to medical reasons, the motion should be accompanied by a doctor's statement.
Excuse from filing Schedule I and for Order Setting Alternative Date to Determine Debtor's CMI, Motion to	21	13	All, T	
Extend Automatic Stay, Debtor's Motion to	14	7, 11, 13	All, T	Only in individual debtor cases Motion should be filed with the petition; hearing must be scheduled within 30 days of the petition filing date
Extend Filing Deadline for 11 U.S.C. § 523 and/or § 727 Complaint, Motion to	None	All	D, DA, T	
Extend/Limit Exclusivity/Acceptance Period, Motion to	21	11	All	
Hardship Discharge, Motion for	None	12, 13	T	
Incur Debt/Obtain Credit/Obtain Post-Petition Financing, Motion to	(1) None (2) 14	(1) 13 (2) 11	(1) T (2) 20 LUC/UCC, AP	See Local Rule 4002-1(g)(5) For emergency situations, see Rule 4001(c)
Impose Stay, Debtor's Motion to	14	7, 11, 13	All, T	Only in individual debtor cases.
Joint Administration, Motion for	21	All	All, T	
Modify Plan, Motion to (1) Plan Proponent's (2) Debtor's (3) Creditor's	21	(1) 11 (2) 12, 13 (3) 12, 13	(1) All, T, D, DA (2) All, T (3) All, T, D, DA	In chapter 13 cases, notice to all is not required if there is no adverse effect to creditors.
Objection to Claim	30	All	D, DA, AP, T	
Objection to Claim of Exemptions	14	All	D, DA, T	This applies to individual debtors only.
Objection to Disclosure Statement	None	11	D, DA, T, 20 LUC/UCC	See Rule 3017(a) and 3017.1(2)
Objection to Discharge, Motion for		7, 13	D, DA, T*	*Trustee must be served if motion filed by another party.

Objection to Plan	None	12, 13	D, DA, T	
Pleading	# of Notice Days	Chapter	Parties to Serve	Comments
Relief from Automatic Stay, Motion for	14	(1) 7, 12, 13 (2) 11	(1) D, DA, T (2) D, DA, T, 20 LUC/UCC	Fee required per 28 U.S.C. § 1930(b) (3) See Rule 4001
Relief from Co-Debtor Stay, Motion for	14	13	D, DA, T, Co-Debtor	No fee required
Schedule of unpaid debts incurred after confirmation but before conversion to chapter 7/Report upon Conversion	None	11, 12, 13	T, AP	Certificate of Service should show that a copy of the Meeting of Creditors Notice was served on creditors affected by the schedule of unpaid debt No fee required
Sell Free and Clear of Liens, Motion to	14	All	D, DA, AP	See Rule 6004(c)
Sell Property, Application to	21	All	All*, D, DA, T	See Rule 2002(a)(2) 14-day response time required in all chapters See Rule 6004 regarding hearing date *Only affected parties need be served in a confirmed chapter 13 case.
Set Aside Dismissal, Debtor's Motion to	21	13	All, T	
Surrender, Motion to	14	13	T, AP	
Turnover Order, Motion for	14	All	D, DA, T, AP	
Valuation of Collateral, Motion for	14	All	D, DA, T, AP	
Withdraw as Debtor's Counsel, Motion to	14	All	D, T	
Withdrawal of Motion/Response/Claim	None	All	D, DA, T, AP	

COMPUTATION OF RESPONSE TIME

Pursuant to Bankruptcy Rule 9006 the following guidelines are provided to compute the time allowed to respond to a motion or objection.

1. Local Bankruptcy Rule 9014-1(c) provides that a response and accompanying affidavits, if any, to any motion shall be filed within 14 days from the date of the service of the motion, unless otherwise ordered or provided in the Federal Rules of Bankruptcy Procedure or Local Bankruptcy Rules.
2. The designated period of time begins to run by excluding the day of the service but including the last day, unless the last day falls on Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next business day.
3. Bankruptcy Rule 9006 provides for three additional days to perform an act when the period is computed from service, and service is done by mail. Thus if the notice of motion is served by mail (postal or electronic), three days must be added to the period in paragraph 2 before computing the due date. If the last day falls on Saturday, Sunday or a legal holiday, the next business day is the due date.
4. When computing a response time that is reduced by an order, intermediate Saturdays, Sundays and legal holidays are included in the computation.

Computation Example providing 14 days response time:

Service of Motion on June 1 providing 14 days response time plus 3 additional days for service.

Response time period = June 2 through June 18

Response due date = June 18 (unless this date falls on a Saturday, Sunday or legal holiday, then designate the date of the next business day).

NOTICE TO CREDITORS
[RULE 2002-1(d)]

RETURNED AND UNDELIVERABLE MAIL

(a) Upon the trustee's receipt of mail marked returned or undeliverable, with the exception of disbursement checks returned to the trustee, the trustee shall make a text entry in CM/ECF notifying the clerk of the returned or undeliverable mail, and the clerk will delete the address from the matrix. The Clerk will provide, to counsel for the debtor or to a pro se debtor, Notice of the Returned Mail and Deletion of the Address, referencing the returned or undeliverable document.

(b) If counsel for a debtor receives notification from the clerk of the deletion of the creditor's address, or receives returned or undeliverable mail, counsel shall notify the debtor that the debtor is directed to diligently search for a correct address. After the debtor provides counsel with a correct address, counsel shall promptly:

- (1) forward the returned document to the correct address, and
- (2) update the address by making a text entry in CM/ECF, also stating that the returned or undeliverable mail was forwarded to the creditor's correct address.

(c) If a pro se debtor receives notification from the clerk of the deletion of the creditor's address, or receives returned or undeliverable mail, the pro se debtor is directed to:

- (1) diligently search for a correct address,
- (2) forward the returned document to the correct address,
- (3) file a certificate of service with the court stating that the returned or undeliverable mail was forwarded to the creditor's correct address, and
- (4) promptly file with the court a notice of the creditor's correct address.

The clerk will update the address on the official matrix upon notification by counsel for the debtor or by a pro se debtor.

DEBTOR-IN-POSSESSION DUTIES
[Federal Rules of Bankruptcy Procedure
2015(a)(6)]

BANK STATEMENTS

Effective January 30, 2009, small business debtors are required to file periodic financial reports with related bank statements attached. To facilitate the protection of any information that may be specified under 11 U.S.C. §107(b)(1), the court will allow the bank statements to be filed separately, and, if a bank statement is filed separately, the clerk shall treat the filing of the bank statement as a private entry until further order of the court.

COMPENSATION OF PROFESSIONALS
[Rule 2016-1]

(a)(1) Amount of Standard Base Fee:

Effective in cases filed on and after April 1, 2006, the standard base fee in a chapter 13 case is \$3,000.00.

(a)(6) Presumptive Non-base Fees effective October 1, 2008.

Motion to extend or impose the automatic stay for repeat filers	\$400.00
Motion to use interrogatories, and interrogatories	\$150.00
Motion for turnover	\$300.00
Motion to avoid lien	\$350.00
Motion to modify plan post-confirmation	\$350.00
Motion to substitute collateral	\$350.00
Motion for authority to sell property	\$300.00
Application to incur debt	\$200.00
Defense of motion for relief from stay and/or co-debtor stay	\$500.00
Handling of an insurance inquiry received more than twelve (12) months after the Chapter 13 case is filed	\$ 75.00
Motion to set aside dismissal	\$350.00
Defense of motion to dismiss	\$250.00
Motion for hardship discharge	\$350.00
Objection to claims (up to three claims whether filed separately or combined)	\$250.00
Notice to abandon property	\$50.00

CREDITOR:

Stay motions	\$500.00
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COSTS APPLIED TO ALL:

When the costs for copying and postage exceed \$25.00, the actual amount, plus the presumptive fee, shall be reimbursed to counsel

(a)(9)(B) Payment of Attorney Fees/Modification of Plan

These fees shall be paid by the Trustee at the rate of \$200.00 per month during the first year of the plan unless the Court directs otherwise. **In a case where this rate will not pay the entire amount of the Standard Base Fee authorized to be paid in the Chapter 13 plan during the first 12 months of the plan, the trustee may adjust the monthly rate upward to pay the entire fee during this period.**

CHAPTER 13 – PAYMENTS
[Rule 3070-1]

CHAPTER 13 TRUSTEE’S ADMINISTRATIVE FEE IN CHAPTER 13 CASES
DISMISSED PRIOR TO CONFIRMATION

The administrative fee authorized pursuant to Local Bankruptcy Rule 3070-1(c)(1) shall be in the amount of \$125.00.

REGISTER OF MAILING ADDRESSES OF
FEDERAL AND STATE GOVERNMENTAL UNITS
[Rule 5003-4]

Register of Mailing Addresses of Federal and State Governmental Units

Bankruptcy Administrator
Post Office Box 3758
Wilson, NC 27895-3758

Bankruptcy Administrator
434 Fayetteville Street, Suite 620
Raleigh, NC 27601

Employment Security Commission
Post Office Box 26504
Raleigh, NC 27611-6504

Internal Revenue Service
Office of Chief Counsel
Kinston Building, Mail Stop 24
2303 W. Meadowview Rd.
Greensboro, NC 27407-3726

Internal Revenue Service
P. O. Box 7346
Philadelphia, PA 19101-7346

North Carolina Department of Revenue
Office Services Division
Bankruptcy Unit
Post Office Box 1168
Raleigh, North Carolina 27602-1168

Secretary of the Treasury
1500 Pennsylvania Ave., N. W.
Washington, DC 20220

Securities & Exchange Commission
Branch of Reorganization
Suite 1000
3475 Lennox Road, N. E.
Atlanta, GA 30326-1232

*United States Attorney
310 New Bern Avenue, Suite 800
Federal Building
Raleigh, NC 27601-1461

*NOTE: Federal Housing Administration, Farm Service Agency, Veterans Administration, Small Business Administration

ASSIGNMENT TO SYSTEM AND FILING
REQUIREMENTS [Rule 5005-4(1)]

When a document is electronically filed within one day or on the day of a hearing scheduled in that case, the filing party must send an email to the appropriate judge's law clerk and to the courtroom staff notifying them of the filing. The e-mail addresses are posted on the court's website at www.nceb.uscourts.gov.

ELIGIBILITY, REGISTRATION AND
PASSWORDS [Rule 5005-4(2)(a)]

(1) **ELIGIBILITY.** Each filing user must enroll in and complete a CM/ECF Filing User Training Program conducted by the clerk. Filing users may enroll one or more assistants or staff in the training. Selection and scheduling of applicants for CM/ECF training will be determined by the clerk. The clerk will use discretion in a fair and nondiscriminatory manner to ensure that all registrants are treated fairly.

After completion of training, each filing user will receive a login and password and help desk contact information for assistance with the filing process.

The court accepts training provided by another bankruptcy or district court and waives the classroom training requirement. Filing users trained by other courts must indicate on the CM/ECF Filing User Registration Form the court in which they were trained.

(2) **REGISTRATION.** A person must register as a filing user by submitting the appropriate form prescribed by the clerk for an attorney admitted to practice in this district, an attorney not admitted to practice in this district, or a creditor. An attorney must attach to the registration form a declaration that the attorney is admitted to practice before this court, is exempt from the admission requirements or has been granted or has applied for leave to appear pro hac vice pursuant to Local Rule 83.1(e) and (f) of the Local Rules of Practice and Procedure for the United States District Court, Eastern District of North Carolina. Within a law firm, a separate registration form must be submitted for each filing user. A copy of each registration form is available on the court's web site at www.nceb.uscourts.gov. The form may be duplicated for use by multiple applicants.

(3) **PASSWORDS.** Filing users should periodically notify the court to change their password. If an employee of a filing user leaves their employment, the filing user must immediately notify the court to activate a new password, remove the employee's e-mail address and add the e-mail address of the new employee, if applicable. If a filing user decides to discontinue practice or business in this district, the court should be notified immediately to deactivate the users password and remove their e-mail address.

Filing users are responsible for notifying the court of all applicable changes associated with the password and should maintain a record of their password and user profile information. Filing users are also responsible for keeping their office address, e-mail address, preferred notification method and other user profile information current in the Electronic Filing System by notifying the court to any modifications.

ENTRY OF COURT ORDERS; ISSUANCE OF ELECTRONIC SUMMONS
[Rule 5005-4(4)]

(b) **Submission of Documents for Judges Signature.** When motions, applications, objections to claim, and other requests for relief are filed electronically, the moving party must submit a proposed order for each request for relief through the **Order Upload** option in CM/ECF. The format of the proposed order must comply with Local Bankruptcy Rules 9004-2 and 5005-4(5) and conform to the following format requirements:

(1) The top margin on the **FIRST PAGE** must be three (3) inches. All other pages of the order will have a top margin of one (1) inch.

(2) To assist the court in verifying that the “entire” body of the submitted order has been properly transmitted, the **LAST LINE** in the order must be “End of Document”, centered in the middle of the line.

(3) Only consent orders showing parties signed signatures may be scanned and converted to PDF format. The “End of Document” statement must appear after the signatures. All other orders must be created in a word processing program and converted to PDF format.

(4) A line for the date and a signature line for the judge is omitted. All orders will be signed electronically by the judge in the space provided by the top margin on the first page.

(5) Proposed orders which do not comply with this format will be rejected

FORMAT; ATTACHMENTS AND EXHIBITS
[Rule 5005-4(5)]

Format. All electronic documents must be submitted in portable document format (.pdf) as created by Adobe Acrobat or another similar and compatible program supported by the court with the exception of the creditor list (matrix) which must be submitted in an ASCII text (.txt) format. Electronic filings must not exceed 4 megabytes in size. Transmission time for effecting such filings is time sensitive. Filings that take more than 5 minutes to transmit, for security reasons, will time out. If a filing is larger than 4 megabytes and if any portion of the filing has been scanned, the filing document should be no more than 8 ½ by 11 inches, without color and the resolution should be at least 300 pixels per inch (ppi) or higher. If making these adjustments does not reduce the filing size to 4 megabytes or less, the filing user must make suitable arrangements with the court to effect the filing.

SIGNATURES AND CERTIFICATION
[Rule 5005-4(8)]

Electronically filed documents requiring a signature shall either (1) show an image of such signature as it appears on the original document or as appended as an image file, in which case such document shall indicate that it has been filed electronically, or (2) bear the name of the signatory preceded by an "s/" typed in the space where the signature would otherwise appear, as follows: s/Jane D. Doe.

APPRAISERS AND AUCTIONEERS

(a) EMPLOYMENT OF AUCTIONEER WITH APPLICATION TO THE COURT

The court approved commission scale for auctioneers is:

Personal Property

- 20% on the first \$20,000
- 10% on the next \$50,000
- 4% on the balance

Real Property

- 10% on the first \$25,000
- 4% on the balance

PRETRIAL
PROCEDURES
[Rule 7016-1(c)]

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH
CAROLINA DIVISION

IN RE:
JOE SMITH,
ATS Debtor

CASE NO.
99-02272-5-

ABC CORP.,)
Plaintiff)
v.)
JOE SMITH,)
Defendant)

ADVERSARY PROCEEDING

NO.: 07-00001-5-ATS

FINAL PRETRIAL ORDER

DATE OF CONFERENCE: May 5, 1999

Appearance: John Y. Lawyer, Raleigh, North Carolina, for plaintiff; Sam X. Attorney, Fayetteville, North Carolina, for defendant.

I. STIPULATIONS

- A. All parties are properly before the court.
- B. The court has jurisdiction of the parties and of the subject matter.
- C. This is a core proceeding, or in the alternative, both parties have consented to hearing by the bankruptcy court.
- D. All parties have been correctly designated.
- E. There is no question as to misjoinder or nonjoinder of parties.
- F. Facts:
 - 1. Plaintiff is a New York corporation, licensed to do business and doing business in the State of North Carolina.
 - 2. Defendant is a citizen of Wake County, North Carolina.
- G. Legal Issues: The legal issue is whether the debt owed by the defendant to the plaintiff is nondischargeable under 11 U.S.C. § 523(a)(2)(B).
- H. Factual Issues:
 - 1. Did the defendant receive money, property, services, or an extension, renewal, or refinancing of credit through the use of a statement in writing that was materially false?
 - 2. Did the written statement relate to the defendant's or an insider's financial condition?
 - 3. Did the plaintiff reasonably rely on the written statement?
 - 4. Did the defendant make or publish the written statement with the intent to deceive the plaintiff?

II. CONTENTIONS

A. Plaintiff

1. Facts:

- (a) Plaintiff loaned defendant \$XXX,XXX.XX based on written property appraisals that defendant had falsified materially.
- (b) The written appraisals were on real property owned by the defendant.
- (c) Plaintiff had no factual reason not to accept the appraisal and, therefore, reasonably relied on the appraisal.
- (d) Defendant had the appraisal done simply for its use in obtaining the loan from plaintiff.

2. Law:

- (a) The falsified property appraisal used by the defendant in obtaining a loan from the plaintiff has created a nondischargeable debt under 11 U.S.C. § 523(A)(2)(B).

B. Defendant

1. Facts:

- (a) Defendant did not falsify the property appraisals he used in obtaining the loan from the plaintiff.
- (b) Plaintiff is experienced as a commercial lender in the area and has made loans on property appraisals for 50 years.
- (c) Defendant had the appraisal done at the plaintiff's request.

2. Law:

- (a) The loan from plaintiff was not obtained through the use of a false appraisal and, therefore, the debt is dischargeable.

III. EXHIBITS

A. Plaintiff:

<u>Number</u>	<u>Title</u>	<u>Objection</u>
1	Appraisal of Bob Hope	Hearsay
2	Deed of Trust dated 1/4/84	None
3	Promissory Note dated 1/4/84	None
4	Personal Financial Statement dated 12/3/83	None

B. Defendant:

<u>Number</u>	<u>Title</u>	<u>Objection</u>
1	Appraisal of Joe Smith	Hearsay
2	Debtor's Bankruptcy Petition	None

IV. DESIGNATION OF PLEADINGS AND DISCOVERY MATERIALS

A. Plaintiff:

<u>Document</u>	<u>Portion</u>	<u>Objection</u>	<u>Reason</u>
of interrogatories	Nos. 1, 8 and 9	No. 8	Plaintiff's Privilege first set
Deposition Richard Roe	Vol. 1, line 6 p. 1, thru line 5, p. 6	Line 6, p. 1, thru line 2, p. 7	Hearsay of

B. Defendant: None

V. WITNESSES

A. Plaintiff:

<u>Name</u>	<u>Address</u>	<u>Proposed Testimony</u>
Frank Flake	Selma, N. C.	Loan officer - facts surrounding the loan

B. Defendant:

All witnesses listed by plaintiff:

<u>Name</u>	<u>Address</u>	<u>Proposed Testimony</u>
Sam Smith	Apex, N. C.	Facts surrounding value of real property in the debtor's area

Trial Time estimate: _____ days.

John Y. Lawyer
Counsel for Plaintiff

Sam X. Attorney
Counsel for Defendant