

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NORTH CAROLINA

Peggy B. Deans  
Clerk  
(919) 237-0248

August 26, 1988

216 West Nash Street  
Post Office Drawer 2807  
Wilson, North Carolina 27894-2807

Honorable Thomas M. Moore  
Chief Judge  
United States Bankruptcy Court  
Post Office Drawer 2808  
Wilson, North Carolina 27894-2808

Re: Local Rules

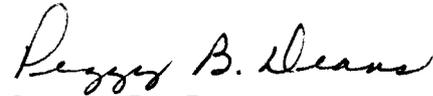
Dear Judge Moore:

Please find enclosed a copy of the proposed local rules. Also, enclosed is a proposed order adopting the rules.

The proposed local rules were distributed to the bar and public at the Eastern Bankruptcy Institute at Wrightsville Beach, North Carolina, on May 22, 1987. The proposed rules were printed as a part of the manuscript for the seminar. Comments from the bar and public were solicited by me during my presentation. There have been no comments submitted to me as of this date.

Please review these rules. If you find them appropriate, and enter the order adopting them as local rules for this court, I will proceed to have them printed and distributed.

Respectfully,



Peggy B. Deans  
Clerk of Court

PBD:bdt

Enclosure

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NORTH CAROLINA

**FILED**

SEP 1 1988

IN RE:

LOCAL BANKRUPTCY RULES

PEGGY B. DEANS, CLERK  
U. S. BANKRUPTCY COURT  
EASTERN DISTRICT OF N. C.

ORDER

It appearing that local bankruptcy rules would facilitate the administration of bankruptcy cases in this district, and would assist the court in the management of contested matters and adversary proceedings; and

It further appearing that Bankruptcy Rule 9029 permits the United States District Court to authorize the bankruptcy judges to make rules of practice and procedure not inconsistent with the Official Bankruptcy Rules; and

It further appearing that by order of Chief United States District Judge W. Earl Britt, dated October 8, 1987, the bankruptcy judges of this district are authorized, subject to the requirements of Rule 83 of the Federal Rules of Civil Procedure, to make rules of practice and procedure not inconsistent with the Bankruptcy Rules, consistent with the authority of the district court to modify or abrogate any rules so adopted as appears appropriate. It further appearing that appropriate notice was given with an opportunity to comment; now therefore,

**IT IS ORDERED** that the bankruptcy rules attached hereto are hereby adopted and shall be referred to as Local Bankruptcy Rules, Eastern District of North Carolina, and shall be numbered in such a way as to refer to the Official Bankruptcy Rules.

DATED: SEP 0 1 1988

s/Thomas M. Moore

Thomas M. Moore  
Chief United States Bankruptcy Judge

s/ A. Thomas Small

A. Thomas Small  
United States Bankruptcy Judge

**LOCAL BANKRUPTCY RULES**

**United States Bankruptcy Court  
for the Eastern District of  
North Carolina**

**Effective September 1, 1988**

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NORTH CAROLINA

JUDGES

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United States Bankruptcy Court  
for the Eastern District of North Carolina

IN RE:  
LOCAL BANKRUPTCY RULES

O R D E R

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It further appearing that Bankruptcy Rule 9029 permits the United States District Court to authorize the bankruptcy judges to make rules of practice and procedure not inconsistent with the Official Bankruptcy Rules; and

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IT IS ORDERED that the bankruptcy rules attached hereto are hereby adopted and shall be referred to as Local Bankruptcy Rules, Eastern District of North Carolina, and shall be numbered in such a way as to refer to the Official Bankruptcy Rules.

Entered this 1st day of September, 1988.

s/Thomas M. Moore  
Chief Judge

s/A. Thomas Small  
Judge

## Preface

The Local Bankruptcy Rules for the United States Bankruptcy Court for the Eastern District of North Carolina are adopted to facilitate the administration of bankruptcy cases, to assist the court in the management of contested matters and adversary proceedings and to provide for variations in the local practice in this court.

The numbering system for the Local Bankruptcy Rules is patterned after the Bankruptcy Rules which became effective August 1, 1983. Each local rule is keyed to an appropriate Bankruptcy Rule number and is numbered with a decimal to such Bankruptcy Rule number. For example, a local rule relating to Bankruptcy Rule 7001 will be numbered as Local Bankruptcy Rule No. 7001.1. This numbering system should facilitate the use of the local rules.

The Local Bankruptcy Rules will be cited as: "Local Bankruptcy Rule No. \_\_\_\_\_, EDNC".

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

EFFECTIVE SEPTEMBER 1, 1988

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**PART I**

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

**Rule 1002.1**

**VOLUNTARY PETITION**

The required number of copies of petitions requesting relief under the Code is as follows:

- (1) Chapter 7 - original and three
- (2) Chapter 11 - original and six
- (3) Chapter 12  
Corporation - original and five
- (4) Chapter 12  
Individual - original and four
- (5) Chapter 13 - original and three

**Rule 1003.1**

**INVOLUNTARY PETITION**

The number of copies shall be as specified in Rule 1002.1.

**Rule 1006.1**

**FILING FEES**

(a) An application for permission to pay the filing fees in installments shall contain the following:

- (1) reasons why the debtor cannot pay the full fee at the time of filing;
- (2) a statement that the debtor's attorney has received no payment for fees and will accept none until the filing fees are paid in full;
- (3) a statement that the debtor does not owe any outstanding fees to the court on account of any other prior case;
- (4) signature of both the debtor and the debtor's attorney.

(b) Following the filing of a petition and an application, each application will be reviewed by the court and an order entered granting or denying the application. Should the application be denied, the debtor shall have ten (10) days from the date of the order to pay the full fee. If the full fee is not paid within ten (10) days of the order, the petition will be dismissed by the court without any further prior notice.

(c) Final installments of the filing fee shall be paid within ten (10) days following the date first

set for the meeting of creditors called pursuant to 11 U.S.C. § 341, unless otherwise ordered by the court upon appropriate motion for extension and for cause shown.

(d) The debtor and the debtor's attorney are responsible for knowing the dates the payments are due. No reminders will be provided from the court of the due date. Upon failure to make any payment as scheduled, the petition is subject to dismissal after hearing on notice to the debtor and trustee.

(e) In chapter 13 cases, filing fees must be paid directly to the clerk of court and may not be paid through the standing trustee, whether the payments are full or installments, unless otherwise ordered by the court upon motion and for cause shown.

### Rule 1007.1

#### LISTS, SCHEDULES AND STATEMENTS: TIME LIMITS

(a) **MATRIX REQUIRED:** A petition requesting relief under chapters 7, 11, 12, or 13 shall be accompanied by a mailing matrix containing the complete mailing address, including zip code, for the following:

- (1) each debtor;
- (2) attorney for the debtor;
- (3) all creditors listed in the petition, **alphabetically arranged;**
- (4) Bankruptcy Administrator, Post Office Box 99, Wilson, North Carolina 27894-0099 in chapters 7, 11 and 12;
- (5) Internal Revenue Service, 320 Federal Place, Greensboro, North Carolina 27402 (Attn: Special Procedures Staff)--except in chapters 7, 12 and 13 when the IRS is **not** listed as a creditor;
- (6) North Carolina Department of Revenue, Post Office Box 25000, Raleigh, North Carolina 27640--except in chapters 7, 12 and 13 when the Department of Revenue is **not** listed as a creditor; and
- (7) Employment Security Commission, Post Office Box 25903, Raleigh, North Carolina 27611--except in chapters 7, 12 and 13 when the ESC is **not** listed as a creditor.
- (8) If the United States is a party, other than for taxes, the matrix should include the United States Attorney, Post Office Box 26897, Raleigh, North Carolina 27611. (EXAMPLE: FHA, FmHA, VA, SBA)

- (9) If the debtor is a corporation, list the name, address and title of each officer, director, insider, and managing executive.
- (10) If the debtor is a partnership, list the name and address of each member of the partnership.

The matrix shall be prepared so as to be suitably reproduced photographically on pre-gummed labels and shall be certified as accurate by the filing attorney or party. The party shall be responsible for any errors in or omissions from the listing.

(b) **CHAPTER 12 SUPPLEMENT:** With the following exceptions, if a statement of affairs as prescribed by Official Form No. 8 is prepared in its entirety, it will not be necessary to address the following questions in the chapter 12 statement to avoid duplication of effort by the debtor and debtor's counsel.

<u>Official Form 8</u>	<u>Form 12-A</u>	<u>Form 12-B</u>
7	11	11
10	12	12
12	13	13
14	15	15
16	14	14
20	9	9

(c) **TWENTY (20) LARGEST CREDITORS:** The clerk of court is authorized to reject for filing any voluntary chapter 11 reorganization petition that is not accompanied by the list of 20 largest unsecured creditors.

(d) **DISMISSAL OF CASE FOR FAILURE TO COMPLY WITH BANKRUPTCY RULE 1007(c):** In the event the schedules and statements are not filed with the petition in a voluntary case, they shall be filed within 15 days thereafter, unless a motion to extend the time for filing the schedules and statements is filed prior to the expiration of the 15 days. If the schedules and statements are not filed within 15 days of the filing of the petition and no motion to extend the time for filing is received by the clerk of court within the 15-day period, then the clerk of court may summarily dismiss the petition. A copy of this local rule shall be served on the debtor and his counsel at the time of the filing of a petition which is unaccompanied by the schedules and statements.

**Rule 1007.2**

**BANKRUPTCY PETITION COVER SHEET**

A petition requesting relief under chapter 7, 11, 12, or 13 shall be accompanied by a Bankruptcy Petition Cover Sheet conforming substantially to Local Form No. 1 contained in these rules, which has been completed fully by the debtor from the information contained in the schedules.

**Rule 1009.1**

**AMENDMENT OF VOLUNTARY PETITION, LISTS, SCHEDULES AND STATEMENT OF FINANCIAL AFFAIRS**

Any amendment to a petition, list, schedule or statement shall be accompanied by a certificate of service in the form of a statement of the date and manner of service and of the names and addresses of the persons served and certified by the person making the service. The clerk of court may not accept the amendment for filing without the certificate.

**PART II**

**OFFICERS AND ADMINISTRATION;  
NOTICES; MEETINGS; EXAMINATIONS;  
ELECTIONS; ATTORNEYS AND ACCOUNTANTS**

**Rule 2002.1**

**NOTICES TO CREDITORS, EQUITY SECURITY  
HOLDERS, AND UNITED STATES**

(a) **AMENDED OR SUPPLEMENTAL SCHEDULES:** The § 341 meeting will be scheduled and the clerk of court, or such other person as the clerk of court may designate, will notify the creditors listed on the matrix filed with the petition. If additional creditors are added either through schedules being filed after notice has been sent or through amendments to the schedules, the debtor shall serve the § 341 notice on the creditors and file a certificate of service with the clerk of court within three (3) days after notice.

(b) **NOTICE FEE:** The clerk of court shall collect fifty cents (50¢) for each notice mailed by the office of the clerk of court only as required under Bankruptcy Rule 2002(a),(b),(d),(e),(f) and (n). In a chapter 7 case, the fee shall be payable from the estate and only to the extent there is an estate. In chapter 11 and 12 cases, the fee shall be payable at confirmation pursuant to 11 U.S.C. 1129(a)(12) and 11 U.S.C. 1225(a)(2).

In the event a debtor files a request for conversion to another chapter or a voluntary dismissal, payment of the fee shall be a condition of the conversion or dismissal.

**Rule 2003.1**

**MEETING OF CREDITORS OR EQUITY SECURITY HOLDERS**

The clerk of court shall retain and preserve the taped recordings of the meetings of creditors required by § 341 of the Code for a period of six (6) months from the date of the meeting. After the expiration of six (6) months from the date, the clerk of court is authorized to erase or otherwise destroy the taped recordings.

**Rule 2014.1**

**EMPLOYMENT OF PROFESSIONAL PERSONS**

The chapter 11 debtor may not employ or pay a fee to any professional including any attorney, accountant, appraiser, or auctioneer without first obtaining approval of the court after notice and hearing.

**Rule 2015.1**

**DUTY OF TRUSTEE OR DEBTOR IN POSSESSION TO KEEP RECORDS, MAKE REPORTS, AND GIVE NOTICE OF CASE**

The standing chapter 13 trustees are authorized to charge a search fee when answering inquiries which require a search of the records for each name or item searched in the amount established under 28 U.S.C. § 1930(b), and to use the funds as a part of operating expenses. The trustees shall account to the court for funds so collected.

**Rule 2015.2**

**DUTY OF CHAPTER 7 AND 11 TRUSTEE TO GIVE NOTICE**

The chapter 7 and 11 trustee shall prepare and mail notices required under Bankruptcy Rule 2002(a)(2),(3),(4),(7) and Bankruptcy Rule 2002(f)(3) and (9).

The trustee shall provide 15 days notice to creditors and other parties in interest within which to object to any proposed use, sale or lease of property under Bankruptcy Rule 6004(b). The trustee shall prepare and file with the clerk of court within three (3) days thereafter a certificate of service showing when and to whom the notices were mailed.

**PART III**

**CLAIMS AND DISTRIBUTION TO CREDITORS AND EQUITY  
INTEREST HOLDERS; PLANS**

**Rule 3002.1**

**FILING PROOF OF CLAIM OR INTEREST**

(a) In chapter 7 and 11 cases, all claims shall be filed with the clerk of court in accordance with Bankruptcy Rule 5005.

(b) In chapter 12 and 13 cases, all claims shall be filed with the appropriate standing trustee as provided in Local Bankruptcy Rule No. 5005.1, Eastern District of North Carolina.

**Rule 3003.1**

**FILING PROOF OF CLAIM OR EQUITY SECURITY INTEREST IN  
CHAPTER 9 MUNICIPALITY OR CHAPTER 11  
REORGANIZATION CASES**

The debtor shall notify each creditor whose claim is listed in the petition as contingent, disputed, or unliquidated of that fact within fifteen (15) days after filing the schedule of assets and liabilities or within fifteen (15) days after addition of any creditors to the petition. Failure to notify a creditor that its claim is listed as disputed, contingent, or unliquidated shall result in the creditor's claim being deemed filed in the amount listed as disputed, contingent, or unliquidated, as though a proof of claim had been filed by the creditor. The debtor shall file a certificate of service with the clerk of court within three (3) days after service has been made.

**Rule 3003.2**

**TIME FOR FILING CLAIMS IN A CHAPTER 11 AND 12 CASE**

In a chapter 11 and 12 case, a proof of claim shall be filed within ninety (90) days after the date first set for the meeting of creditors called pursuant to 11 U.S.C. § 341(a) of the Code, except as otherwise extended by order of the court.

## Rule 3010.1

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

Bankruptcy Rule 3010(b) is amended to the extent that standing chapter 13 trustees are authorized to make payments to creditors in amounts smaller than \$15.00 without waiting until that creditor's dividends accumulate to \$15.00. The decision as to whether to make smaller payments shall be solely in the discretion of the trustee as to what is in the best interest of the individual estate.

## Rule 3012.1

### VALUATION OF SECURITY

After notice, a chapter 13 trustee may recommend the value of a creditor's security at the § 341 meeting and, unless an objection is filed within ten (10) days after notice of the recommendation, the court may accept the recommendation of value for the purpose of distribution under the plan.

## Rule 3017.1

### NOTICES REQUIRED TO BE SENT BY CHAPTER 11 DEBTORS

The debtor in possession in a chapter 11 case shall be responsible for mailing the following notices and documents to creditors, after having their form and content approved by the clerk of court, and for filing a certificate of mailing with the clerk of court within three (3) 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, approved disclosure statement and notice regarding balloting and date for hearing on confirmation; and
- (4) any other notices as the court or clerk of court shall direct in a particular matter.

## Part IV

### THE DEBTOR: DUTIES AND BENEFITS

#### Rule 4001.1

##### RELIEF FROM AUTOMATIC STAY; USE OF CASH COLLATERAL; OBTAINING CREDIT; AGREEMENTS

The automatic stay provided in 11 U.S.C. § 362(a) is modified in bankruptcy cases as follows:

(1) In chapter 13 cases, affected secured creditors may:

- A. contact the debtor about the status of insurance coverage on property used as collateral;
- B. if paid outside the plan, contact the debtor about any payment in default.

(2) In chapter 13 cases, if the collision insurance coverage on a vehicle less than seven (7) years old on which there is a lien lapses and the debtor fails to obtain coverage and furnish evidence to the lienholder within ten (10) days thereafter, the automatic stay as to that lienholder may be lifted.

(3) In chapter 11 and 12 cases, the Internal Revenue Service and the North Carolina Department of Revenue may contact the debtor or the trustee and the debtor's depository to verify that all required tax deposits are being made and reported and that all tax returns are being filed and remittances paid in the manner prescribed by law. The debtor or trustee and the debtor's designated depository shall assist the Internal Revenue Service and the North Carolina Department of Revenue with the monitoring and verification of the provisions of this rule.

#### Rule 4002.1

##### DUTIES OF CHAPTER 13 DEBTOR

The debtor filing a petition requesting relief under chapter 13 of the Code shall comply with the following:

(1) **PAYMENTS UNDER PLAN:** The debtor shall begin making the payments called for in the proposed plan on the first day of the first month following the month in which the chapter 13 case is filed. The payments shall be made directly to the standing chapter 13 trustee.

(2) **PAYMENTS OUTSIDE PLAN:** If secured claims are to be paid outside the plan, the debtor must continue to make the regular scheduled payments to the secured creditor prior to confirmation.

(3) **DISPOSITION OF PROPERTY:** The debtor shall not dispose of any property by sale or otherwise without prior approval of the trustee and an order of the court.

(4) **OBTAINING CREDIT:** The debtor shall not purchase additional property or incur additional indebtedness for an amount in excess of FIVE HUNDRED DOLLARS (\$500.00) without prior approval of the trustee and an order of the court.

(5) **ADEQUATE PROTECTION:** When a case is dismissed prior to confirmation, the court may require the debtor to provide adequate protection to one or more secured creditors by directing the chapter 13 trustee to make adequate protection payments from funds received under paragraph (1) of this rule.

### Rule 4002.2

#### DUTIES OF CHAPTER 7 DEBTOR

The debtor filing a petition requesting relief under chapter 7 of the Code shall comply with the following:

(1) **STATEMENT OF INTENTION:** A chapter 7 debtor who is required to file a statement of intention pursuant to 11 U.S.C. § 521(2)(A) shall serve a copy of the statement upon the creditor whose claim is secured by the property which is the subject of the statement. The debtor shall file a certificate of service with the clerk of court within three (3) days of the filing of the statement.

(2) **FAILURE TO PERFORM STATEMENT OF INTENTION:** If a chapter 7 debtor should fail to perform the intention as required by 11 U.S.C. § 521(2)(B), the court may, upon motion of the affected creditor, ex parte order the lifting of the stay of 11 U.S.C. § 362(a) and order the debtor to turn over the property to such creditor.

### Rule 4002.3

#### DUTIES OF CHAPTER 11 DEBTOR IN POSSESSION

(a) The debtor shall:

(1) **MONTHLY REPORT:** file with the clerk of court monthly accountings, the first report being due within 30 days after the filing of the petition and subsequent reports on or before the 15th day of each month thereafter. The debtor shall serve a copy of all monthly reports on the bankruptcy administrator, the attorney and the chairman for the unsecured creditors committee. Such report shall provide the following information:

- A. beginning and ending balance in all accounts;
- B. receipts from all sources, classified;
- C. disbursements, classified, including the amounts and dates of deduction and payment of federal and state taxes;
- D. indebtedness incurred and unpaid and contractual and other obligations assumed;
- E. beginning and ending inventory; and
- F. copies of all federal tax deposit forms covered by any report.

(2) **BOOKS OF ACCOUNT:** close the present books of account as of the close of business on the date on which the petition is filed and shall open new books of account and a bank account in a court approved depository as of the opening of business on the next succeeding business day. In the new books of account, the debtor shall keep proper records of earnings, expenses, receipts and disbursements, and all obligations incurred and business transactions. The debtor shall preserve proper vouchers for all payments made on account of the disbursements. If the debtor is authorized to use "cash collateral," separate "cash collateral" accounts must be established and maintained pursuant to 11 U.S.C § 363(c)(4).

(3) **PROOF OF INSURANCE COVERAGE:** keep the property of the debtor insured in a manner and to the extent as may be deemed necessary and prudent with loss payable clauses, in the case of pledged or mortgaged property, in favor of the appropriate secured creditors as their interests may appear. Within five (5) days of the filing of the petition, debtor shall file a verified statement or written evidence that worker's compensation, general liability, fire, theft and motor vehicle insurance are in full force and effect, together with all other insurance coverages normally used in the debtor's operations.

(4) **TAX ACCOUNTS:** segregate and hold separate from all other funds, all monies withheld from employees or collected from others for taxes, including social security taxes, under any law of the United States or any state or subdivision thereof. The debtor shall deposit the funds so withheld or collected, together with the debtor's share of social security taxes in a separate bank account simultaneously with the collection or withholding. The debtor shall pay from the bank account to the appropriate taxing authority the amounts due at the times and in the manner prescribed by law.

(5) **BANKING INSTITUTION:** advise the clerk of court, within ten (10) days of the filing of the petition, of the name of the bank to be used as the debtor's depository.

(6) **FILING OF PLAN AND DISCLOSURE STATEMENT:** file a plan of reorganization and a disclosure statement within 120 days of the date of the filing of the petition commencing the case.

(7) **PHYSICAL INVENTORY:** procure a physical inventory, if applicable, upon the filing of the petition and file the inventory with the clerk of court within thirty (30) days of the filing of the petition or such other time as the court may direct.

(8) **PROJECTED OPERATING STATEMENT:** file with the clerk of court, within ten (10) working days of the filing of the petition commencing the case, a projected operating statement for the next thirty (30) days of operation under chapter 11. The statement must contain:

- A. the estimated costs of operation for the next succeeding thirty (30) days;
- B. the estimated profit or loss for the period;
- C. the amount of cash available for the operation;
- D. how the debtor intends to fund the cost of operation for the next thirty (30) days; and
- E. any other and additional information that is pertinent to determine the desirability of continuing the debtor's business.

(9) **RELATIONSHIP WITH SECURED CREDITORS AND UN-SECURED CREDITORS COMMITTEE:** promptly respond to reasonable inquiries of secured creditors, the unsecured creditors committee, and any court appointed consultant.

(b) The debtor shall not:

(1) **PAYMENT TO PRINCIPALS:** prior to confirmation of a plan of reorganization, compensate or remunerate itself, or any of its partners, officers, directors or shareholders in any manner without prior approval of the court. Any application for approval of compensation should set forth the name and proposed position of the individual sought to be employed along with a detailed description of the duties the individual is to perform, the number of hours each week the individual will devote to those duties and the reasons why employment of the individual is necessary to the successful reorganization of the debtor. Also, the application should set forth the amount of compensation sought on a weekly or monthly basis and disclose all perquisites, benefits and consideration of any kind the individual is to receive, e.g., use of company vehicles, payment of life or health insurance premiums, reimbursement of expenses. The salary history of the individual for the year immediately preceding the filing of the petition shall be disclosed. The application shall be signed under oath.

(2) **PAYMENT OF PRE-PETITION DEBT:** pay pre-petition unsecured debt without approval of the court.

**RULE 4002.4**

**DUTIES OF CHAPTER 12 DEBTOR**

(a) The debtor shall:

(1) **MONTHLY REPORTS:** file with the clerk of court monthly reports, the first report being due within thirty (30) days after the petition is filed. Subsequent reports are due no later than the 15th day of each month thereafter. The debtor shall serve a copy of all monthly reports on the chapter 12 trustee and the bankruptcy administrator. The reports shall contain:

- A. monthly receipts from every source;
- B. monthly disbursements by accounting classification;
- C. expenses charged and not paid;
- D. crop inventory (if applicable);
- E. livestock inventory (if applicable); and
- F. tax deposit statement (if applicable).

(2) **BOOKS OF ACCOUNT:** close the present books of account as of the close of business on the date on which the petition is filed and open new books of account and a bank account as of the opening of business on the next succeeding business day. In the new books of account, the debtor shall keep proper records of earnings, expenses, receipts, disbursements, and all obligations incurred and transactions had in the operation of the business. The debtor shall preserve proper vouchers for all payments made on account of the disbursements.

(3) **PROOF OF INSURANCE COVERAGE:** keep the property of the debtor insured in a manner and to the extent as may be deemed necessary with loss payable clauses, in the case of pledged or mortgaged property, in favor of the appropriate secured creditors as their interests may appear.

(4) **TAX ACCOUNTS:** segregate and hold separate and apart from all other funds, all monies withheld from employees or collected from others for taxes, including social security taxes, under any law of the United States or any state or subdivision thereof. The debtor shall deposit the funds so withheld or collected, together with the debtor's share of social security taxes, in a separate bank account simultaneously with the collection or withholding. The debtor shall pay from the bank account to the appropriate taxing authorities the amounts due at the times and in the manner prescribed by law.

(5) **BANKING INSTITUTION:** advise the court within ten (10) days of entry of the order for relief under chapter 12 the name of the bank to be used as the debtor's depository.

(6) **FILING OF PLAN:** file a plan of reorganization within ninety (90) days of the filing of the petition pursuant to 11 U.S.C. § 1221.

(7) **RELATIONSHIP WITH CREDITORS:** promptly respond to reasonable inquiries of creditors.

(b) The debtor shall **not:**

(1) **PAYMENTS TO PRINCIPALS:** prior to confirmation of a plan of reorganization, compensate or remunerate itself or any of its partners, officers, directors or shareholders in any manner without prior approval of the court. Any application for approval of compensation should set forth the name and proposed position of the individual sought to be employed along with a detailed description of the duties the individual is to perform, the number of hours each week the individual will devote to those duties and the reasons why employment of the individual is necessary to the successful reorganization of the debtor. Also, the application should set forth the amount of compensation sought on a weekly or monthly basis and disclose all perquisites, benefits and consideration of any kind the individual is to receive, e.g., use of company vehicles, payment of life or health insurance premiums, reimbursement of expenses. The salary history of the individual for the year immediately preceding the filing of the petition shall be disclosed. The application shall be signed under oath.

(2) **PAYMENT OF PRE-PETITION DEBT:** pay pre-petition unsecured debt without approval of the court.

#### **Rule 4003.1**

##### **EXEMPTIONS**

If the debtor is an individual and desires to claim exemptions, the debtor shall file a claim for exempt property pursuant to § 522(b)(1) on Local Form No. 3, which is available from the clerk of court. The debtor's filing of Local Form No. 3 must be referenced in Schedule B-4 of the debtor's schedules.

#### **Rule 4003.2**

##### **EXTENSION OF TIME FOR OBJECTIONS TO EXEMPTIONS**

The court may grant any party in interest an extension of time for objecting to the debtor's claim

of exempt property. The request for extension shall be by motion which shall contain the reasons for requesting the extension. The motion must be filed before the time for objecting expires.

**PART V**

**BANKRUPTCY COURTS AND CLERKS**

**Rule 5001.1**

**OFFICE HOURS**

The office of the clerk of court with the clerk of court or a deputy clerk in attendance shall be open to the public from 8:30 a.m. until 4:30 p.m. on all days except Saturdays, Sundays and the legal holidays listed in Rule 6(a), Federal Rules of Civil Procedure.

**Rule 5003.1**

**DUTIES OF THE CLERK**

(a) **ORDERS AND JUDGMENTS:** The clerk of court is authorized to enter the orders and judgments listed below without further direction of the court. However, such action may be suspended, altered or rescinded by the court for cause shown:

- (1) consent orders for the substitution of attorneys;
- (2) orders setting status conference and preliminary conference;
- (3) orders extending for a reasonable amount of time the period within which to file a response or answer to a complaint (first request only);
- (4) orders continuing trial with consent of all parties;
- (5) stipulations of dismissal or consent orders dismissing a proceeding;
- (6) judgments by default as provided for in Rule 55(a) and 55(b)(1), F.R.Civ.P; and
- (7) order canceling liability on bonds.

**Rule 5005.1**

**FILING OF PAPERS**

(1) In chapter 12 and 13 cases, proofs of claim shall be filed directly with the appropriate standing trustee to whom the case is assigned. The address of the proper standing trustee will be shown on the notice of the meeting of creditors. Claims will be dated and stamped as "received" as of the date they arrive in the office of the trustee, and the claim shall be deemed filed with the court as of that date.

The staff of the standing chapter 12 and 13 trustee shall prepare a claims register for each case referred to that trustee and the claims register shall be transferred to the clerk of court and made a part of the permanent record at the closing of the case, together with the original claims.

(2) All pleadings (including but not limited to complaints, answers, motions and applications), and all proposed orders, shall be tendered by the party submitting the documents to the clerk of court, rather than directly to the judge unless otherwise specifically directed. The clerk of court shall first accomplish any necessary processing of the document before the document is forwarded to any judge of this court for consideration.

PART VI

COLLECTION AND LIQUIDATION OF THE ESTATE

RESERVED

## PART VII

### ADVERSARY PROCEEDINGS

#### Rule 7003.1

##### COMMENCEMENT OF AN ADVERSARY PROCEEDING

All complaints initiating adversary proceedings in bankruptcy cases shall be accompanied by an Adversary Proceeding Cover Sheet (Form B 104), conforming substantially to Form No. 4 contained in these rules, which has been completed fully by the plaintiff.

#### Rule 7012.1

##### MOTIONS IN ADVERSARY PROCEEDINGS

(a) **GENERAL REQUIREMENTS:** All motions shall state with particularity the facts supporting the motion and shall state the relief requested. Motions shall conform to the general motions requirements, standards and practices set forth in the applicable bankruptcy rules.

(b) **RESPONSES TO MOTIONS:** Any party may file a written response to any motion within twenty (20) days after service of the motion in question unless otherwise ordered by the court or prescribed by the applicable bankruptcy rules. In the event no response is filed, the court may proceed to rule on the motion.

(c) **HEARINGS ON MOTIONS:** Hearings on motions may be ordered by the court in its discretion.

#### Rule 7016.1

##### PRELIMINARY CONFERENCE

(a) **SCHEDULING AND NOTICE:** A preliminary conference shall be scheduled sixty (60) days following the close of the pleadings. The clerk of court shall give at least thirty (30) days notice of the conference.

(b) **PREPARATION BY COUNSEL FOR PRELIMINARY CONFERENCE:** Counsel shall be prepared to discuss at the conference the following:

- (1) the issues raised by the pleadings;
- (2) issues concerning jurisdiction, venue, or the authority of the bankruptcy court;
- (3) whether the parties, if the proceeding is a noncore proceeding, have consented to the bankruptcy judge hearing and determining the proceeding pursuant to 28 U.S.C. § 157(c)(2);

- (4) the disposition of pending motions;
- (5) the necessity, desirability, and timing of amendments to pleadings, joinder of additional parties, the filing of additional motions and discovery;
- (6) the possibility of settlement; and
- (7) the need for additional pre-trial conferences.

(c) **PRELIMINARY CONFERENCE REPORT:** At least one week prior to the preliminary conference, counsel shall file with the clerk of court a joint report containing information concerning all the items to be discussed at the preliminary conference (see paragraph (b) of this rule).

## Rule 7016.2

### FINAL PRE-TRIAL CONFERENCE

(a) **SCHEDULING AND NOTICE:** A final pre-trial conference shall be scheduled at the discretion of the court. The clerk of court shall give at least thirty (30) days notice of the conference.

(b) **PREPARATION BY COUNSEL FOR FINAL PRE-TRIAL CONFERENCE:** At least ten (10) days prior to the final pre-trial conference, trial counsel for each of the parties shall confer and prepare a proposed final pre-trial order. In the event no pre-trial conference is scheduled, counsel shall confer, prepare and submit a proposed final pre-trial order to the court no later than ten days prior to the scheduled trial. It shall be the duty of the counsel for the plaintiff to arrange for this conference. The conference of attorneys shall be held in a mutually agreeable location or may be conducted by telephone conference. Each counsel shall bring to the conference or be responsible for the exchange of copies of exhibits to be introduced into evidence, lists of witnesses to be called, and designations of discovery material to be used at the trial.

(c) **PRE-TRIAL ORDER:** The pre-trial order shall be prepared in one sequential document without reference to attached exhibits or schedules and shall contain the following in five separate sections, numbered by Roman numerals, as indicated:

- (1) **I. Stipulations.** Stipulations covering jurisdiction, joinder, capacity of the parties, all relevant and material facts, legal issues and factual issues.
- (2) **II. Contentions.** Contentions covering matters on which the parties have been unable to stipulate, including jurisdiction, misjoinder, capacity of the parties, relevant and material facts, legal issues and factual issues. Claims

and defenses as to which no contentions are listed in the pre-trial order are deemed abandoned.

(3) **III. Exhibits.** A list of exhibits that each party may offer at trial, including any map or diagram, numbered sequentially, which numbers shall remain the same throughout all further proceedings. Copies of all exhibits shall be provided to opposing counsel not later than the attorney conference provided for in Rule 7016.2(b). The court may excuse the copying of large maps or other exhibits. Except as otherwise indicated in the pre-trial order, it will be deemed that all parties stipulate that all exhibits are authentic and may be admitted into evidence without further identification or proof. Grounds for objection as to authenticity or admissibility must be set forth in the pre-trial order.

(4) **IV. Designation of Pleadings and Discovery Materials.** The designation of all portions of pleadings and discovery materials, including depositions, interrogatories and request for admissions that each party may offer at trial by reference to document, volume, page number, and line. Objection by opposing counsel shall be noted by document, volume, page number and line, and reasons for such objections shall be stated.

(5) **V. Witnesses.** A list of the names and addresses of all witnesses each party may offer at trial, together with a brief statement of what counsel proposes to establish by their testimony.

(d) **PRE-TRIAL CONFERENCE**

(1) **Purpose:** To resolve any disputes concerning the contents of the pre-trial order.

(2) Counsel shall be prepared to present to the court all information and documentation necessary for completion of the pre-trial order. Failure to do so shall result in the sanctions provided by this rule.

(3) **Sanctions:** Rule 16(f) of the Federal Rules of Civil Procedure which provides for sanctions if a party or party's attorney fails to obey a scheduling or pre-trial order, or if no appearance is made on behalf of a party at a scheduling or pre-trial conference, or if a party or party's attorney is substantially unprepared to participate

in the conference, or if a party or party's attorney fails to participate in good faith, is applicable to adversary proceedings pursuant to Bankruptcy Rule 7016.

- (4) Counsel for plaintiff shall be responsible for preparing the final pre-trial order and presenting it to the court, properly signed by all counsel, at a time to be designated by the court. Upon approval by the court, the original shall be filed with the clerk of court.

(e) **FORM OF PRE-TRIAL ORDER:** A pre-trial order should be submitted in detail sufficient to comply with these rules. A sample pre-trial order is shown as Exhibit A of these rules.

### Rule 7016.3

#### 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) shall, 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 court. A party objecting to the release of a person shall bear all costs incident to the person which arise subsequent to the request for release. The court, in its discretion and in the interest of justice, may permit a party to call and examine a witness not listed in the final pre-trial order.

(c) **EXHIBITS:**

- (1) All exhibits shall be pre-marked with stickers obtained from the office of the clerk of court with the sequential numbers as listed in the pre-trial order.
- (2) Copies of all exhibits, properly bound, shall be provided to the court at the beginning of the trial.
- (3) The original exhibit shall bear a sticker. 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 photostatic image of the sticker or a typed or printed reproduction thereof.

(5) Upon presentation of an exhibit to a witness, counsel shall announce to the court the exhibit number. The exhibit shall not be handed to opposing counsel. Should opposing counsel contend that a copy has not been provided or that the exhibit has been lost or misplaced, it shall be brought to the attention of the court.

(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 not be waived.

#### **Rule 7041.1**

##### **DISMISSAL OF ACTIONS FOR LACK OF PROSECUTION**

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 thirty (30) days after filing of the complaint;  
or

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

Dismissal under this local rule shall be without prejudice unless the delay has resulted in prejudice to an opposing party.

#### **Rule 7067.1**

##### **DEPOSIT IN COURT**

In the event a depository intended by the court to receive registry funds is not able, immediately upon the court's receipt of the registry funds, to pledge sufficient collateral for receipt of those funds, the funds may be retained temporarily in non-interest bearing U. S. Treasury accounts as necessary to arrange for their deposit in interest-bearing accounts.

EXHIBIT A

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NORTH CAROLINA

IN RE:

JOE SMITH	)	CASE NO.: 86-02272-MN4
Debtor	)	
	)	
ABC CORP.	)	
Plaintiff	)	
	)	
v.	)	ADVERSARY PROCEEDING NO.:
	)	
JOE SMITH	)	M-86-0078-AP
Defendant.	)	

**FINAL PRE-TRIAL ORDER**

DATE OF CONFERENCE: May 5, 1986

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 plaintiff?

## II. CONTENTIONS

### A. Plaintiff

#### 1. Facts:

- (a) Plaintiff loaned defendant \$XX,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 to not 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 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>
Plaintiff's first set of interrogatories	Nos. 1, 8 and 9	No. 8	Privilege
Deposition of Richard Roe	Vol. 1, line 6 p.1, thru line 5, p.6	Line 6, P.1 thru line 2, p.7	Hearsay

#### 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

APPROVED BY:

\_\_\_\_\_  
U. S. BANKRUPTCY JUDGE

DATED:

PART VIII

APPEALS TO DISTRICT COURT OR  
BANRKUPTCY APPELLATE PANEL

RESERVED

PART IX

GENERAL PROVISIONS

Rule 9004.1

GENERAL REQUIREMENTS OF FORM; NUMBER OF COPIES  
OF OTHER DOCUMENTS

The number of documents required to be filed with the clerk of court other than those provided for in the bankruptcy rules or local bankruptcy rules is as follows:

- (1) monthly operating report of debtor in possession and operating trustee.....  
....original plus one;
- (2) any person requesting filed copies of documents for his office records must submit copies, in addition to those called for in the bankruptcy rules or local bankruptcy rules, together with a stamped, self-addressed envelope;
- (3) 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 the order or judgment. Orders tendered without sufficient copies may not be considered until the required number of copies has been tendered;
- (4) application for compensation.....  
....original plus one;
- (5) motions, applications, answers, responses and other general pleadings.....  
....original plus one.

Rule 9007.1

DESIGNATION OF PARTIES TO PROVIDE NOTICE

The clerk of court is authorized to designate the parties who shall provide the notice to creditors and parties in interest as required under the bankruptcy rules and the local bankruptcy rules.

Rule 9010.1

REPRESENTATION AND APPEARANCES; POWERS OF ATTORNEY

Local Rule No. 2.00 of the Local Rules of Court for the United States District Court, Eastern District of North Carolina, entitled "Attorneys," is applicable in this court, with the following exceptions:

- (1) an individual may represent himself;

- (2) an entity may be represented at a meeting of creditors by its officers and agents; however, all courtroom appearances, except as previously indicated, pleadings, motions, and objections must be by an attorney admitted to practice before this court.

#### **Rule 9010.2**

##### **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 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 must be applied for pursuant to Bankruptcy Rule 2016.

#### **RULE 9013.1**

##### **MOTIONS: FORM AND SERVICE**

(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 (including the standing chapter 12 and 13 trustee) for the debtor 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.

(b) **SERVICE ON BANKRUPTCY ADMINISTRATOR:** Any and all filings (except claims) in all chapter 7, 11 and 12 cases must be served on the bankruptcy administrator. Requests filed by the attorney for the debtor in chapter 13 cases for fees in addition to those reflected on disclosure of fees under Rule 2016(b) must be served on the bankruptcy administrator.

(c) **CERTIFICATE OF SERVICE:** Each pleading or document to be served on any party indicated in paragraphs (a) and (b) above shall have attached a certificate reflecting that service has been made on that party.

#### **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, allow for a specific response time to the motion and shall conform substantially to Local Form No. 2 in these rules.

(b) **CONTENT OF MOTION:** Motions seeking relief other than as to the debtor or the trustee shall recite the name and address of the party against whom relief is sought.

(c) **TIME FOR RESPONSE:** A response and accompanying affidavits, if any, to any motion shall be filed within fifteen (15) days from the date of the notice of motion, unless otherwise ordered or provided in the bankruptcy rules or local bankruptcy rules.

(d) **SERVICE OF MOTION:** The moving party shall serve copies of the motion, together with all exhibits and attachments, accompanied by a notice of motion in the manner prescribed in Bankruptcy Rule 7004, contemporaneously with the filing of the original motion and notice with the clerk of court, and shall attach a certificate of service to the original motion and notice to be filed with the clerk of court. Any motion received for filing with the clerk of court which is not accompanied by an appropriate notice and certificate of service may not be accepted for filing by the clerk of court, but may be returned to the moving party without action.

(e) **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.~~

(f) **HEARING ON MOTION:** Unless a hearing is requested in the motion or in the response, motions may be determined without a hearing. ~~A hearing on a motion may be ordered by the court in its discretion.~~

(g) **FRIVOLOUS OR DELAYING MOTIONS:** Where the court finds that a motion is frivolous or filed for delay, costs may be assessed against the party or counsel filing the motion. Any party filing a request for a hearing shall appear at the hearing set by the court in support of the request or costs may be assessed.

**PART XII**

**RULE 12000.1**

**CHAPTER 12 RULES**

The Proposed Interim Rules and Forms for Chapter 12 are adopted as local rules of this court, with the exceptions as noted in Rule 1007.1(b) of these rules, and shall remain in effect until chapter 12 rules are promulgated by the United States Supreme Court.

**LOCAL BANKRUPTCY RULES**

**LOCAL FORMS**

NOTE: When filing an accelerated petition, the cover sheet must be completed in as much detail as possible. A supplemental cover sheet must accompany schedules and statements subsequently filed.

B103 (1/87) CASE NUMBER (Court Use Only)

## BANKRUPTCY PETITION COVER SHEET

**INSTRUCTIONS:** This form must be completed by the debtor or the debtor's attorney and submitted to the clerk of court upon the filing of the petition.

NAME OF DEBTOR (Last, First, Middle)	NAME OF JOINT DEBTOR (Spouse) (Last, First, Middle)
ALL OTHER NAMES, INCLUDING TRADE NAMES, USED BY THE DEBTOR IN THE LAST 6 YEARS	ALL OTHER NAMES, INCLUDING TRADE NAMES, USED BY THE JOINT DEBTOR IN THE LAST 6 YEARS
SOCIAL SECURITY NO. AND/OR EMPLOYER'S TAX ID NO.	SOCIAL SECURITY NO. AND/OR EMPLOYER'S TAX ID NO.
ADDRESS OF DEBTOR (Street, City, State, and Zip Code)	ADDRESS OF JOINT DEBTOR (Street, City, State, and Zip Code)
NAME OF COUNTY	NAME OF COUNTY <span style="float: right;">County Code (see reverse side)</span>

**CHECK PROPER BOXES**

<p><b>TYPE OF PETITION</b></p> <p><input type="checkbox"/> Voluntary Petition                      <input type="checkbox"/> Involuntary Petition</p> <p><b>CHAPTER OF THE BANKRUPTCY CODE UNDER WHICH THE PETITION IS FILED (Check One Box)</b></p> <p><input type="checkbox"/> Chapter 7                                      <input type="checkbox"/> Chapter 11 Railroad  <input type="checkbox"/> Ch. 7 Broker                                  <input type="checkbox"/> Chapter 12  <input type="checkbox"/> Ch. 9    <input type="checkbox"/> Chapter 13  <input checked="" type="checkbox"/> Chapter 11                                   <input type="checkbox"/> Sec. 304</p>	<p><b>NATURE OF DEBTOR</b></p> <p><input type="checkbox"/> Business - Complete A, B, C below      <input type="checkbox"/> Wage Earner</p> <p style="text-align: center;">A. FORM OF ORGANIZATION (Check One Box)</p> <p><input type="checkbox"/> Individual                                      <input type="checkbox"/> Partnership  <input checked="" type="checkbox"/> Corporation Publicly Held                  <input type="checkbox"/> Corporation Closely Held</p> <p style="text-align: center;">B. TYPE OF BUSINESS (Check One Box)</p> <p><input type="checkbox"/> Farmer    <input type="checkbox"/> Transportation                                  <input checked="" type="checkbox"/> Construction  <input type="checkbox"/> Professional                                  <input type="checkbox"/> Manufacture/Mining                          <input type="checkbox"/> Real Estate  <input checked="" type="checkbox"/> Retail/Wholesale                                  <input type="checkbox"/> Other Business</p> <p style="text-align: center;">C. BRIEFLY DESCRIBE NATURE OF BUSINESS</p> <p><b>If a corporation, list names and addresses and titles of all principals on attached sheet. If partnership, list names and addresses of each member of partnership on attached sheet.</b></p>
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**DEBTOR'S ESTIMATES**

<p><b>ESTIMATED NUMBER OF CREDITORS</b></p> <p>1-15      16-49      50-99      100-999      1000-over</p> <p><input type="checkbox"/>      <input type="checkbox"/>      <input type="checkbox"/>      <input type="checkbox"/>      <input type="checkbox"/></p>	<p><input type="checkbox"/> No assets will be available for distribution to creditors</p> <p><input type="checkbox"/> Assets will be available for distribution to creditors</p>
<p><b>ESTIMATED ASSETS (IN THOUSANDS OF DOLLARS)</b></p> <p>Under 50      50-99      100-499      500-999      1000-over</p> <p><input type="checkbox"/>      <input type="checkbox"/>      <input type="checkbox"/>      <input type="checkbox"/>      <input type="checkbox"/></p>	<p><b>ESTIMATED NUMBER OF EMPLOYEES—CHAPTER 11 AND 12 ONLY</b></p> <p>0      1-19      20-99      100-999      1000-over</p> <p><input type="checkbox"/>      <input type="checkbox"/>      <input type="checkbox"/>      <input type="checkbox"/>      <input type="checkbox"/></p>
<p><b>ESTIMATED LIABILITIES (IN THOUSANDS OF DOLLARS)</b></p> <p>Under 50      50-99      100-499      500-999      1000-over</p> <p><input type="checkbox"/>      <input type="checkbox"/>      <input type="checkbox"/>      <input type="checkbox"/>      <input type="checkbox"/></p>	<p><b>ESTIMATED NO. OF EQUITY SECURITY HOLDERS—CH. 11 &amp; 12 ONLY</b></p> <p>0      1-19      20-99      100-999      1000-over</p> <p><input type="checkbox"/>      <input type="checkbox"/>      <input type="checkbox"/>      <input type="checkbox"/>      <input type="checkbox"/></p>
<p>ATTORNEY FOR THE DEBTOR (Firm Name, Address, Tel. No.)</p> <p><input type="checkbox"/> No Attorney</p>	<p>ATTORNEY FOR THE PETITIONER (IF INVOLUNTARY PETITION) (Firm Name, Address, Tel. No.)</p>

**FILING FEE (Check One Box)**     Filing Fee Attached     Filing fee to be paid in installments by individuals only. Must attach signed application for the court's consideration indicating that the debtor is unable to pay fee except in installments. Rule 1006 (b).

**RELATED BANKRUPTCY CASE (IF ANY)**

DEBTOR	CASE NO.	
DISTRICT	DIVISIONAL OFFICE	NAME OF JUDGE
DATE	PRINT NAME OF ATTORNEY	SIGNATURE OF ATTORNEY

LIST OF COUNTY CODES FOR NORTH CAROLINA

North Carolina,  
Eastern

37013 Beaufort  
 37015 Bertie  
 37107 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

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NORTH CAROLINA

IN THE MATTER OF:

CASE NO.:  
SS#  
ID#  
CHAPTER:

DEBTOR(S)

NOTICE OF MOTION  
AND  
CERTIFICATE OF SERVICE

TO: THE DEBTOR(S), ATTORNEY FOR THE DEBTOR(S), TRUSTEE AND OTHER PARTIES  
IN INTEREST

NOTICE IS HEREBY GIVEN of the Motion to (nature of motion)  
filed simultaneously herewith by (moving party)  
in the above captioned case; and

FURTHER NOTICE IS HEREBY GIVEN that if you fail to respond or  
otherwise plead or request a hearing in writing within \_\_\_\_\_ days from  
the date of this notice, the relief requested in the motion may be granted  
without further hearing or notice; and

FURTHER NOTICE IS HEREBY GIVEN that if a response and a request for  
a hearing is filed by the debtor(s), trustee, or other parties in interest  
named herein in writing within the time indicated, a hearing will be conducted  
on the motion and response thereto at a date, time and place to be later set  
by this Court and all interested parties will be notified accordingly.

DATE OF NOTICE: (must be same date of service)

\_\_\_\_\_  
(Movant's Name and Address)

CERTIFICATION OF SERVICE

I, \_\_\_\_\_, of \_\_\_\_\_  
\_\_\_\_\_ certify:

That I am, and at all times hereinafter mentioned was, more than  
eighteen (18) years of age;

That on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, I served  
copies of the foregoing motion and notice of motion on [include address(es)]

by (describe here the mode of service)

I certify under penalty of perjury that the foregoing is true and  
correct.

Executed on \_\_\_\_\_  
Date Signature

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NORTH CAROLINA

IN THE MATTER OF:

CASE NUMBER:

SCHEDULE B-4 CLAIM OF EXEMPTIONS

I, \_\_\_\_\_, claim the following property as exempt pursuant to 11 USC 522(b)(2)(A) and (B) and the laws of the State of North Carolina, and non-bankruptcy Federal Law:

1. NCGS 1C-1601(a)(1) (NC Const., Article X, Section 2) REAL OR PERSONAL PROPERTY USED AS A RESIDENCE OR BURIAL PLOT (exemption not to exceed \$7,500.00)

<u>Description of Property &amp; Address</u>	<u>Market Value</u>	<u>Mtg. Holder or Lien Holder</u>	<u>Amt. Mtg. or Lien</u>	<u>Net Value</u>
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VALUE OF REAL ESTATE CLAIMED AS EXEMPT: \$ .00

2. NCGS 1C-1601(a)(3) MOTOR VEHICLE (exemption in one vehicle not to exceed \$1,000.00)

<u>Model, Year Style of Auto</u>	<u>Market Value</u>	<u>Lien Holder</u>	<u>Amt. Lien</u>	<u>Net Value</u>
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VALUE OF MOTOR VEHICLE CLAIMED AS EXEMPT: \$ .00

3. NCGS 1C-1601(a)(4) (NC Const., Article X, Section 1) PERSONAL OR HOUSEHOLD GOODS (net value not to exceed \$2,500.00 plus \$500.00 for first four dependents.)

The number of dependents for exemption purposes is: \_\_\_\_\_

<u>Description of Property</u>	<u>Market Value</u>	<u>Lien Holder</u>	<u>Amt. Lien</u>	<u>Net Value</u>
Clothing & Personal	_____	_____	_____	_____
Kitchen Appliances	_____	_____	_____	_____
Stove	_____	_____	_____	_____
Refrigerator	_____	_____	_____	_____
Freezer	_____	_____	_____	_____
Washing Machine	_____	_____	_____	_____
Dryer	_____	_____	_____	_____
China	_____	_____	_____	_____

Silver				
Jewelry				
Living Rm. Furn.				
Den Furn.				
Bedroom Furn				
Dining Rm. Furn.				
Lawn Furn.				
Television				
( )Stereo ( )Radio				
Musical Instruments				
( )Piano ( )Organ				
Air Conditioner				
Paintings/Art				
Lawn Mower				
Yard Tools				
Crops				
Recreational Equip.				

VALUE CLAIMED AS EXEMPT: \$ .00 -

4. NCGS 1C-1601(a)(5) TOOLS OF TRADE (total net value not to exceed \$500.00 in value)

<u>Description</u>	<u>Market Value</u>	<u>Lien Holder</u>	<u>Amt. Lien</u>	<u>Net Value</u>
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VALUE CLAIMED AS EXEMPT: \$ .00

5. NCGS 1C-1601(a)(6) LIFE INSURANCE (NC Const., Article X, Section 5)

<u>Company</u>	<u>Insured</u>	<u>Policy Number</u>	<u>Beneficiary</u>	<u>Cash Value</u>
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6. NCGS 1C-1601(a)(7) PROFESSIONALLY PRESCRIBED HEALTH AIDS (Debtor or Debtor's Dependents, no limit on value)

Description

7. NCGS 1C-1601(a)(8) COMPENSATION FOR PERSONAL INJURY OR DEATH OF A PERSON UPON WHOM THE DEBTOR WAS DEPENDENT FOR SUPPORT. COMPENSATION NOT EXEMPT FROM RELATED LEGAL, HEALTH OR FUNERAL EXPENSE.

8. NCGS 1C-1601(a)(2) ANY PROPERTY (total net value not to exceed \$2,500.00 less any amount used under NCGS 1C-1601(1) and after reduction for overages in categories 2, 3, and 4.)

<u>Description</u>	<u>Market Value</u>	<u>Lien Holder</u>	<u>Amt. Lien</u>	<u>Net Value</u>
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9. TENANCY BY THE ENTIRETY. The following property is claimed as exempt pursuant to 11 USC 522(b)(2)(B) and the law of the State of North Carolina pertaining to property held as tenants by the entirety.

<u>Description of Property &amp; Address</u>	<u>Market Value</u>	<u>Lien Holder</u>	<u>Amt. Lien</u>	<u>Net Value</u>
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VALUE OF ENTIRETIES PROPERTY CLAIMED AS EXEMPT: \$ .00

10. OTHER EXEMPTIONS CLAIMED UNDER LAWS OF THE STATE OF NORTH CAROLINA

	Amount
a. Aid to the Aged, Disabled and Families with Dependent Children NCGS 108A-36	_____
b. Aid to the Blind NCGS 111-18	_____
c. Yearly Allowance for Surviving Spouse NCGS 30-15, NCGS 30-33	_____
d. North Carolina Local Government Employees Retirement benefits NCGS 128-31	_____
e. North Carolina Teachers and State Employees Retirement benefits NCGS 135-9	_____
f. Firemen's Relief Fund pensions NCGS 118-49	_____
g. Fraternal Benefit Society benefits NCGS 58-283	_____
h. Workers Compensation benefits NCGS 97-21	_____
i. Unemployment benefits, so long as not comingled and except for debts for necessities purchased while unemployed NCGS 96-17	_____
j. Group insurance proceeds NCGS 58-213	_____
k. Partnership property, except on a claim against the partnership NCGS 59-55	_____
l. Wages of debtor necessary for support of family NCGS 1-362	_____
TOTAL PROPERTY CLAIMED AS EXEMPT:	\$ .00

11. EXEMPTIONS CLAIMED UNDER NON-BANKRUPTCY FEDERAL LAW

	Amount
a. Foreign Service Retirement and Disability Payments 22 USC 1104	_____
b. Social Security benefits 42 USC 407	_____
c. Injury or death compensation payments from war risk hazards 42 USC 1717	_____
d. Wages of fishermen, seamen, and apprentices 46 USC 601	_____
e. Civil Service Retirement benefits 5 USC 729, 2265	_____

- f. Longshoremen and Harbor Workers Compensation Act death and disability benefits 33 USC 916 \_\_\_\_\_
- g. Railroad Retirement Act annuities and pensions 45 USC 228(L) \_\_\_\_\_
- h. Veterans benefits 45 USC 352(E) \_\_\_\_\_
- i. Special pension paid to winners of Congressional Medal of Honor 38 USC 3101 \_\_\_\_\_
- j. Federal homestead lands, on debts contracted before the issuance of the patent 43 USC 175 \_\_\_\_\_

VALUE OF PROPERTY CLAIMED AS EXEMPT: \$ .00

12. The following tangible personal property was purchased by the debtor within 90 days of the filing of the bankruptcy petition:

<u>Description</u>	<u>Market Value</u>	<u>Lien Holder</u>	<u>Amt. Lien</u>	<u>Net Value</u>
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13. The debtor's property is subject to the following claims:

- a. Of the United States or its agencies as provided by federal law
- b. Of the State of North Carolina or its subdivisions for taxes or appearance bonds
- c. Of a lien by a laborer
- d. Of a lien by a mechanic
- e. For payment of obligations contracted for the purchase of specific property
- f. For repair or improvement of specific property
- g. For contractual security interests in specific property, except debtor's household goods on which there exists a nonpossessory, nonpurchase money security interest
- h. For statutory liens, other than judicial liens
- i. For child support or alimony, ordered pursuant to Chapter 50 of the General Statutes of North Carolina

<u>Claimant</u>	<u>Nature of Claim</u>	<u>Amt. of Claim</u>	<u>Description of Property</u>	<u>Value of Property</u>	<u>Net Value</u>
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None of the property listed in paragraph 12 has been included in this claim of exemptions.

None of the claims listed in paragraph 13 is subject to this claim of exemptions.

DATE:

\_\_\_\_\_  
DEBTOR

B 104 (3/87) <b>ADVERSARY PROCEEDING COVER SHEET</b> (Instructions on Reverse)	ADVERSARY PROCEEDING NUMBER (Court Use Only)
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<b>PLAINTIFFS</b>	<b>DEFENDANTS</b>
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ATTORNEYS (Firm Name, Address, and Telephone No.)	ATTORNEYS (If Known)
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**PARTY** (Check one box only)     1 U.S. PLAINTIFF     2 U.S. DEFENDANT     3 U.S. NOT A PARTY

**CAUSE OF ACTION** (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)

**NATURE OF SUIT**  
(Check the one most appropriate box only.)

<input type="checkbox"/> 454 To Recover Money or Property	<input type="checkbox"/> 455 To revoke an order of confirmation of a Chap. 11 or Chap. 13 Plan	<input type="checkbox"/> 456 To obtain a declaratory judgment relating to any of foregoing causes of action
<input type="checkbox"/> 435 To Determine Validity, Priority, or Extent of a Lien or Other Interest in Property	<input type="checkbox"/> 426 To determine the dischargeability of a debt 11 U.S.C. § 523	<input type="checkbox"/> 459 To determine a claim or cause of action removed to a bankruptcy court
<input type="checkbox"/> 458 To obtain approval for the sale of both the interest of the estate and of a co-owner in property	<input type="checkbox"/> 434 To obtain an injunction or other equitable relief	<input type="checkbox"/> 498 Other (specify)
<input type="checkbox"/> 424 To object to or revoke a discharge 11 U.S.C. § 727	<input type="checkbox"/> 457 To subordinate any allowed claim or interest except where such	

**ORIGIN OF PROCEEDINGS** (Check one box only.)     1 Original Proceeding     2 Removed Proceeding     4 Transferred to Another Bankruptcy Court     5 Reinstated or Reopened

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND	NEAREST THOUSAND \$	OTHER RELIEF SOUGHT	<input type="checkbox"/> JURY DEMAND
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**BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES**

NAME OF DEBTOR	BANKRUPTCY CASE NO.	
DISTRICT IN WHICH CASE IS PENDING	DIVISIONAL OFFICE	NAME OF JUDGE

**RELATED ADVERSARY PROCEEDING (IF ANY)**

PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT	DIVISIONAL OFFICE	NAME OF JUDGE

**FILING FEE** (Check one box only.)     FEE ATTACHED     FEE NOT REQUIRED     FEE IS DEFERRED

DATE	PRINT NAME OF ATTORNEY	SIGNATURE OF ATTORNEY
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## ADVERSARY PROCEEDING COVER SHEET (Reverse Side)

This cover sheet must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented without an attorney) and submitted to the clerk of the court upon the filing of a complaint initiating an adversary proceeding.

The cover sheet and the information contained on it *do not* replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. This form is required for the use of the clerk of the court to initiate the docket sheet and to prepare necessary indices and statistical records. A separate cover sheet must be submitted to the clerk of the court for each complaint filed. The form is largely self explanatory.

**Parties.** The names of the parties to the adversary proceeding *exactly* as they appear on the complaint. Give the names and addresses of the attorneys if known. Following the heading "Party," check the appropriate box indicating whether the United States is a party named in the complaint. If the plaintiff is *pro se*, that is, not represented by an attorney, check the box labeled "no attorney."

**Cause of Action.** Give a brief description of the cause of action including all federal statutes involved. For example, "Complaint seeking damages for failure to disclose information, Consumer Credit Protection Act, 15 U.S.C. §1601 et seq.," or "Complaint by trustee to avoid a transfer of property by the debtor, 11 U.S.C. §544."

**Nature of Suit.** Place an "X" in the appropriate box. Only one box should be checked. If the cause fits more than one category of suit, select the most definitive.

**Origin of Proceedings.** Check the appropriate box to indicate the origin of the case:

1. Original Proceeding.
2. Removed from a State or District Court.
4. Transferred from Another Bankruptcy Court.
5. Reinstated or Reopened.

**Demand.** On the next line, state the dollar amount demanded in the complaint in thousands of dollars. For \$1,000 enter "1," for \$10,000 enter "10," for \$100,000 enter "100," if \$1,000,000, enter "1000." If \$10,000,000 or more, enter "9999." If the amount is less than \$1,000, enter "0000." If no monetary demand is made, enter "XXXX." If the plaintiff is seeking non-monetary relief, state the relief sought, such as injunction or foreclosure of a mortgage.

**Bankruptcy Case In Which This Adversary Proceeding Arises.** Enter the name of the debtor and the docket number of the bankruptcy case from which the proceeding now being filed arose. Beneath, enter the district and divisional office where the case was filed, and the name of the presiding judge.

**Related Adversary Proceedings.** State the names of the parties and the six digit adversary proceeding number from any adversary proceeding concerning the same two parties or the same property currently pending in any bankruptcy court. On the next line, enter the district where the related case is pending, and the name of the presiding judge.

**Filing Fee.** Check one box. The fee must be paid upon filing unless the plaintiff meets one of the following exceptions. The fee is not required if the plaintiff is the United States government or the debtor. If the plaintiff is the trustee of a debtor in possession, and there are no liquid funds in the estate, the filing fee may be deferred until there are funds in the estate. (In the event no funds are ever recovered for the estate, there will be no fee). There is no fee for adding a party after the adversary proceeding has been commenced.

**Signature.** This cover sheet must be signed by the attorney of record in the box on the right of the last line of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is *pro se*, that is, not represented by an attorney, the plaintiff must sign.

The name of the signatory must be printed in the box to the left of the signature. The date of the signing must be indicated in the box on the far left of the last line.