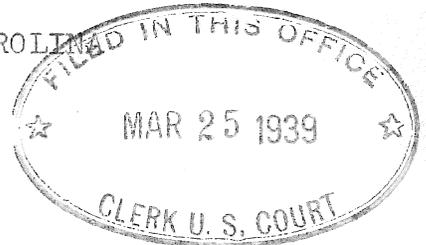


IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
AT GREENSBORO, N. C.



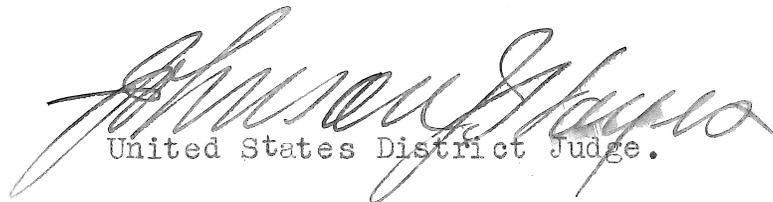
Pursuant to Rule 83 of the Rules of Civil Procedure for the district courts of the United States, and the powers conferred upon district Judges to ~~to~~ promulgate rules of procedure and practice;

It is now ORDERED that the rules of practice numbered one to twenty eight under the caption of "Civil Practice Rules" be and they are hereby adopted for the Middle District of North Carolina, and

It is further ORDERED that the rules of practice in bankruptcy of the United States District Court for the Middle District of North Carolina Numbered One to fourteen be and they are hereby adopted as the rules in bankruptcy for this court and all existing rules in bankruptcy and all rules in civil practice are hereby rescinded, and these rules shall be effective from this date and apply to pending cases as well as to new cases hereafter instituted.

The Clerk will enter the rules hereby promulgated and this order in the minutes of this Court.

This the 25th day of March, 1939.

  
United States District Judge.

7129

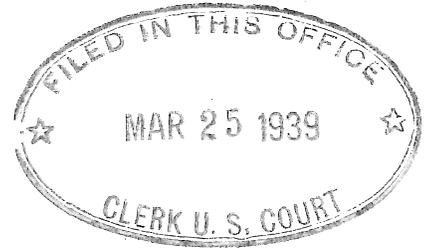
UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

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March 27, 1939

CIVIL PRACTICE RULES

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Pursuant to Rule 83 of the Rules of Civil Procedure for the District Courts of the United States, the following rules have been promulgated for the regulation of the practice of the United States District Court for the Middle District of North Carolina in all suits of a civil nature whether cognizable as cases at law or in equity, with the exceptions stated in Rule 81 of said Rules of Civil Procedure. Said rules are hereinafter referred to by the initials F. R. C. P. (Federal Rules of Civil Procedure), and these rules may be cited as Civil Practice Rules (C.P.R.).

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Rule 1

The summons and complaint must be served on each defendant within three months after the issuance of the summons. Unless a defendant has been so served within said time, or has appeared generally in the cause, the action against him shall abate; provided, however, that a plaintiff whose time to effect service has not expired may from time to time, for good cause shown, procure an order extending his time to serve the summons and complaint for such further period as the court may direct.

Rule 2

A defendant against whom a summons has been issued may appear regardless of the plaintiff's failure to serve the summons upon him. An appearance is made by the service of a notice thereof, or by the service of any motion or pleading purporting to be responsive to, or affecting the complaint.

Rule 3

All pleadings after the complaint must be immediately filed after service. In the event of failure to file such a pleading within five days after notice from any party to do so, the court may strike out such pleading on motion.

Rule 4

It shall not be necessary to state in the caption of any order of the court that it was made at any term. An order shall be dated as of the date of its signing, which date may appear at the foot thereof.

Rule 5

Wherever the court has made an ex parte order, the party obtaining it shall serve a copy thereof and the papers upon which it was based within two days thereafter upon each adverse party who has appeared in the cause and is affected thereby; except that an order to show cause shall be served within the time limited by the order.

## Rule 6

All orders when made on notice or ex parte, other than orders to show cause, shall be filed forthwith in the office of the Clerk.

## Rule 7

The court shall not be required to enforce stipulations affecting the proceedings in any civil action unless such stipulations are in writing signed by the parties, or their attorneys, or unless such stipulations are made in open court.

## Rule 8

Where an order is granted under F.R.C.P. 12 (e) for a more definite statement or for a bill of particulars, and the pleading or bill which is served in purported compliance therewith fails to meet the terms of the order, a party before applying for other relief may make a motion for a further statement or bill.

## Rule 9

If at any time prior to the trial of a cause to which neither the United States nor any officer, agency or employee thereof is a party, any party to the cause draws in question the constitutionality of an Act of Congress affecting the public interest, all parties shall notify the Senior Judge, in writing, of the existence of said question, and in such notification, shall give the title of the case, a reference to the questioned statute sufficient for its identification, and a statement of the particulars in which it is claimed that the statute is unconstitutional.

## Rule 10

In the case of a proposed deposition upon oral examination at a place more than 150 miles from the court house, including the case of a deposition before action or pending appeal, the court may provide in the order therefor, or impose as a condition of denying a motion to vacate a notice thereof, that the applicant shall pay the expense of the attendance of one attorney for the adversary party or parties, or expected party or parties, at the place where the deposition is to be taken, including a reasonable counsel fee, which amounts shall be paid prior to such examination.

Where, pursuant to F.R.C.P. 27 (a) (2), the court appoints an attorney to represent a proposed absent adverse party to cross-examine the proposed witness, the order appointing such attorney shall fix his compensation to include his expenses, and such compensation shall be paid by the petitioner prior to the appearance of such attorney upon the examination.

## Rule 11

The officer before whom a deposition is being taken pursuant to F.R.C.P. 26, 27, and 29, may continue the same from day to day until it is completed, except that examinations shall not be had on a legal holiday, or Sunday. Where a witness is physically unable to attend the place of examination the officer may continue the examination to the residence or other place of the witness, or he may adjourn the same from time to time, but, except by consent, for not more than one week. The officer before whom an oral examination is to be had, shall be provided by the

party procuring the same with a copy of the notice of examination, or order of examination, as well as of any other order made pursuant to F.R.C.P. 30 (b). The officer shall also be provided with a copy of this rule and of the following rules:- F.R.C.P. 26 (c), 28 (c), 30 (c), (d), (e) and (f).

Upon receipt of a deposition the Clerk, unless otherwise ordered, shall open and file it forthwith and give notice thereof by mail to the attorneys for the respective parties.

#### Rule 12

Where an answer to any interrogatory made under F.R.C.P. 33 is incomplete or not responsive, or where the oath to such answer has been omitted, a party aggrieved may, before applying for other relief, apply for an order directing that a further answer to served.

#### Rule 13

An order for the use of a subpoena commanding the production of documentary evidence on the taking of a deposition may be granted without notice or affidavit, and may be in the form of an endorsement on the subpoena of the words "So ordered" with the date and signature by the judge.

#### Rule 14

The parties to any civil action may stipulate in writing for the appointment of a master to report upon particular issues, or upon all the issues. Such stipulation may name the master, in which case the court shall appoint the person named. The procedure governing such a reference shall be the same as that governing any other reference to a master.

#### Rule 15

A direction by a master to a party to produce evidence as provided in F.R.C.P. 53 (c), or prescribing the form of account as provided in 53 (d) (3), shall, at the request of any party be reduced to writing in the form of an order dated and signed by the master, who shall furnish a copy thereof to all parties to the hearing. The original of such order shall, at the request of any party, form a part of the record returned by the master with his report.

#### Rule 16

A master may sit outside the Middle District of North Carolina as well as within it. Where he is requested so to do for the convenience of one of the parties and there is opposition thereto by another party, he may make an order for the holding of the hearing, or a part thereof, outside of the district upon such terms and conditions as shall be just.

NOTE; See Consolidated Fastener Co. v. Columbian Button & Fastener Co. (C.C.N.D. N.Y., Cox, D.J., 1898) 85 Fed. 54.

#### Rule 17

All findings of fact by the court or master shall be embodied in consecutively numbered paragraphs, the contents of which shall be limited as far as practicable to a single set of circumstances. Upon a motion to reject or confirm the

report of a master, the court shall be deemed to have adopted the findings of fact enumerated in the report, except where the order of the court rejects the report in its entirety or except to the extent that it specifically rejects enumerated findings.

#### Rule 18

After a master's compensation has been fixed by the court, and his disbursements allowed, the prevailing party may pay such compensation and disbursements, and such payment shall thereupon be a taxable disbursement against the defeated party or parties. Where the court shall have directed by order the parties against whom, or the proportion in which such compensation and disbursements shall be charged or paid, or the fund or subject-matter out of which they shall be paid, the party making such payment to the master shall be entitled to tax such disbursements only against such parties, and in such proportions as the court shall have directed, and to payment of such taxable disbursements only out of such fund or subject-matter as the court shall have directed.

#### Rule 19

In cases where the Clerk is authorized to enter judgment without direction of the Court, the successful party shall prepare and submit to the Clerk the proposed judgment and may do so without notice. In all cases in which the form of judgment requires the approval of the court, the judgment shall be prepared by the successful party and settled on not less than two days' notice to all other parties who have appeared unless the court shall otherwise direct. Any proposed counter-form of judgment shall be served on the day prior to the return day of the notice of settlement. The form of judgment, when approved, shall be delivered to the Clerk for entry. The judge shall indicate his approval of the form of judgment as follows: "Approved on the            day of            " "Judgement rendered, the day of            " and sign the judgment. The judgment in any case may be signed, leaving a blank space for the insertion of costs by the Clerk as and when they have been taxed. But the judgment shall not be entered until costs have been taxed or waived.

Cost to be taxed by Clerk- motion to retax always available. See 55-B-1.

A judgment docket shall also be kept by Clerk.

#### Rule 20

When a party is entitled to have the Clerk enter judgment by default pursuant to F.R.C.P. 53 (b) (1), he shall submit with his form of judgment a statement showing the principal amount due, which shall not exceed the amount demanded in the complaint, giving credit for any payments and showing the amounts and dates thereof, a computation of interest to the day of judgment, and the costs and taxable disbursements claimed, to which statement shall be appended an affidavit of the party or his attorney (1) that the party against whom judgment is sought is not an infant or an incompetent person; (2) that he has made default in appearance in the action; (3) that the amount shown by the statement is justly due and owing and that no part thereof has been paid; and (4) that the disbursements sought to be taxed have been made in the action, or will necessarily be made or incurred therein. The Clerk shall thereupon enter judgment for principal, interest and cost.

## Rule 21

A party who, pursuant to F.R.C.P. 59 (b), is required to obtain leave of court before moving for a new trial may, at the time of giving notice of application for such leave, give notice also of the motion for a new trial in the event such leave is granted, and the court in such case, if upon hearing of the application for leave and a showing of due diligence it grants such leave, may proceed on the same day to the consideration of the motion for a new trial.

## Rule 22

Whenever an order of reference to a master is made, the attorney procuring the signing of the order shall, at the time of the filing thereof, deposit with the Clerk a copy to be furnished to the master. Upon the filing of his report the master shall furnish the Clerk, with sufficient copies of a notice of filing thereof, addressed severally to the parties or their attorneys, to enable the Clerk to mail copies to them.

All notices of appeal shall exhibit the names of the several parties to the judgment, and the names and addresses of their respective attorneys of record. Upon the filing of a notice of appeal, the appellant shall file a sufficient number of copies thereof to enable the Clerk to comply with the provisions of F.R.C.P. 73 (b).

Whenever a notice of motion to enforce the liability of a surety upon an appeal or a supersedeas bond is served upon the Clerk pursuant to the provisions of F.R.C.P. 73 (f), the party making such motion shall deposit with the Clerk one additional copy for each surety to be served.

Whenever an order or judgment is entered, the attorney causing the entry thereof shall append to or endorse upon the order or judgment a list of the names of the parties entitled to be notified of the entry of such judgment or order, and the names and addresses of their respective attorneys. Such attorney shall also deposit with the Clerk a conformed copy of such judgment or order, for each attorney or party to be served by the Clerk with notice of entry thereof pursuant to the provisions of F.R.C.P. 77 (d).

## Rule 23

An appellant desiring to stay the enforcement of a judgment for a sum of money only may, ex parte, present for approval a supersedeas bond as required by the provisions of F.R.C.P. 73 (d). The bond shall be in the amount of the judgment, plus 11 per cent to cover interest and such damages for delay as may be awarded, plus \$250. to cover costs. The bond must be in the form provided for by said rule, and properly executed and acknowledged. If the bond is executed by personal sureties, said sureties shall severally attach their affidavits of justification, which shall state their full names, residences, occupations and business addresses, and their several net worths, exclusive of any obligation as surety on any other bonds or undertakings. Upon approval, such bond shall be filed with the Clerk, and a copy thereof, with notice of filing, promptly served on all parties affected thereby. When the stay may be effected solely by the giving of the supersedeas bond, but the judgment or order is not solely for a sum of money, the court shall make its order on notice fixing the amount of the bond. In all other cases, it may grant a stay on notice on such terms as to security and otherwise as it may deem fit and proper.

## Rule 24

If the appellant's designation of the portions

of the record to be contained in the record on appeal includes only part of the reporter's transcript, and if the appellant fails to file two copies of additional parts thereof sufficient to enable the appellee to designate the parts he desires to have added, the appellee within five days of the appellant's designation may serve notice upon the appellant to furnish the additional parts needed, and the time within which the appellee may file his designation shall thereupon be extended ten days beyond the time of the filing of two copies of the additional parts of the transcript with service of a notice of the filing thereof.

#### Rule 25

Where an appellant desires to abridge and exhibit pursuant to F.R.C.P. 75 (e), he shall serve with his designation, a statement indicating the matter to be omitted therefrom, as well as any matter to be stated in lieu thereof.

#### Rule 26

For the purpose of enabling the Clerk to transmit to the appellate court the record on appeal, as required by F.R.C.P. 75 (g), the appellant, within thirty days after the appeal has been taken, shall serve upon the appellee a typed or printed copy of the proposed record on appeal, to accord with the designations filed by the parties; and with the provisions of F.R.C.P. 75 (g). Unless a motion, pursuant to F.R.C.P. 75 (h) to correct the proposed record in any respect, is made, returnable within ten days of such service, two typed or printed copies of the record, as proposed, shall be filed with the Clerk, one of which may be certified by him and filed in the appellate court. If a motion to correct is made, two copies, as ordered to be corrected, shall be filed with the Clerk within five days of such order.

If the appellant attaches to a copy of the record filed by him with the Clerk a stipulation of the parties to the appeal that the copy so filed is a true transcript of the record of the District Court as agreed upon by the parties, the Clerk shall certify the same as the record on appeal, without charge therefor except such as may lawfully be made for the certificate itself. Such stipulation shall form part of the record on appeal.

#### Rule 27

##### Rule Day--

Friday after the second Monday in each month shall constitute rule day-- at which time the judge will be in chambers at Greensboro, North Carolina to hear motions and to transact such business as may come before the court including pre-trial conferences.

#### Rule 28

Whenever a procedural question arises which is not covered by the provisions of any statute of the United States, or of the Federal Rules of Civil Procedure, or of these rules, it shall be determined, if possible, by the parallels or analogies furnished by such statutes and rules. If, however, no such parallels or analogies exist, the procedure prevailing in the Superior Court of the State of North Carolina shall be applied.

#### Rule 29

*Cost bond with surety in the sum of \$200.00 shall be filed when suit is started and a cost deposit of \$25.00 by plaintiff and a deposit of \$15.00 by defendant at filing of answer. A party removing from state court shall deposit \$25.00*

RULES OF PRACTICE IN BANKRUPTCY OF THE UNITED STATES  
DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA.

1. **DEFINITIONS:** The words and phrases used in these rules, which also appear in section 1 of the Bankruptcy Act Amendment of June 22, 1938, shall have the meaning or meanings therein defined.

2. **PROCEDURE <sup>AND</sup> OF PRACTICE:** The procedure, practice and pleading in all matters in bankruptcy shall conform to general orders in bankruptcy adopted by the Supreme Court of the United States, with such additions to, or amendments of, the same as have been or shall be hereafter made. Regular printed forms as approved by the Supreme Court should be used as far as practicable, and others which do not conform to the prescribed form shall not be received.

3. **PETITION AND SCHEDULES:** (a) All petitions, whether voluntary or involuntary, must be either printed or typewritten and shall state the full name, occupation, residence and post office address of the debtor and shall also meet the requirements of section 7 of the Bankruptcy Act as amended.

(b) All schedules shall be filed in triplicate with the Clerk and all amendments to schedules shall be prepared in triplicate, executed and sworn to as required of originals and shall be

filed with the Clerk after the amendment has been allowed by the court. All schedules shall be on printed forms and shall contain every schedule and subdivision thereof with oath and summaries as prescribed by the Supreme Court of the United States.

(c) Each item in the schedules shall be filled out and if no property is to be listed under any item the entry "none" shall be made.

(d) Voluntary petitions by corporations shall recite the authority of the officer or officers signing the petition and the schedules.

4. JURISDICTION OF REFEREES: Whenever a case shall be referred to a Referee either by order of the Judge or by the Clerk, the same shall be within the jurisdiction of the Referee for all purposes, except as to such matters as are within the exclusive jurisdiction of the Judge.

5. PLACES OF MEETINGS: When from an inspection of schedules filed, or otherwise it is made to appear to the Referee that it will be most convenient for the parties in interest, the Referee shall appoint the meetings of creditors to be held at the office of the Referee, or at such convenient place as he may select.

6. APPEARANCES: Except where a party conducts his own proceeding, no petition for adjudication or other petition or pleading in bankruptcy and no proof of claim, and no notice

required to be signed by counsel shall be accepted by the clerk or Referee unless it is signed by an attorney who has been admitted to practice in this court is a resident of and maintains an office in the State of North Carolina, and who has entered his appearance of record with the address of where notice can be served, and this appearance cannot be withdrawn without leave of court. Service of notices, rules and pleadings on such resident attorney shall be equivalent to service on parties for whom he has appeared, and, where a party is conducting his own proceedings, he shall furnish an address where notices and papers can be served.

7. DUTIES OF THE REFEREE: (a) No Referee shall have power to enter an order to permit the issuance of a receiver's certificate as constituting a lien on the assets of the bankrupt estate.

(b) An application for an injunction to restrain a court must be made to the Judge and no Referee shall have authority to entertain such an application or enter such an injunction.

(c) The Referee shall cause all notices of meetings of the creditors to be given by mail as required by the Bankruptcy Act and shall cause notice of the first meeting of creditors and notice to file objections to bankrupt's discharge to be published at least once in a newspaper to be designated by the Court.



a case as a no asset case shall have the effect of disclaiming title to all property listed in the schedules. In all such cases creditors holding liens shall have the right to proceed to foreclose the same without intervening in the bankruptcy proceeding or re-opening said proceeding in the event that it has been closed.

(f) The Referee shall promptly forward to the Clerk bonds given by custodians, receivers, or trustees, together with the Referee's order of approval.

(g) The Referee shall appoint appraisers and may appoint auditors or auctioneers when found to be necessary.

(h) All orders for sale of real and personal property shall be signed by the Referee.

(i) All private sales of personal property shall be confirmed and ratified by the Referee.

(j) The Referee shall obtain from the depositories all checks drawn by receivers, or trustees, and upon the closing of the case shall file such paid checks in the office of the Clerk of the Court.

(k) Notices requiring the payment of indemnity by bankrupts shall be mailed by the referees to bankrupts in no asset cases on the reference thereof, and, if necessary, at intervals of thirty days thereafter until three notices have been given. If, at the end of ninety days such indemnity has not been paid, the case may be closed for want of prosecution. Provided that all such cases shall be closed within

five months from the date of the first notice to deposit indemnity.

(l) The Referee shall order the trustee to pay the filing fees to the Clerk and other cost incurred by the Clerk's office to the Clerk, in all cases where such filing fees have not been deposited and where there are sufficient assets in the case from which to pay said fees.

(m) The Referee shall order the trustee to pay to the Clerk all undistributed balances remaining in his hands, which it is impractical to disburse, either after final distribution has been made or after the closing of the case.

8. RECEIVERS: (a) No person or corporation shall be appointed a receiver or a custodian in any bankruptcy proceeding, who is or has been a receiver, or trustee, appointed in proceedings not under this Act, assignee for the benefit of creditors, agent, or employee authorized to hold possession of or liquidate property, officer or director of the debtor or bankrupt.

(b) Immediately upon the appointment and qualification of a trustee, the custodian or receiver shall turn over to the trustee all moneys and assets, together with all documents or records of the bankrupt or debtor, in his possession, taking the trustee's receipt therefor, and file his report and account within ten days thereafter, unless the time is extended by the Referee or Judge. If said

account is found correct by the Referee, and allowed, he shall discharge the custodian or receiver.

(c) Where a receiver has been appointed in a case which is afterwards dismissed or disposed of without a reference to a referee, such receiver shall immediately, after the final disposition of the case, submit his report and accounts to the Judge.

(d) The receiver's reports shall be duly verified, the oath to be in general the same as official form No. 50 prescribed for trustees and shall also be accompanied by the affidavit required by section 62 (d) of the Bankruptcy Act.

9. TRUSTEES: (a) The trustee shall perform all of the duties set forth in the Bankruptcy Act and especially in section 47 thereof, and the General Orders in Bankruptcy, and shall administer the estate as directed by the court.

(b) The trustee shall file a final account showing all receipts, the date and whence received, each individual disbursements and the purpose thereof, arranged in chronological order and the balance, if any, remaining in his possession, to which final account shall be attached trustee's oath as prescribed by official form No. 50 and likewise the affidavit required by section 62 (d) of the Bankruptcy Act; whereupon the Referee shall withdraw paid checks in the case from the depository and make an audit of said account and if it appears

that the trustee has faithfully and honestly administered said estate and duly accounted for all properties or moneys coming into his hands in accordance with the law, the trustee shall be discharged from his trust.

(c) Where a trustee has been elected or appointed and no assets are found other than such as are exempt, it shall not be necessary to call a final meeting of the creditors and the trustee shall be discharged from his trust by filing a final report with the Referee, setting forth that the estate has no assets.

10. ATTORNEYS: No attorney for a receiver or trustee shall be appointed except upon order of the court, which shall be granted only upon the verified petition of the receiver or trustee, stating the name of the counsel he wishes to employ, the reasons for his selection, the professional service he is to render, the necessity for employing counsel at all, and, to the best of petitioner's knowledge, all of the attorney's connections with the bankrupt or debtor, the creditors, or any other parties to the proceeding, and their respective attorneys. If satisfied that the attorney represents no interest adverse to the receiver,<sup>OR</sup> trustee or any creditor, in the matters upon which he is to be engaged, that his employment would be to the best interest of the estate, the court may authorize his employment; such employment shall be for a specific

purpose, unless the court is satisfied that the case is one justifying a general retainer. If, without disclosure, any attorney acting for a receiver or trustee shall have represented any interest adverse to the receiver, <sup>or</sup> trustee, ~~or any~~ creditor, in any matter upon which he is employed for such receiver or trustee, the court may deny the allowance of any fee to such attorney or the reimbursement of his expenses, or both, and may also deny any allowance to the receiver or trustee, if it shall appear that he failed to make diligent inquiry into the connections of said attorney. The solicitation by attorneys or others of the power to represent creditors in any bankruptcy proceedings, is deemed unethical and is to be deprecated. Referees are therefore directed to deny any such representation.

11. ALLOWANCES TO CUSTODIANS, RECEIVERS, TRUSTEES, ATTORNEYS, APPRAISERS, OR ACCOUNTANTS: All applications for compensation for services as attorney for the receiver or trustee shall comply with section 62 subsection (d) of the Bankruptcy Act, and shall state in addition: (1) The date when the attorney was retained; (2) that all the services for which compensation is requested were performed for, and on behalf of, the receiver or trustee, as the case may be, and not on behalf of any committee, creditor or any other person; (3) in concise form the facts regarding such services, showing their nature and

difficulty, the amount and importance of the matters involved, results obtained, size of the estate, and any other matters which will enable the court to determine the reasonable value of such services.

Application for compensation for services as attorney for petitioning creditors shall comply with section 62 subsection (d) of the Bankruptcy Act, and shall state, in addition: That all services for which compensation is requested were rendered for and on behalf of the petitioning creditors while performing the duties prescribed by the Bankruptcy Act, the amount requested for services, and reimbursement for expenses, if any, said expenses to be itemized.

Application for compensation for services as attorney for the bankrupt shall comply with section 62 subsection (d) of the Bankruptcy Act, and shall state, in addition: That all services for which compensation is requested performed before the petition in bankruptcy was filed, were in connection with said bankruptcy proceeding, and were not services in any other matter; and that all services performed since were in connection with the performance by the bankrupt of the duties prescribed by the Bankruptcy Act, or were rendered pursuant to order of the court; the amount of compensation requested for services and the amount received therefor from the bankrupt or any other person, and the amount requested for expenses, if any, said expenses to be

itemized.

All applications for allowances to custodians, receivers, trustees, appraisers, accountants or attorneys shall be filed with the Referee prior to the sending of notice to creditors of the receiver's or trustee's accounting. The referee is authorized to pass upon accounts of custodians, receivers and trustees and to order their discharge; to fix and order payment of compensation in accordance with these rules and the Bankruptcy Act to custodians, receivers, trustees, accountants, appraisers, attorneys for petitioning creditors, bankrupts, receivers, and trustees, and such allowances shall be subject to review by the judge when, and if, objections are filed by creditors on or before the meeting of creditors at which said allowances are made. Provided however, that allowances of compensation by the Referee of \$200.00 or more shall be recommendatory merely, and shall be without effect unless approved by the Judge, whether excepted to or not.

No compensation or fees shall be paid to attorneys for receivers or trustees until the final account of such receiver or trustee shall be filed with the Referee. However, allowances to the attorney for the bankrupt and petitioning creditors may be made as soon as their duties in the proceeding have been discharged.

12: DEPOSITORIES: (a) All banks within the Middle District of North Carolina whose deposits

are insured under section 12 B of the Federal Reserve Act as amended are hereby designated as bankruptcy depositories, provided, however, that no deposits shall be made in any such depository, in any particular case, in excess of the sum of \$5000.00 or the amount of insurance in force as to each particular deposit. Any bank so designated by this rule may qualify as a depository by furnishing satisfactory evidence to the Clerk of the United States District Court that its deposits are insured under the provisions of Section 12 B of the Federal Reserve Act and the extent to which each individual deposit is so insured. Each applicant shall also state in writing that it is familiar with the rules of this court relating to depositories and that it will comply with the provisions thereof.

(b) Any banking institution within the Middle District of North Carolina desiring to be designated as a depository for bankruptcy accounts which are in excess of the amount of insurance carried by said institution as to each deposit under the section 12 B of the Federal Reserve Act shall comply with the provisions of section 61 of the Bankruptcy Act by either giving the surety bond therein required or in lieu thereof depositing with the Federal Reserve Bank of such Branch as may be designated by the Judge, such securities as the Judge shall approve. And as provided in section

61 all securities so deposited shall be held by said Federal Reserve Bank or Branch subject to the orders of the Judge.

(c) All moneys received by a custodian, receiver, or trustee in bankruptcy must be deposited in a duly designated depository and the Referee in Bankruptcy shall direct which of the designated depositories shall be used in each case. In making deposits custodians, receivers, or trustees are directed to deposit funds in the name of the custodian, receiver, or trustee in bankruptcy in the particular case in which the money is received and to forward to the Referee a duplicate deposit slip. That upon the opening of a new account the custodian, receiver, or trustee shall call to the attention of the bank that the deposit is in a bankruptcy proceeding and that checks are required to be countersigned by the Referee as herein provided, but the failure of a custodian, receiver or trustee to so advise the bank shall not relieve the bank of its duties under these rules, where the deposit slip shows that the funds are deposited in a bankruptcy proceeding.

(d) All accounts of funds of an estate in bankruptcy shall be segregated by the depository under the general index heading of "Bankruptcy - United States District Court."

(e) All checks drawn by custodians, receivers, or trustees shall be countersigned by

Referee before whom the case is pending or by the Judge.

7 (f) The depositories shall retain all paid checks in each bankruptcy case and shall deliver them to the Referee or upon the order of the Referee or the Judge.

(g) Each depository shall at the close of business at the end of each month, and at such other times as the court may direct, prepare and transmit to the Clerk of the United States District Court at Greensboro, North Carolina, with a copy thereto to the Referee before whom the case is pending, a statement of each account, showing the name of the custodian, receiver, or trustee, the name of the estate, and the amount of the balance on deposit.

(h) Depositories shall allow the Judge, the Referee, and duly accredited examiners of the Department of Justice free access at all times to the accounts in bankrupt estates and to the use of paid checks held by the depository in such accounts.

13: PERPETUATING TESTIMONY: Pursuant to section 38, subsection 7 of the Bankruptcy Act, Referees in Bankruptcy are authorized to employ stenographers for reporting and transcribing proceedings before them at a reasonable cost not to exceed the usual charge of court reporters in this District, to-wit: \$10.00 per day for reporting and .15 per folio for the original and .10 per folio for

copies for transcribing.

14: EXPENSES OF REFEREE: The Referee shall be allowed the following indemnity for expenses in the administration of estates in bankruptcy before him in lieu of all charges for stenographic hire, (other than perpetuating testimony under Rule 13) clerk hire and all other cost of conducting and operating his office, which said items shall be charged as herein provided in each case referred to him.

(a) Publication of notices in newspapers and printing required in each case shall not be considered an expense of the Referee but shall be paid by the trustee.

(b) The actual and necessary expenses paid by a Referee while away from his office on official business, including traveling expenses at the rate per mile allowed by the United States Government to Clerks of Federal Courts.

(c) A reasonable allowance for stenographic services and clerk hire in each case not to exceed:

(1) \$7.50 in no asset cases, unless the examination of the bankrupt or other witnesses shall be lengthy, in which case the usual charge for perpetuating testimony shall also be made.

(2) In asset cases in which the total receipts of the trustee does not exceed \$1500.00, \$10.00; where the total receipts of the trustee are in excess of \$1500.00, but not in excess of \$3000.00,

\$15.00; where the total receipts are in excess of \$3000.00 and not in excess of \$5000.00, \$20.00; and in all cases in which total receipts of the trustee exceed \$5000.00 and do not exceed \$200,000.00, \$20.00 for the first \$5000.00 and \$1.00 for each \$1000.00 or a fraction thereof in excess of \$5000.00; and on all amounts in excess of \$200,000.00, .50 for each \$1000.00 or fraction thereof.

(d) For preparing and mailing the notices required by the Act, \$5.00 for each set of notices not exceeding 20 and .15 for each additional notice of any one meeting of creditors in excess of 20.

(e) For any copy of testimony or of orders or other papers .15 per folio.

(f) The Referee shall comply with section 62 of the Bankruptcy Act by filing an itemized statement of all cost and expenses incurred in the administration of each estate, under oath, which shall be filed with the Clerk as a part of the record and any and all expenses not herein specifically authorized by these rules shall be approved by an order of the Judge.

These rules in bankruptcy shall apply to Chapters X, XI, XII, XIII, and XV of the Chandler Act of June 22, 1938, insofar as said rules shall be applicable and are not in conflict with said chapters or any section thereof, or with the General Orders in Bankruptcy that have been or may be

promulgated by the Supreme Court of the United States.

The foregoing Rules of Practice in Bankruptcy in and for the Middle District of North Carolina are hereby adopted as the rules in bankruptcy of this court and all existing rules of bankruptcy are hereby rescinded as of this date. These rules to become effective as to all pending cases as of the date hereof, however, they shall not effect any proper action heretofore taken of the previous rules.

The Clerk will enter the rules hereby promulgated in the minutes of the Court.

This the \_\_\_ day of October, 1938.

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United States District Judge for  
the Middle District of North Carolina.