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Since 1897

October 2, 2025

Local Rules Committee
U.S. Bankruptcy Court
PO Box 26100
Greensboro, NC 27420-6100
ncmbml_localrules@ncmb.uscourts.gov

Re: Proposed Revisions to Local Bankruptcy Rules of the Middle District of North Carolina

Dear Local Rules Review Committee Members:

The North Carolina Bankers Association (NCBA), the trade association for the banks operating in North Carolina and their approximately 100,000 employees, appreciates the opportunity to provide comments on Local Bankruptcy Rule 4001-1(e) and (f) and the related revisions to Section 8.3(d) of the Model Plan.

We write to express our strong concerns that the revisions cited above conflict with federal law and regulation with which banks and servicers must comply. In addition, the changes, while well-intentioned, should be further re-examined as we believe they create unique compliance challenges for banks and servicers operating across multiple jurisdictions and relate to matters that are outside the Bankruptcy Court's jurisdiction.

Conflict with Federal Regulations

The changes appear to be in direct conflict with regulations issued by the Consumer Financial Protection Bureau (CFPB). Please see § 1026.41 of Regulation Z / Truth in Lending (12 CFR Part 1026) and § 1006.6 of Regulation F / Fair Debt Collection Practices Act (12 CFR Part 1006).

- Subsection (f) of § 1026.41 addresses “Modified periodic statements and coupon books for certain consumers in bankruptcy.” Among other things, it provides the types of information that may be omitted and provides additional disclosure requirements. In contrast, the proposed revisions in the local rules state that a secured creditor must “send to the debtor the *same* [emphasis added] monthly account statements that it sends to its non-bankruptcy customers.” If a bank complies with the local rule, it would be violating Regulation Z.
- As a related issue, the proposed revisions appear to suggest that a servicer can choose not to provide the payment coupons, paper statements, or online statements identified in (e)(2). The wording conflicts with the prescriptive and mandatory requirements in this context in § 1026.41.
- The revisions also would direct a servicer to continue sending account statements, but do not appear to sufficiently account for the rights of a debtor to choose to cease receiving statements and other correspondence as provided in § 1026.41(e)(5) and in instances in which § 1006.6(c) applies.

Compliance Challenges

The revisions requiring online access are more complicated from a compliance perspective than they initially appear. Many banks and servicers operate across multiple jurisdictions. When a bank receives notice that a customer has filed for bankruptcy, it will tag the customer's accounts in its core system to manage the accounts consistent with bankruptcy law and the bank's policies. This entails placing holds on accounts to prevent withdrawals that could violate bankruptcy laws, the halting of past-due notices, the stoppage of automatic withdrawals for loan payments owed to the bank, and other processes, including controls on how the customer receives periodic statements and how those statements will now appear given CFPB requirements. The processes are designed to be consistent across jurisdictions. Setting aside for the moment the issue of conflict with controlling federal law, trying to recode these processes and geolocate to comply with local rules in the Middle District, plus limit the application to those instances in which disbursements are not being received from a trustee, is a serious undertaking that would be both costly and time-consuming. We urge reconsideration.

Jurisdictional Matters

We ask too for a re-examination to consider whether the revisions would be consistent with the Rules Enabling Act. The Rules Enabling Act in 28 U.S.C. § 2071 and § 2075 authorizes the enactment of local rules, but the rules must be consistent with Acts of Congress and cannot modify substantive rights. The revisions as they relate to correspondence and mandatory online access appear to fall outside the jurisdiction of the Bankruptcy Court and conflict with other federal law where regulatory authority has been given to the CFPB as noted above in the discussion concerning Regulations Z and F.

While we appreciate the Bankruptcy Court's goal to improve communication with debtors, we respectfully ask that the changes be withdrawn and reconsidered.

Thank you. Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Nathan R. Batts". The signature is written in a cursive, flowing style.

Nathan R. Batts
SVP, Counsel & Director of Government Relations