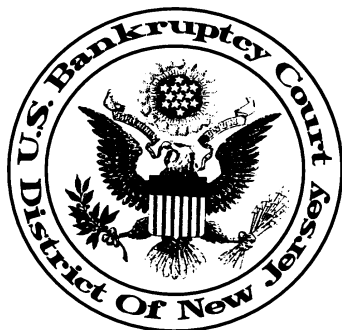


LOCAL RULES
OF THE
UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY



These rules are current as of August 1, 2010

Last Amended August 1, 2010

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INTRODUCTION TO APRIL 15, 1997, AMENDMENTS

In accordance with the directive of the Judicial Conference of the United States and the provisions of Federal Rule of Bankruptcy Procedure 9029 and Federal Rule of Civil Procedure 83, the Local Rules of Bankruptcy Practice for the United States Bankruptcy Court for the District of New Jersey have been renumbered to correspond to their counterparts in the Federal Rules of Bankruptcy Procedure. The Advisory Committee on Bankruptcy Rules for the Judicial Conference of the United States approved a uniform numbering system for local bankruptcy rules.

The renumbering project involved the participation of members of this court and the Local Rules Subcommittee of the Lawyers Advisory Committee. This court acknowledges the efforts of Judge Kathryn C. Ferguson, U.S.B.J., who served as judicial liaison to the subcommittee; James J. Waldron, Clerk of the Bankruptcy Court; the members of the subcommittee: Karen Bezner, Esq., Nancy Isaacson, Esq., Rachael Lehr, Esq., and particularly Geraldine Ponto, Esq., who chaired the committee; and the analyst staff of the clerk's office composed of Andrew Kaczynski, Pat Meravi, Leanne Michalek, and Melissa Trugman. The Bankruptcy Court extends its appreciation to everyone involved in this project.

The final draft of the renumbered rules was submitted to the United States District Court for the District of New Jersey and was published in March 1997 in the *New Jersey Law Journal* and in the *New Jersey Lawyer*. These Rules have been approved by the United States District Court for the District of New Jersey. They are effective April 15, 1997.

FOR THE COURT,

WILLIAM H. GINDIN,

Chief Judge, United States Bankruptcy Court

April 15, 1997

D.N.J. LBR 1001-1 SCOPE OF RULES

- (a) These rules shall be cited as the "District of New Jersey Local Bankruptcy Rules, D.N.J. LBR _____" (hereinafter "Local Rules" or "Rules") of the United States Bankruptcy Court for the District of New Jersey (hereinafter "Court"). These rules and the Local Civil Rules of the United States District Court for the District of New Jersey (hereinafter "District Court Rules") shall be followed insofar as they are not inconsistent with the Bankruptcy Code (hereinafter "Code") and the Federal Rules of Bankruptcy Procedure (hereinafter "Fed. R. Bankr. P."). The forms appended hereto shall be known as the Local Bankruptcy Forms of the United States Bankruptcy Court for the District of New Jersey (hereinafter "Local Forms"). The local forms shall be used in the circumstances indicated by the titles to such forms.
- (b) These rules shall be construed to secure the just, speedy and inexpensive determination of cases and proceedings in the Court. The application of these rules in any case or proceeding may be modified or relaxed by the Court in the interests of justice.
- (c) From time to time, the Court may issue general orders and administrative procedures to supplement these Local Rules, copies of which may be obtained from the Clerk through the Court's web site, www.njb.uscourts.gov.

1997 Comment: Formerly Local Rule 1.

2001 Comment: This Rule amendment is intended to allow the Court to issue general orders to supplement the Local Rules, such as the Court's issuance of a general order to authorize the Court to establish practices and procedures for the filing, signing, and verification of documents by electronic means.

Reference: Fed. R. Bankr. P. 9029(a) Local Bankruptcy Rules.

D.N.J. LBR 1002-1 PETITION - GENERAL

- (a) *Content.* In addition to the requirements of the Code, Federal Rules of Bankruptcy Procedure and Official Forms, every voluntary and, to the extent possible, involuntary petition shall contain the following information:
- (1) The correct name, complete street address, city, state, and zip code of the debtor. The address stated on the petition shall be the actual location of the debtor's residence or principal place of business.
 - (2) In an individual petition, the correct full first, middle, and last name and the last four digits of the social security number of the debtor.
 - (3) In a business petition, the employer's identification number of the debtor.
 - (4) In a corporate petition, the signature of an officer or other authorized representative of the corporation.
 - (5) In a corporate petition, a copy of the corporate resolution authorizing the filing.
- (b) *Involuntary Petitions.* In involuntary petitions, the above subdivisions (a) (1) through (3) apply.

1997 Comment: Subpart (a)(1) through (a)(7) is the former Local Rule 2(b)(1)(A) through (G); Subpart (b) is the former Local Rule 2(b)(2).

2003 Comment: Subpart (a)(7) is deleted as duplicative of Fed. R. Bankr. P. 1008.

2004 Comment: Subpart (a)(2) is amended to require the last four digits of a debtor's social security number on an individual petition, in accordance with the amendments to the Federal Rules of Bankruptcy Procedure and Official Forms which became effective December 1, 2003, implementing the Judicial Conference's policy on privacy and public access to case files. Pursuant to the amendment to Fed. R. Bankr. P. 1007(f) an individual debtor must submit a verified statement that sets out the debtor's full social security number, or states that the debtor does not have a social security number. The statement is submitted, in accordance with instructions posted to the Court's website, but it is not filed in the case, and does not become a part of the Court record. Per the national rule amendment, the statement provides the information necessary to include on the service copy of the notice required under Rule 2002(a)(1). The corresponding amendment to Fed. R. Bankr.P. 1005 now provides that the caption of the petition include only the last four digits of the social security number.

2009 Comment: Subpart (a)(6) has been eliminated to conform with the deletion of Fed. R. Bankr. P. 1004(a).

Reference: 28 U.S.C. § 1930(a) Bankruptcy fees; 11 U.S.C. § 301 Voluntary cases; 11 U.S.C. § 302 Joint Cases; 11 U.S.C. § 303 Involuntary cases; Fed. R. Bankr. P. 1003 Involuntary Petition; Fed. R. Bankr. P. 1004 Partnership Petition; Fed. R. Bankr. P. 1005 Caption of Petition; Fed. R. Bankr.P. 1007 Lists, Schedules and Statements, Time Limits; Fed. R. Bankr. P. 1008 Verification of Petitions and Accompanying Papers; Fed. R. Bankr. P. 9011 Signing and Verification of Orders; **Official Form 1.**

D.N.J. LBR 1007-2 MAILING - LIST OR MATRIX

- (a) The matrix shall consist of an alphabetized mailing list of creditors equity security holders, partners and other parties in interest with complete names and addresses, including zip codes. A complete matrix shall be filed with the petition, schedules and statement of affairs. The matrix shall be supplemented when an Amendment to Schedules D, E or F is filed which adds a creditor(s).
- (b) The matrix shall be arranged in a single column on each page, left justified, with margins of at least one inch using one of the following standard fonts in 10 or 12 point size:
 - (1) Times New Roman
 - (2) Arial
 - (3) Verdana
- (c) Each name and address block shall consist of no more than five lines with at least one blank line between each block. Each line shall be no more than 40 characters in length.
- (d) A matrix submitted with a conventionally filed petition, and containing 20 or more parties shall be submitted on CD-Rom in accordance with instructions provided by the clerk. A paper copy shall also be provided.
- (e) A matrix submitted electronically shall be prepared in accordance with **instructions** provided by the clerk.

1997 Comment: Formerly Local Rule 2(c) (1) - (4)

2001 Comment: Subdivision (e) is intended to guide the procedure for submission of a matrix electronically.

2010 Comment: This rule is amended to reduce the threshold for submission of a List of Creditors on electronic media.

Reference: Fed. R. Bankr. P. 1009 Amendments of Voluntary Petitions, Lists, Schedules and Statements; **D.N.J. LBR 1009-1.**

D.N.J. LBR 1009-1 AMENDMENTS TO LISTS & SCHEDULES

- (a) Amendment to List, Schedule or Statement. Whenever an amendment to the list of creditors, schedules or statement of affairs is filed pursuant to Fed. R. Bankr.P. 1009, the amendment must be verified by the debtor. The amendment shall include *only* the changes and shall indicate if changes are additions or deletions. The amendment must also be in compliance with **D.N.J. LBR 1007-2**.

- (b) Addition of Creditor. Creditors added by amendment to the debtor's list of creditors or schedules, shall have 60 days from the date of entry of the Court's *Order Respecting Amendment to Schedule D, E or F or List of Creditors* or until the date specified in the Notice of the Meeting of Creditors under 11 U.S.C. § 341, whichever is later, to file a complaint objecting to the debtor's discharge under 11 U.S.C. § 727(a) and 1141(d) or to determine dischargeability of a debt under 11 U.S.C. § 523(c).

1997 Comment: Formerly Local Rule 2(d).

2008 Comment: This rule is amended to supplement and formalize the Court's form Order Respecting Amendment in cases under Chapters 7, 11 and 13 which provides the added creditor 60 days from the date of entry of the Court's Order Respecting Amendment or the date specified in the Notice of the Meeting of Creditors whichever is later, to file a complaint objecting to discharge under 11 U.S.C. § 727(a) and 1141(d) or to determine the dischargeability of a debt under 11 U.S.C. § 523(c) if the debtor is an individual.

D.N.J. LBR 1019-1 CONVERSION - PROCEDURE FOLLOWING

- (a) Upon conversion of a chapter 13 case to a case under chapter 7, the chapter 13 trustee shall distribute any funds on hand to the debtor unless otherwise ordered by the Court.
- (b) Upon conversion of a chapter 13 case to a case under chapter 11, the chapter 13 trustee shall distribute any funds on hand to the debtor in possession or the chapter 11 trustee.

1997 Comment: Formerly Local Rule 34.

Reference: 11 U.S.C. § 1307 Conversion or dismissal; Fed. R. Bankr. P. 1017(d) Dismissal or Conversion of Case; Suspension; 11 U.S.C. § 704 Duties of trustees 11 U.S.C. § 1106 Duties of trustee and examiner; 11 U.S.C. § 1107 Rights, powers and duties of debtor in possession.

D.N.J. LBR 1073-1 ASSIGNMENT OF CASES

- (a) For purposes of the division of business, the Court shall be divided into three units known as "vicinages," which shall consist of the counties served by such units in the three federal Courthouses in this District.

The Newark vicinage consists of Bergen, Essex, Hudson, Morris, Passaic, Sussex and Union Counties.

The Trenton vicinage consists of part of Burlington (except for the townships of Cinnaminson, Delran, Edgewater Park, Evesham (Marlton), Maple Shade, Moorestown, Mount Laurel, Palmyra, Riverside and Riverton), Hunterdon, Mercer, Middlesex, Monmouth, Ocean, Somerset and Warren counties.

The Camden vicinage consists of Atlantic, part of Burlington (the townships of Cinnaminson, Delran, Edgewater Park, Evesham (Marlton), Maple Shade, Moorestown, Mount Laurel, Palmyra, Riverside and Riverton), Camden, Cape May, Cumberland, Gloucester and Salem counties.

- (b) A petition commencing a case shall be filed in the vicinage in which the debtor resides if the debtor is an individual, or in which the debtor has its principal place of business within the District if the debtor is an entity other than an individual. The address stated on the petition shall be the actual location of the debtor's residence or principal place of business.
- (c) All papers in a case shall be filed in the vicinage in which the case is pending.
- (d) If the petition commencing a case states in writing that the case is related to another case which has been or is being filed in the same vicinage, the clerk shall assign the case to the judge to whom the lowest numbered related case has been assigned. All other case assignments shall be made by the random draw method used by the Court.
- (e) An application to transfer a case from one judge to another, or from one vicinage to another, shall be made to the judge to whom the case has been assigned. The application shall be on notice to the debtor, any trustee, any secured creditors, and any official committees.
- (f) If a case is dismissed, and, within 180 days of such dismissal, another bankruptcy case is filed as to the same debtor, the subsequent case shall be assigned to the same judge to whom the prior case was assigned.

1997 Comment: Formerly Local Rule 9

2002 Comment: This Rule amendment realigns the Newark Vicinage to include the Counties of Middlesex and Union.

2007 Comment: In accordance with the Court's General Order dated September 26, 2006, the Trenton Vicinage is realigned to include the County of Middlesex effective October 1, 2006.

Reference: Fed. R. Bankr. P. 5005 Filing and Transmittal of Papers

D.N.J. LBR 2004-1 DEPOSITIONS & EXAMINATION

- (a) If a party from whom an examination or document production is sought under Fed. R. Bankr. P. 2004 agrees to appear for examination or to produce documents voluntarily, no subpoena or Court order is required.
- (b) Any party in interest seeking to compel an examination or production of documents shall serve a subpoena pursuant to Fed. R. Bankr. P. 2004(c) without filing a motion or obtaining an order authorizing such examination or document production.
- (c) A subpoena pursuant to subdivision (b) shall not set the examination or document production for less than 14 days after service of the subpoena except by agreement of the deponent.
- (d) Upon motion of the deponent or any party in interest, the Court may quash or modify a subpoena pursuant to subdivision (b) for cause shown. The filing of such a motion prior to the date set for examination or document production shall stay the subpoena until the Court rules on the motion.
- (e) If a deponent fails or refuses to comply with a subpoena served pursuant to subdivision (b) and has not filed a motion pursuant to subdivision (d), the party who obtained the subpoena may file a motion for an order directing such examination or document production under Fed. R. Bankr. P. 2004(a).

1997 Comment: Formerly Local Rule 16.

2002 Comment: Subsection (e) of this rule was amended. The amendment eliminated language that held that upon motion, a deponent could be held in contempt pursuant to Fed. R. Bankr.P. 9016 and Fed.R.Civ.P. 45(c) in the event of noncompliance with a subpoena. The issuing party remains free to file a motion to enforce the subpoena in the event of noncompliance. The party to be deposed remains free to file a motion to quash.

Reference: Fed.R.Bankr.P. 2005 Apprehension and Removal of Debtor to Compel Attendance for Examination; Fed.R.Bankr.P. 4002 Duties of Debtor; Fed.R.Bankr.P. 9001(5) General Definitions.

D.N.J. LBR 2014-1, EMPLOYMENT OF PROFESSIONALS AND LIQUIDATORS

(a) *General Requirements.* In addition to the requirements of Fed. R. Bankr. P. 2014, an application for an order approving employment of a professional person shall be served upon the debtor, the trustee, the secured creditors, the official committees, and parties requesting notice of all proceedings. Except to the extent that relief is otherwise governed by Fed. R. Bankr.P. 6003, any objection to such application shall be filed and served within 7 days of the filing of the application. A hearing may be conducted on the objection in the Court's discretion.

(b) *Auctioneers and Liquidators.*

- (1) Auctioneers shall include all professionals who conduct public sales of estate property and who are disinterested within the meaning of 11 U.S.C. §101(14) of the Bankruptcy Code.
- (2) Liquidators shall include all persons who liquidate estate property through public or private sale and who (a) are not disinterested or (b) are deemed to be liquidators because the court has determined that to do so would be in the best interest of the estate.

(c) *Auctioneer Requirements.*

- (1) An application for employment of an auctioneer shall contain the following:
 - (A) The applicant's qualifications and prior experience in connection with the liquidation or sale of similar or comparable property.
 - (B) A description of the property to be sold and its location.
 - (C) The proposed method of calculation of the applicant's compensation, including rates and formulas to be employed.
 - (D) An estimate of all costs and expenses to be reimbursed to the applicant from the proceeds of the sale including labor, security, advertising, delivery, mailing, and insurance.
 - (E) A statement as to whether the auctioneer or any of its principals have been convicted of any criminal offense, other than a motor vehicle violation.
 - (F) A surety bond in favor of such party as the court may direct in an amount at least equal to the estimated gross proceeds of sale, or proof of the existence of an adequate blanket bond. The surety bond shall be conditioned upon the faithful and prompt performance of the auctioneer's duties and the accounting for all monies and property which may come into the auctioneer's possession, control or custody and for compliance with rules, orders and judgments of the Court. The auctioneer shall certify that the bond is presently in effect, and will remain in effect through turnover of the auction proceeds.
- (2) On the request of the applicant, the court, in its discretion, may waive the requirement that an application for compensation and reimbursement of expenses be filed under **D.N.J. LBR 2016-1**. An application for compensation must be filed under **D.N.J. LBR 2016-1** if the actual compensation or expenses exceed the estimate in the application for employment.

- (3) The auctioneer shall file a report of the results within 21 days of the conclusion of the sale.

(d) Liquidator Requirements.

- (1) In addition to the requirements of **2014-1(c)(1)(A) through (E)**, an application to utilize the services of a liquidator to sell or liquidate assets of the estate pursuant to 11 U.S.C. § 363, or otherwise, shall contain the following:
- (A) A full and complete disclosure of all agreements between the liquidator, its affiliates, the debtor and others, including the terms of any financing to be provided, the acquisition of an interest in property to be sold or an interest in estate property, indemnification provisions and release of claims.
 - (B) Compliance with **D.N.J. LBR 2014-1(c)(1)(F)**, unless otherwise directed by the Court.
 - (C) If the liquidator intends to conduct a Going Out of Business sale, the means by which the liquidator will address state and local regulations impacting upon the sale. The application shall also address any impact upon the debtor's leasehold agreements.
- (2) Unless otherwise ordered, the liquidator shall file a report of the results within 21 days of the conclusion of the sale. The court may require additional reports during the course of the liquidation.

1997 Comment: Subpart (a) is former Local Rule 6; subpart (b) (1) and (2) is former Local Rule 7(a) and (b).

2008 Comment: Subpart (a) is amended to conform with the requirements of Fed. R. Bankr.P. 6003 which limits the granting of certain forms of relief, including the employment of professional persons, during the first 20 days after commencement of a case, unless granting of relief is necessary to avoid immediate and irreparable harm.

2009 Comment: The amendments to Local Rules **2014-1(b)** and **2016-1(g)** are intended to create an increased focus on the requirements for auctioneer retention while simultaneously simplifying the rule on auctioneer compensation. The auctioneer retention application must now contain a detailed estimation of fees and expenses. The application may include a request to waive the requirement of a fee application, and if the request is expressly approved by the Court, no separate application for fees needs to be filed. In such cases, pursuant to **D.N.J. LBR 2016-1(g)**, an applicant must file an Information for Notice of Auctioneer Compensation pursuant to Fed. R. Bankr.P. 2002(a)(6) at least 20 days prior to any remittance of auctioneer compensation. However, a fee application must be filed if the actual fees and expenses sought exceed the estimate in the retention application, or if the Court so directs. Previously, compensation under **D.N.J. LBR 2016-1(g)** was fixed at a declining scale commission structure. The changes allow for the approval of more flexible auctioneer compensation methods and facilitate the prompt payment of auctioneers.

Proposed **2014-1(d)** is new and contains certain disclosure requirements for non-auctioneer liquidators. Modern practice with respect to the sale of estate assets often involves "interested" persons who cannot be retained as auctioneers under 11 U.S.C. §327, and are therefore typically engaged as "agents" or "liquidators" pursuant to

Sections 363, 364 and 105 of the Bankruptcy Code. These sale arrangements can involve the liquidator taking an ownership interest in the assets to be sold, financing the debtor's operations during the conduct of the sale, or entering into a joint venture or partnering arrangement with the debtor with respect to sharing upside proceeds arising from the sale. While the proposed rule change is intended neither to encourage nor discourage these types of arrangements, it is intended to require disclosure of the specific items enumerated in **2014-1 (d)** when any such arrangement is proposed.

Dec., 2009 Comment

This Rule is amended to conform with the March 26, 2009, Supreme Court approval of changes to Bankruptcy Rule 9006 which addresses the method by which time is calculated. On May 7, 2009, the Statutory Time Period Technical Amendments Act of 2009 was enacted (Pub. L. No. 111-06). The law adjusts the time period in 28 statutes, including nine sections of the Bankruptcy Code, which are impacted by the federal rule changes. Both the statutory and rules changes take effect on the same day, December 1, 2009. Deadlines of less than 30 days have been changed to multiples of seven days so that the expiration of the deadline ordinarily would occur on a weekday. Under the revised rules: 5 day deadlines become 7 days; 10 and 15 day deadlines become 14 days; 20 day deadlines become 21 days; and 25 day deadlines become 28 days. Effective, December 1, 2009 conforming amendments to the Court's Local Rules, including the one set forth herein, have been approved by the Board of Bankruptcy Judges. Additional information concerning time computation amendments to the national rules, local rules, general orders and forms may be accessed at www.uscourts.gov/rules and www.njb.uscourts.gov.

D.N.J. LBR 2016-1 COMPENSATION OF PROFESSIONALS

- (a) This rule applies to any application for compensation and reimbursement of expenses from the bankruptcy estate by a professional person employed under 11 U.S.C. § 327.
- (b) The statement of services rendered and itemization of expenses in an application for compensation shall contain:
 - (1) A copy of the order of retention or authorization.
 - (2) A copy of any administrative order pertaining to interim compensation.
 - (3) The dates of services rendered.
 - (4) The services rendered on each date and the identity of the person rendering the service.
 - (5) The time spent in the rendering of each service. Computer time sheets showing the time units may be attached to the application.
 - (6) The normal billing rate for each person.
 - (7) At the end of the application, a total of the time spent by each individual performing services.
 - (8) A list of actual, not estimated, expenses, summarized by category, such as computer assisted research (which shall not be more than the actual cost), outgoing facsimile transmissions, (which shall not exceed \$1.00 per page, with no charge for incoming facsimiles), telephone charges, airfare, meals, lodging and photocopying (which shall not exceed \$.20 per page).
 - (9) A narrative explanation of the nature of the work performed and the results achieved. The narrative portion of the application shall inform the court of circumstances that are not apparent from the activity descriptions or that the applicant wishes to bring to the attention of the Court, including, but not limited to, special employment terms, billing policies, expense policies, voluntary reductions, reasons for the use of multiple professionals for a particular activity, or reasons for substantial time billed relating to a specific activity.
 - (10) Local Form, *Fee Application Cover Sheet* shall be filed with each application for compensation in excess of \$10,000.
- (c) A copy of each application for allowances shall be served on the United States Trustee at the time of filing.
- (d) No Court appearance shall be required on applications for compensation unless an objection is filed and served.
- (e) *Professionals Retained on a Commission or Contingency Basis.* A professional retained on a commission or contingency basis is exempt from the requirements of subdivisions (b)(3), (4), (5), (6), (8) and (10).
- (f) *Appraisers.* Except where a flat fee is sought, the statement of services rendered and itemization of expenses in an application for fees or expenses for appraisers shall comply with subsection (b) of this rule. Appraisers shall include in the application the value of the appraised assets.

- (g) *Auctioneer Compensation.* In the event that, pursuant to **D.N.J. LBR 2014-1(c)**, the Court has waived the requirement that an application for compensation and reimbursement of expenses be filed under D.N.J. LBR 2016-1, an Information for Notice of Auctioneer Compensation pursuant to Fed. R. Bankr. P. 2002(a)(6), shall be filed by the applicant at least 21 days prior to remittance of auctioneer compensation. If an objection is filed, the court may require that an application for compensation and reimbursement of expenses be filed under D.N.J. LBR 2016-1 or that a hearing be held.
- (h) *Interim Applications in Chapter 11 Cases.* Authorization for allowance of compensation at intervals more frequent than is permitted by 11 U.S.C. § 331, must be sought by a motion brought under the Court's ***General Order Adopting Guidelines Governing Procedures for Payment of Interim Compensation and Reimbursement of Expenses to Professionals***.
- (i) *Final Applications in Chapter 11 Cases.* All applications for compensation shall be filed within 90 days after the order confirming the plan becomes a final order, or such compensation request shall be deemed waived.
- (j) *Special Requirements in Chapter 13 Cases.*
- (1) *Debtor's Attorney, Generally.* If the fee of the attorney for the debtor disclosed pursuant to Fed. R. Bankr. P. 2016(b) exceeds \$3,500, the attorney for the debtor shall file and serve on the Chapter 13 trustee and the debtor an application for allowances not less than 7 days before the confirmation hearing. If the fee of the attorney for the debtor disclosed pursuant to Fed. R. Bankr.P. 2016(b) is \$3,500 or less, guidelines listing the legal services to be provided by the debtor's attorney in the course of the Chapter 13 case may be found at **Appendix A**.
 - (2) *Supplemental Fees.*
 - A. For supplemental fee applications of up to \$2,000 per application, the attorney for the debtor may submit Local Forms, ***Certification of Debtor's Counsel Supporting Supplemental Chapter 13 Fee*** and ***Order Granting Supplemental Chapter 13 Fees***. Such applications shall be served on the Chapter 13 trustee and the debtor. If the supplemental fee application is for an amount in excess of \$1,000, the clerk shall issue notice of hearing as required by Fed. R. Bankr. P. 2002(a)(6) for a date on which Chapter 13 cases are heard.
 - B. Any other supplemental fee applications shall be filed in accordance with subsection (A) of this rule and shall be served on the Chapter 13 trustee and the debtor. If the supplemental fee application is for an amount in excess of \$1,000, the clerk shall issue notice of hearing as required by Fed. R. Bankr. P. 2002(a)(6) for a date on which Chapter 13 cases are heard.
 - C. Supplemental fee applications shall be submitted not more than once every 90 days.
 - (3) *Residential Mortgagee's Post-Petition Preconfirmation Attorney's Fees in Proof of Claim; Waiver of and Bar to Fee-Based Claims;*

- A. A residential mortgagee's proof of claim, as initially filed or as amended, may include a claim for properly reimbursable attorney's fees and costs for post-petition preconfirmation attorney's services, in an amount not to exceed \$400.00 in lieu of the attorney filing an application for compensation under D.N.J. LBR 2016-1.
- B. Reimbursement hereunder is permitted *only* if the following conditions are met:
1. The residential mortgagee has actually incurred post-petition preconfirmation attorney's fees and costs for properly reimbursable services of at least the amount sought in the proof of claim, and the services performed are separately enumerated therein;
 2. The claim is for services of an attorney admitted to practice before this Court pursuant to **D.N.J. LBR 2090-1**, who shall be identified in the proof of claim;
 3. The attorney's fees will not be split or shared with any other entity; and
 4. The underlying mortgage documents provide for payment of attorney's fees by the debtor under the circumstances of the debtor's Chapter 13 case, and such fee is not contrary to 11 U.S.C. § 506(b) or applicable non-bankruptcy law.
- C. That portion of a residential mortgagee's proof of claim seeking reimbursement of attorney's fees hereunder shall be considered *prima facie* evidence of the validity and amount thereof in accordance with Fed. R. Bankr.P. 3001(f). Any party in interest may object to the allowance of the claim pursuant to 11 U.S.C. section 502(a), Fed. R. Bankr.P. 3007 and **D.N.J. LBR 3007-1**.
- D. The proof of claim must include the following statement in conjunction with any request for reimbursement of attorney's fees: "This reimbursement is requested pursuant to **D.N.J. LBR 2016-1(j)(3)** and the Claimant certifies that all the requirements for allowance of this fee have been met."
- E. Any other D.N.J. LBR 2016-1 fee application for post-petition preconfirmation attorney's services and costs on behalf of the residential mortgagee in a Chapter 13 case shall not include those services and costs allowed pursuant to this subsection (j)(3).
- F. Any and all post-petition preconfirmation claims based upon the attorney's fees and costs incurred in a Chapter 13 case by the residential mortgagee which are not applied for pursuant to this subsection (j)(3) or more generally pursuant to D.N.J. LBR 2016-1, shall be deemed waived, and the residential mortgagees shall be estopped and barred from claiming such fees and costs at any time, whether in the Chapter 13 case or otherwise.

- (4) Supplemental fee applications shall be submitted not more than once every 120 days.
- (5) A real estate broker or debtor's real estate attorney duly retained pursuant to [D.N.J. LBR 2014-1](#) and whose fees are approved in an order authorizing debtor to sell real property and pay certain professionals' fees upon closing, pursuant to [D.N.J. LBR 6004-1\(b\)](#) is exempt from the requirements of this rule.

- 1997 Comment: Subparts (a) and (b), and (d) through (h) are former Local Rule 8(a) through (g); subpart (c) is former Local Rule 7(c); subpart (i) is the former Local Rule 25(c); subpart (j) is former Local Rule 33.
- 2001 Comment: Subpart (j) amended March 8, 2001; amendments include increasing the fee dollar amount from \$1,500.00 to \$2,000.00 and the addition of paragraphs (2), (3) and (4).
- 2004 Comment: Subsection (i) is amended to add reference to the Court's *General Order Adopting Guidelines Governing Procedures for Payment of Interim Compensation and Reimbursement of Expenses to Professionals* which was implemented on March 31, 2003, and posted to the Court's website, as one of four General Orders comprising the Court's Chapter 11 Initiative. The General Orders and related Guidelines governing Chapter 11 practice in this District are referenced at [D.N.J. LBR 3016-1\(e\)](#).
- Subsection (j)(5) is added for Chapter 13 cases, exempting from the requirements of this Local Rule, a real estate broker duly retained pursuant to [D.N.J. LBR 2014-1](#) and whose fees are approved in the Court's order authorizing debtor to sell real property and pay real estate brokers fees upon closing, pursuant to the amendment to [D.N.J. LBR 6004-1\(b\)](#).
- 2005 Comment: Subpart (j) is amended effective August 1, 2005 to increase the fee dollar amount from \$2,000.00 to \$2,500.00.
- 2006 Comment: This rule has been substantially amended with respect to information requirements relating to compensation requests in order to aid the court in determining whether the time spent in a case, or any portion thereof, was actual, reasonable and necessary. It emphasizes activity descriptions based upon general project categories. New subdivision (b)(10) requires professionals seeking allowance of fees in excess of \$10,000, except as provided in subsection (g), to submit a summary on [D.N.J. Local Form 3](#), which has been amended to provide greater substantive detail regarding the types of services rendered by the professional and with respect to which fees are sought. New subdivision (b)(9) expands upon the nature of the narrative portion of the application to the extent that it is intended to serve a heightened informational purpose with respect to expenses incurred and for which reimbursement is sought. Subdivision (j)(1) is amended to increase the fee dollar amount above which the debtor must file an application for allowances in Chapter 13 cases, from \$2,500 to \$3,500. Subdivision (j)(2) is amended to permit the attorney for the debtor in Chapter 13 cases to submit [D.N.J. Local Forms 13](#) and [14](#) for supplemental fee applications of up to \$2,000 per application. Subdivision (j)(2)(c) is further amended to permit the filing of supplemental fee applications in Chapter 13 cases not more than once every 90 days. With the exception of subdivision (j) regarding special requirements concerning fees in Chapter 13 cases that will become effective in cases filed on or after August 1, 2006, this rule as amended shall apply to applications for compensation and expenses in cases filed on or after October 1, 2006. For cases filed before October 1, 2006, applicants may submit [D.N.J. Local Form 3](#) in accordance with this amendment at their option.

2008 Comment:

Subsection (j)(3) is added for Chapter 13 cases to allow a residential mortgagee to include in a proof of claim, attorney's fees in the amount of \$400.00 or less, for standard post-petition preconfirmation legal services rendered in the Chapter 13 case such as legal work relating to the filing of a proof of claim, reviewing the Chapter 13 plan, and filing an objection to the plan, without the need to file an application for allowance in accordance with D.N.J. LBR 2016-1. The amendment requires the residential mortgagee to specify the services performed in connection with the attorney's fees requested.

This subsection pertains to the procedural requirements for including in the proof of claim, a claim for post-petition preconfirmation attorney's fees and costs, which are deemed to have *prima facie* validity pursuant to Fed. R. Bankr.P. 3001(f) subject to the right of a party in interest to file an objection to the claim in the normal course pursuant to 11 U.S.C. section 502(a), Fed. R. Bankr.P. 3007 and [D.N.J. LBR 3007-1](#).

The residential mortgagee's attorney's fees may be, absent objection, added to the arrears to be cured through the plan pursuant to 11 U.S.C. § 1322(e). In cases in which it is proposed in a plan to cure a default with respect to a residential mortgage in which a foreclosure judgment has been obtained, the amount of attorney's fees that may be sought may be limited by New Jersey Court Rule 4:42-9. In cases in which the plan does not propose to cure a default, a residential mortgagee's proof of claim may include post-petition preconfirmation attorney's fees pursuant to 11 U.S.C. section 506(b), to the extent that the creditor is oversecured. In such cases, absent objection, the secured claim may be increased by the amount of the attorney's fees.

2009 Comment:

The amendments to Local Rules [2014-1\(b\)](#) and [2016-1\(g\)](#) are intended to create an increased focus on the requirements for auctioneer retention while simultaneously simplifying the rule on auctioneer compensation. The auctioneer retention application must now contain a detailed estimation of fees and expenses. The application may include a request to waive the requirement of a fee application, and if the request is expressly approved by the Court, no separate application for fees needs to be filed. In such cases, pursuant to [D.N.J. LBR 2016-1\(g\)](#), an applicant must file an Information for Notice of Auctioneer Compensation pursuant to Fed. R. Bankr.P. 2002(a)(6) at least 20 days prior to any remittance of auctioneer compensation. However, a fee application must be filed if the actual fees and expenses sought exceed the estimate in the retention application, or if the Court so directs. Previously, compensation under [D.N.J. LBR 2016-1\(g\)](#) was fixed at a declining scale commission structure. The changes allow for the approval of more flexible auctioneer compensation methods and facilitate the prompt payment of auctioneers.

Proposed [2014-1\(d\)](#) is new and contains certain disclosure requirements for non-auctioneer liquidators. Modern practice with respect to the sale of estate assets often involves "interested" persons who cannot be retained as auctioneers under 11 U.S.C. §327, and are therefore typically engaged as "agents" or "liquidators" pursuant to Sections 363, 364 and 105 of the Bankruptcy Code. These sale arrangements can involve the liquidator taking an ownership interest in the assets to be sold, financing the debtor's operations during the conduct of the sale, or entering into a joint venture or partnering arrangement with the debtor with respect to sharing upside proceeds arising from the sale. While the proposed rule change is intended neither to encourage nor discourage these types of arrangements, it is intended to require disclosure of the specific items enumerated in [2014-1 \(d\)](#) when any such arrangement is proposed.

Dec., 2009 Comment

Subsection (g) is amended to conform with the March 26, 2009, Supreme Court approval of changes to Bankruptcy Rule 9006 which addresses the method by which time is calculated. On May 7, 2009, the Statutory Time Period Technical Amendments Act of 2009 was enacted (Pub. L. No. 111-06). The law adjusts the time period in 28 statutes, including nine sections of the Bankruptcy Code, which are impacted by the federal rule

changes. Both the statutory and rules changes take effect on the same day, December 1, 2009. Deadlines of less than 30 days have been changed to multiples of seven days so that the expiration of the deadline ordinarily would occur on a weekday. Under the revised rules: 5 day deadlines become 7 days; 10 and 15 day deadlines become 14 days; 20 day deadlines become 21 days; and 25 day deadlines become 28 days. Effective, December 1, 2009 conforming amendments to the Court's Local Rules, including the one set forth herein, have been approved by the Board of Bankruptcy Judges. Additional information concerning time computation amendments to the national rules, local rules, general orders and forms may be accessed at www.uscourts.gov/rules and www.njb.uscourts.gov.

2010 Comment: This rule is amended to eliminate the reference to D.N.J. Local Forms 3, 13 and 14 by substituting the caption of the Local Forms.

Subsection (j)(1) requires a debtor's attorney to file an application for allowances if the fee disclosed under Fed. R. Bankr. P. 2016(b) exceeds \$3500. If a debtor's attorney charges \$3500 or less for services to be rendered in a Chapter 13 case, guidelines have been developed to list the legal services to be provided by the debtor's attorney in the course of the Chapter 13 case.

Reference: 11 U.S.C. § 327 Employment of professional persons; 11 U.S.C. § 328 Limitation on compensation of professional persons; 11 U.S.C. § 330 Compensation of officers; 11 U.S.C. § 504 Sharing of compensation; Fed. R. Bankr. P. 2013 Public Record of Compensation Awarded to Trustees, Examiners, and Professionals; Fed. R. Bankr. P. 2014 Employment of Professional Persons; [D.N.J. LBR 2014-1, 2016-1, 6004-1, 6005-1](#).

D.N.J. LBR 2090-1 ATTORNEYS - ADMISSION TO PRACTICE

- (a) The bar of this Court shall consist of any attorney admitted to practice before the United States District Court for the District of New Jersey.
- (b) Attorneys may seek admission *pro hac vice* by application on 7 days notice to the debtor, any committee, the United States Trustee, and any other party as the Court may direct. The application must be accompanied by this Court's form order for admission *pro hac vice* as found on the Court's website (www.njb.uscourts.gov).

1997 Comment: Formerly Local Rule 10, as amended.

2006 Comment: This rule is amended to supplement the Court's *General Order Respecting Amendment of D.N.J. L.Civ. R. 101.1(c)(3) Requiring Payment on Each Pro Hac Vice Admission to the Clerk of the District Court* (entered on December 14, 2005) which requires *inter alia*, use of the form order for Admission Pro Hac Vice.

Dec., 2009 Comment Subsection (b) is amended to conform with the March 26, 2009, Supreme Court approval of changes to Bankruptcy Rule 9006 which addresses the method by which time is calculated. On May 7, 2009, the Statutory Time Period Technical Amendments Act of 2009 was enacted (Pub. L. No. 111-06). The law adjusts the time period in 28 statutes, including nine sections of the Bankruptcy Code, which are impacted by the federal rule changes. Both the statutory and rules changes take effect on the same day, December 1, 2009. Deadlines of less than 30 days have been changed to multiples of seven days so that the expiration of the deadline ordinarily would occur on a weekday. Under the revised rules: 5 day deadlines become 7 days; 10 and 15 day deadlines become 14 days; 20 day deadlines become 21 days; and 25 day deadlines become 28 days. Effective, December 1, 2009 conforming amendments to the Court's Local Rules, including the one set forth herein, have been approved by the Board of Bankruptcy Judges. Additional information concerning time computation amendments to the national rules, local rules, general orders and forms may be accessed at www.uscourts.gov/rules and www.njb.uscourts.gov.

Reference: [D.N.J. L. Civ. R. 101.1](#) Admission of Attorneys.

**D.N.J. LBR 3003-1 FILING PROOF OF CLAIM OR EQUITY SECURITY INTEREST IN
CHAPTER 11 REORGANIZATION CASES**

- (a) A proof of claim or interest required under Fed. R. Bankr. P. 3003(c)(2) shall be filed within 90 days after the first date set for the meeting of creditors called pursuant to § 341(a) of the Code.
- (b) A proof of claim arising from rejection of executory contracts or unexpired leases shall be filed within the later of:
 - (1) 30 days after the date of rejection; or
 - (2) 90 days after the first date set for the meeting of creditors called pursuant to § 341(a).

1997 Comment: Formerly Local Rule 26.

Reference: 11 U.S.C. § 365 Executory contracts and unexpired leases; 11 U.S.C. § 501 Filing of proofs of claim or interests; Fed. R. Bankr. P. 3001 Proof of Claim; Fed. R. Bankr. P. 3002 Filing Proof of Claim or Interest.

D.N.J. LBR 3003-2 FILING REQUEST FOR PAYMENT OF ADMINISTRATIVE EXPENSE CLAIM IN CHAPTER 11 REORGANIZATION OR CHAPTER 7 LIQUIDATION CASES.

- (a) In a Chapter 11 case, absent an administrative expense claims bar date, or a provision in a confirmed plan or confirmation order directing the filing of administrative expense claims by a date certain, a request for payment of an administrative expense, permitted under §503(a) of the Code, may be filed at any time prior to confirmation of a plan. In a Chapter 7 case, a request for payment of an administrative expense may be filed at any time prior to any administrative expense claims bar date set by the Court.
- (b) A request for payment of an administrative expense shall be filed using Local Form, *Request For Payment of Administrative Expense*.
- (c) The filing of a *Request For Payment of Administrative Expense* shall not result in the scheduling of a hearing on the request, but shall result in the registry of the claim on the claims docket. In order to have a hearing scheduled to consider payment of any administrative expense claim, a claimant must file a motion to compel payment in accordance with **D.N.J. LBR 9013-1**.
- (d) This Rule shall not apply to any application or request by a professional retained pursuant to a Court order in a Chapter 11 case or a Chapter 7 case for payment of fees and expenses incurred post-petition. Any such application or request by a professional for payment of administrative fees and expenses must comply with **D.N.J. LBR 2016-1**.

2006 Comment: This rule is new. It sets forth the time and form within which requests for payment of administrative expense claims must be filed in a Chapter 11 case or a Chapter 7 case. This Rule does not apply to requests by a professional for compensation which are governed by D.N.J. LBR 2016-1.

2010 Comment: This rule is amended to eliminate the reference to "D.N.J. Local Form 24," by substituting the caption of the Local Form.

D.N.J. LBR 3007-1 CLAIMS - OBJECTIONS

- (a) All motions with respect to chapter 11 claims shall be filed within 60 days after confirmation.
- (b) All motions with respect to chapter 13 claims shall be filed within 60 days after the later of confirmation of the plan or the filing of the claim or amended claim.

1997 Comment: Subpart (a) was formerly Local Rule 24(c); subpart (b) was formerly Local Rule 32.

Reference: 11 U.S.C. § 502(b) Allowance of claims or interests; Fed. R. Bankr. P. 3008
Reconsideration of Claims.

D.N.J. LBR 3011-1 UNCLAIMED FUNDS

- (a) Unclaimed distributions shall be deposited into the Registry without court order by filing the local form *Notice Depositing Unclaimed Funds*. The deposit shall be accompanied by a list of the payees and the amounts. All other deposits and all withdrawals shall require court order. Such orders shall specify the amount deposited or withdrawn and shall state the name, address and the last four digits of tax-payer identification number of any entity to which funds are paid.
- (b) Unclaimed funds deposited into the Registry may be withdrawn by a motion to recover unclaimed funds brought before the judge before whom the case is pending or, if the case has been closed, the chief judge in accordance with this rule.
 - (1) The motion must be brought by:
 - (A) an attorney at law admitted to practice before the United States District Court for the District of New Jersey or admitted *pro hac vice* in accordance with the provisions of Local Civil Rule 101.1 of the District Court for the District of New Jersey;
 - (B) the claimant or its legal successor; or
 - (C) the assignee of the claimant or its legal successor.
 - (2) The notice of motion shall include:
 - (A) a certification setting forth the reason for the application, including an explanation of the reason the funds were not collected originally;
 - (B) proof of the right to the original payment;
 - (C) identification of the claimant by: the last four digits of social security number, the last four digits of tax-payer identification number, certification of the claimant's authority, or similar proof; and
 - (D) proof of any name change or succession to any right to receive funds.
 - (3) Service of the notice of motion shall be upon the original claimant, any assignee thereof, the trustee in a pending case or, if known, the trustee at the time the case was closed or, if same not be known, the United States Trustee; service shall be by certified mail, return receipt requested.
 - (4) Appearance shall be necessary on the return date of the motion unless the applicant is the original entity entitled to the funds and no objection has been filed.
 - (5) All remittances shall be made payable to the claimant or the claimant and an attorney at law admitted to practice before this court.

1997 Comment: Subpart (a) was formerly the entire text of D.N.J. LBR 3011-1.

2009 Comment: Subpart (a) has been amended to reference the requirement that deposits be made utilizing the Court's local form *Notice Depositing Unclaimed Funds*.

Subpart s (a) and (b)(2)(C) have been amended to comply with Fed. R. Bankr.P. 9037 which requires that any filing made with the court may include only the last four digits of

an individual's social-security number and tax-payer identification number in accordance with the policy adopted by the Judicial Conference in September 2001 to address privacy concerns resulting from public access to electronic case files.

D.N.J. LBR 3015-1 CHAPTER 13 PLAN

- (a) The Debtor shall file Local Form, *Chapter 13 Plan and Motions*.
- (b) Only motions to avoid judicial liens under 11 U.S.C. § 522(f) and to avoid liens and reclassify claims in whole or in part may be filed within the plan. If the Plan as proposed contains such motions, the Debtor must, within 21 days of the date of entry on the docket of the Notice of Hearing on Confirmation of Plan, serve each potentially affected creditor with a copy of the Plan and Local Form, *Chapter 13 Plan Transmittal Letter*. The Plan and Transmittal Letter shall be served in the manner provided for service by Fed. Rule Bankr. Proc. 9014. The Debtor shall file a Proof of Service of compliance with this subsection simultaneously upon completion of service of the Plan and Transmittal Letter.

- 1997 Comment: Formerly Local Rule 30.
- 2003 Comment: This rule is amended to implement the use of Local Form 8 - Chapter 13 Plan and Motions and Local Form 22 - Chapter 13 Plan Transmittal Letter.
- 2009 Comment: Subsection (b) is amended to require the Debtor to file a Proof of Service of compliance with this subsection on the same day as timely service of the Chapter 13 Plan and Transmittal Letter is effectuated.
- Dec., 2009 Comment Subsection (b) is amended to conform with the March 26, 2009, Supreme Court approval of changes to Bankruptcy Rule 9006 which addresses the method by which time is calculated. On May 7, 2009, the Statutory Time Period Technical Amendments Act of 2009 was enacted (Pub. L. No. 111-06). The law adjusts the time period in 28 statutes, including nine sections of the Bankruptcy Code, which are impacted by the federal rule changes. Both the statutory and rules changes take effect on the same day, December 1, 2009. Deadlines of less than 30 days have been changed to multiples of seven days so that the expiration of the deadline ordinarily would occur on a weekday. Under the revised rules: 5 day deadlines become 7 days; 10 and 15 day deadlines become 14 days; 20 day deadlines become 21 days; and 25 day deadlines become 28 days. Effective, December 1, 2009 conforming amendments to the Court's Local Rules, including the one set forth herein, have been approved by the Board of Bankruptcy Judges. Additional information concerning time computation amendments to the national rules, local rules, general orders and forms may be accessed at www.uscourts.gov/rules and www.njb.uscourts.gov.
- 2010 Comment: This rule is amended to eliminate the references to "D.N.J. Local Forms 8 and 22, " by substituting the caption of the Local Forms.
- Reference: 11 U.S.C. § 1321 Filing of plan; 11 U.S.C. § 1322 Contents of plan; **D.N.J. LBR 3015-2**.

D.N.J. LBR 3015-2 CHAPTER 13 AMENDMENTS TO PLAN

- (a) A modification of a plan filed before confirmation which does not adversely affect creditors will be considered by the Court at the confirmation hearing scheduled for the original plan, if the modification is filed and served on the chapter 13 trustee at least 7 days before the confirmation hearing.
- (b) A modification of a plan which adversely affects creditors requires notice pursuant to Fed. R. Bankr. 2002(b).
- (c) If a plan is modified, the entire plan shall be refiled and shall indicate in its title which modified plan is being filed, such as "First Modified Plan."

1997 Comment: Formerly Local Rule 31.

Dec., 2009 Comment Subsection (a) is amended to conform with the March 26, 2009, Supreme Court approval of changes to Bankruptcy Rule 9006 which addresses the method by which time is calculated. On May 7, 2009, the Statutory Time Period Technical Amendments Act of 2009 was enacted (Pub. L. No. 111-06). The law adjusts the time period in 28 statutes, including nine sections of the Bankruptcy Code, which are impacted by the federal rule changes. Both the statutory and rules changes take effect on the same day, December 1, 2009. Deadlines of less than 30 days have been changed to multiples of seven days so that the expiration of the deadline ordinarily would occur on a weekday. Under the revised rules: 5 day deadlines become 7 days; 10 and 15 day deadlines become 14 days; 20 day deadlines become 21 days; and 25 day deadlines become 28 days. Effective, December 1, 2009 conforming amendments to the Court's Local Rules, including the one set forth herein, have been approved by the Board of Bankruptcy Judges. Additional information concerning time computation amendments to the national rules, local rules, general orders and forms may be accessed at www.uscourts.gov/rules and www.njb.uscourts.gov.

Reference: 11 U.S.C. § 1323 Modification of plan before confirmation; 11 U.S.C. § 1324 Confirmation hearing; [D.N.J. LBR 3015-1](#)

D.N.J. LBR 3015-3 CHAPTER 13 CONFIRMATION

The attorney for a debtor, or a pro se debtor, shall appear at the confirmation hearing. The debtor is not required to appear if represented by an attorney.

1997 Comment: Formerly Local Rule 35.

Reference: 11 U.S.C. § 1324 Confirmation hearing; 11 U.S.C. § 1325 Confirmation of plan.

D.N.J. LBR 3015-6 OBJECTIONS TO CONFIRMATION OF CHAPTER 13 PLAN

- (a) An objection to confirmation of the plan shall be filed with the court and served upon the debtor, debtor’s attorney, the chapter 13 trustee, and any other party in interest at least seven (7) days prior to the confirmation hearing date set in the *Notice of Hearing on Confirmation of Plan* or *Notice of Modification of Chapter 13 Plan*, whichever occurs later.
- (b) Except as provided in subsection (c) of this rule, a **proof of claim** filed that asserts a claim that is greater than, either the scheduled amount of the claim or the amount of the claim as designated in the plan serves as an objection to confirmation as to the amount of the claim, without appearance by the creditor at the confirmation hearing. The proof of claim shall be served in accordance with subsection (a) of this rule. The creditor shall file a proof of service prior to the scheduled confirmation hearing. The plan may be confirmed using the amount asserted in the proof of claim. The right of the debtor to file an objection to the allowance of a claim pursuant to **D.N.J. LBR 3007-1** is preserved, without the need for oral or written reservation at confirmation.
- (c) Where a motion to avoid liens or partially avoid liens has been filed in the plan, a proof of claim filed that asserts a secured claim that is greater than the amount to be paid in the plan serves as opposition to the motion and serves as an objection to confirmation. The proof of claim shall be served in accordance with subsection (a) of this rule. The creditor shall file a proof of service prior to the scheduled confirmation hearing. In order to prosecute the objection, the creditor must appear at the confirmation hearing, which shall be the hearing on the motion. Failure to appear to prosecute the objection may result in the motion being granted and the plan being confirmed pursuant to the terms as set forth in the plan.

- 2001 Comment: This rule is new; it sets forth the time within which objections to confirmation of the chapter 13 plan must be filed and served.
- 2003 Comment: This rule is amended to eliminate reference the Chapter 13 Summary of Plan.
- 2005 Comment: Subsection (b) is added to allow a creditor’s proof of claim in an amount different from that set forth in a debtor’s Chapter 13 Plan to constitute an objection to confirmation. No further objection to confirmation of the Chapter 13 Plan need be filed. The proof of claim must be served upon the debtor, debtor’s attorney, the chapter 13 trustee and any other party in interest, at least seven days prior to the confirmation hearing date set in the Notice of Hearing on Confirmation or Notice of Modification of Chapter 13 Plan whichever occurs first. Confirmation of the Chapter 13 Plan may occur using the amount listed in the creditor’s proof of claim. The right of the debtor to file an objection to the allowance of a claim pursuant to **D.N.J. LBR 3007-1**, *Claims - Objections*, for 60 days post confirmation is preserved, without the need for oral or written reservation at confirmation.
- 2006 Comment: Subsection (b) is amended to clarify that where a proof of claim asserts a claim that is greater than either the scheduled amount of the claim or the amount of the claim as designated in the plan, the plan may be confirmed using the amount asserted in the proof of claim without the need for an appearance by the creditor at the confirmation hearing. By operation of the rule, the debtor's right to object to the claim is reserved for 60 days after confirmation. Subsection (c) is added to clarify and highlight that where a plan includes a motion to avoid liens or partially avoid liens, a proof of claim filed that asserts a secured claim that is greater than the amount to be paid in the plan serves as opposition to the motion and serves as an objection to confirmation. In order to prosecute the

objection, the creditor must appear at the confirmation hearing, as the failure to do so may result in the plan being confirmed pursuant to the terms as set forth in the plan, including the relief sought by the motion.

D.N.J. LBR 3016-1 CHAPTER 11 PLAN

- (a) A plan proponent shall review all claims prior to filing a plan.
- (b) *Effective Date.* Unless a plan provides otherwise, its effective date shall be the date on which the order of confirmation becomes final.
- (c) *Format of Plan.* In addition to the requirements of § 1123 of the Code, a plan shall contain:
 - (1) A title indicating whether the plan is one of reorganization or liquidation.
 - (2) A table of contents.
 - (3) Definitions.
 - (4) Clearly numbered articles or sections.
 - (5) A signature of the proponent and the date thereof.
- (d) *Modification of Plan.* If a chapter 11 plan is modified, the entire modified plan shall be refiled and shall indicate in its title its relationship to the original plan and any previous modification, such as “First Modified Plan of Reorganization.”
- (e) Pursuant to D.N.J. LBR 1001–1(c), the Court has issued the following General Orders and related Guidelines governing the Chapter 11 practice in this District:
 - (1) *General Order Governing Procedures For Complex Chapter 11 Cases;*
 - (2) *General Order Adopting Guidelines Governing First Day Matters;*
 - (3) *General Order Adopting Guidelines Governing Procedures For Payment of Interim Compensation and Reimbursement of Expenses To Professionals;*
 - (4) *General Order Adopting Guidelines For Financing Requests.*

Copies of the General Orders and related Guidelines may be obtained from the Clerk through the Court’s website: www.njb.uscourts.gov.

1997 Comment: Formerly Local Rule 20.

2004 Comment: Subsection (e) is added to formally reference within the Court’s Local Rules, the four General Orders and related Guidelines comprising the **Chapter 11 Initiative** implemented by the Court on March 31, 2003.

Reference: 11 U.S.C. § 1128 Confirmation hearing; **D.N.J. LBR 1001-1, 3016-2, 3018-2.**

D.N.J. LBR 3016-2 DISCLOSURE STATEMENT - GENERAL

- (a) A plan proponent shall review all claims prior to filing a disclosure statement.
- (b) A disclosure statement shall state the number and amount of claims of each class to which the proponent intends to object.
- (c) If a chapter 11 disclosure statement is modified, the entire modified disclosure statement shall be refiled and shall indicate in its title its relationship to the original disclosure statement and any previous modification, such as "First Modified Disclosure Statement."

1997 Comment: Subparts (a) and (b) formerly Local Rule 24(a) and (b). Subpart (c) formerly Local Rule 21. Former Local Rule 24(c) has been renumbered under **D.N.J. LBR 3007-1**.

Reference: 11 U.S.C. § 1125 Postpetition disclosure and solicitation; Fed. R. Bankr. P. 3019
Modification of Accepted Plan Before Confirmation in a Chapter 9 Municipality or a
Chapter 11 Reorganization Case; **D.N.J. LBR 3016-1**.

D.N.J. LBR 3018-2 ACCEPTANCE/REJECTION OF PLANS

Unless the Court directs otherwise, ballots shall be filed with the attorney for the plan proponent. At or before the chapter 11 confirmation hearing, the plan proponent shall file a certification of balloting, under penalty of perjury, summarizing both the numbers and amounts of acceptances and rejections in each class, and certifying to their timely filing. The ballots shall be retained by the party completing the certification for a period of two years from the time of closing of the case. A copy of the certification shall be served on the debtor, debtor in possession, trustee, if any, United States trustee and any committee appointed pursuant to the Code, any party having filed a notice of appearance in the case, and such other persons as the Court may direct.

1997 Comment: Formerly Local Rule 22.

2004 Comment: This rule is amended as a result of the Court's transition to Case Management/Electronic Case Filing (CM/ECF). This amendment requires that unless the Court directs otherwise, ballots are to be filed with the attorney for the plan proponent. At or before the chapter 11 confirmation hearing, the certification of balloting is then filed with the court, under penalty of perjury, by the party with whom ballots have been filed. The party filing the certification, must certify to both the numbers and amounts of acceptances and rejections in each class, as well as to the timely filing of same. The ballots are to be retained by the party with whom they have been filed, for a period of two years from the date of case closing, and need not be filed with the Court. This amendment also conforms with the requirements of **Official Form 14** (Ballot for Accepting or Rejecting Plan) which allows for mailing of the ballot to the attorney for the plan proponent.

Reference: 11 U.S.C. § 1126 Acceptance of plan.

D.N.J. LBR 3021-1 DISTRIBUTION - UNDER PLAN (Ch. 11)

- (a) If a plan provides for distribution of property but does not designate a disbursing agent, the Court may designate a disbursing agent. The terms of any compensation to a disbursing agent shall be set forth in the plan or the order of the Court that directs the appointment of the disbursing agent.
- (b) The disbursing agent shall maintain funds for distribution to creditors and equity holders in a special account established for the exclusive purpose of making such distribution and shall make disbursements from such account only by check imprinted with the case name and the disbursing agent's name.
- (c) If the plan requires the disbursing agent to maintain funds for more than 30 days, those funds shall be held in interest-bearing accounts or certificates, and interest earned shall inure to the benefit of creditors and equity holders, unless otherwise directed by the Court.
- (d) Within 60 days after each distribution under the plan, the disbursing agent shall file and serve on the debtor, the plan proponent if other than the debtor, any official committee, and other parties as the Court may direct, Local Form, *Report of Distributions Under Confirmed Chapter 11 Plan*.
- (e) Unless the plan provides otherwise, the time period for return of unclaimed security, money, or other property in accordance with § 347(b) of the Code shall be 90 days from the date of distribution.

1997 Comment: Formerly Local Rule 23.

2010 Comment: This rule is amended to require the filing of a *Report of Distributions Under Confirmed Chapter 11 Plan* after each distribution is made, and to eliminate the reference to "D.N.J. Local Form 7," by substituting the caption of the form. The Local Form is also amended.

Reference: 11 U.S.C. § 1123 Contents of plan; Fed. R. Bankr. P. 3020(a) Deposit; Confirmation of Plan in a Chapter 9 Municipality or a Chapter 11 Reorganization Case.

D.N.J. LBR 3022-1 FINAL REPORT/DECREE (Ch. 11)

- (a) The clerk shall close a chapter 11 case 180 days after entry of a final order confirming a plan.
- (b) On motion of a party in interest filed and served within the time period set forth in subsection (a) above, the Court may for cause extend the time for closing the case.

1997 Comment: Formerly Local Rule 25(a) and (b).

Reference: 11 U.S.C. § 350 Closing and reopening cases.

D.N.J. LBR 4001-1 AUTOMATIC STAY - RELIEF FROM

- (a) No court appearances are required for uncontested motions relating to the automatic stay.
- (b) To contest a motion relating to the automatic stay in a Chapter 13 case, the Debtor shall file and serve upon the creditor and the Chapter 13 Standing Trustee, Local Form, *Chapter 13 Debtor's Certification in Opposition to Creditor's Motion or Certification of Default* at least seven (7) days before the return date if filed in opposition to a Motion for Relief from the Automatic Stay; and within 14 days of filing of a *Creditor's Certification of Default* under an *Order Resolving Motion to Vacate Stay and/or Dismiss with Conditions*.
- (c) In addition to the requirements of **D.N.J. LBR 9013-1** through **9013-3**, every motion for relief from the automatic stay shall be accompanied by a certification or affidavit and supporting exhibits which shall contain the following:
 - (1) Copies of all documents upon which the movant will rely at the time of the hearing including, where applicable, all notes, bonds, recorded mortgages with the stamped dates of recordation, security agreements, filed financing statements with the stamped dates of filing, and assignments.
 - (2) Where applicable, a statement of amount due, including a breakdown of the following categories:
 - (A) Unpaid principal.
 - (B) Accrued interest from a specific date.
 - (C) Late charges from a specific date to a specific date.
 - (D) Attorneys' fees.
 - (E) Advances for taxes, insurance and the like.
 - (F) Unearned interest.
 - (G) Per diem interest.
 - (H) Any other charges.
 - (I) Total post-petition arrearages.
 - (J) Date of last payment.
 - (3) In all cases in which the relief sought is dependent upon the secured creditor proving the amount secured by a mortgage on real estate owned by the debtor, the movant shall attach to the certification in support of its notice of motion the Local Form, *Certification Re Calculation of Amounts Due*. In Chapter 13 cases in which the relief sought is based upon a secured creditor's claim that the debtor has failed to make all post-petition payments due under the terms of the mortgage, security agreement or lease in issue, the movant shall attach to its certification in support of its notice of motion Local Form, *Certification Re Post-Petition Payment History (Note and Mortgage)* or *Certification of Secured Creditor Regarding Post Petition Payment History (Vehicle Loan/Lease)*. These Local Forms shall be certified by the secured creditor.
- (d) Any appraisals shall be filed and served with the moving and answering papers.

- (e) Failure to oppose a request for adjournment of a hearing on a motion for relief from the automatic stay shall be deemed to be consent to continuation of the automatic stay until the new hearing date without a Court order under § 362(e) of the Code.
- (f) Notwithstanding **D.N.J. LBR 9013-1(j)(1)**, a consent order in lieu of a motion under Code § 362(d) in a chapter 11 case can be filed without the written consent of the 20 largest unsecured creditors if no committee of unsecured creditors has been appointed. In such event, the 20 largest unsecured creditors shall be served with the application and consent order and shall have 7 days to file and serve an objection. If a committee of unsecured creditors has been appointed, its written consent must be affixed to a consent order in lieu of a motion under Code § 362(d).

- 1997 Comment: Subparts (a) through (d) (except (b)(3)) are former Local Rule 3 (i) (1)-(4). Subpart (e) is new and is derived from former Local Rule 3(k)(2).
- 2000 Comment: Subpart (b)(3) added.
- 2005 Comment: Subpart (a) is amended to eliminate the appearance requirement for uncontested motions relating the automatic stay. Subpart (b) was added to provide that the creditor's stay relief motion will be deemed uncontested and the creditor's appearance at the hearing will not be required unless the debtor files a *Chapter 13 Debtor's Certification in Opposition to Creditor's Motion or Certification of Default* on Local Form 23 with the time periods prescribed by this subpart. Pursuant to the Court's *General Order Relating to Motions For Relief From the Automatic Stay; and Requiring the Filing of Chapter 13 Debtor's Certification in Opposition to Creditor's Motion or Certification of Default and Related Forms* entered on January 4, 2005, secured creditors are required to accept debtors' post petition payments, and to apply those payments to debtors' accounts; any such acceptance is without any prejudice to, waiver of, or estoppel as to the position of secured creditors in disputes with debtors, including payment and accounting disputes.
- 2006 Comment: Subpart (c)(3) is amended to maintain and clarify the current requirement that the information contained in Local Forms 15 ("*Calculation of Amounts Due*"), 16 ("*Post-Petition Payment History Note and Mortgage*") and 16A ("*Post-Petition Payment History Vehicle Loan/Lease*") be certified by the secured creditor with personal knowledge of the calculation or payment history set forth therein, or a custodian of the secured creditor's records or other similarly qualified and authorized person having access to those records.
- Dec., 2009 Comment Subparts (b) and (f) are amended to conform with the March 26, 2009, Supreme Court approval of changes to Bankruptcy Rule 9006 which addresses the method by which time is calculated. On May 7, 2009, the Statutory Time Period Technical Amendments Act of 2009 was enacted (Pub. L. No. 111-06). The law adjusts the time period in 28 statutes, including nine sections of the Bankruptcy Code, which are impacted by the federal rule changes. Both the statutory and rules changes take effect on the same day, December 1, 2009. Deadlines of less than 30 days have been changed to multiples of seven days so that the expiration of the deadline ordinarily would occur on a weekday. Under the revised rules: 5 day deadlines become 7 days; 10 and 15 day deadlines become 14 days; 20 day deadlines become 21 days; and 25 day deadlines become 28 days. Effective, December 1, 2009 conforming amendments to the Court's Local Rules, including the one set forth herein, have been approved by the Board of Bankruptcy Judges. Additional information concerning time computation amendments to the national rules, local rules, general orders and forms may be accessed at www.uscourts.gov/rules and www.njb.uscourts.gov.
- 2010 Comment: This rule is amended to eliminate the reference to D.N.J. Local Forms 15, 16, 16A and 23, by substituting the caption of the Local Forms.
- Reference: 11 U.S.C. § 361 Adequate Protection.

D.N.J. LBR 5005-1 FILING AND TRANSMITTAL OF PAPERS

Electronic filing is authorized subject to general orders and administrative procedures as issued by the Court. In cases in which electronic filing is utilized, documents shall be filed, signed, or verified by means that are consistent with any general orders issued by the Court.

2001 Comment: This Rule is new and provides the general authority for electronic filing as authorized under Fed. R. Bankr. P. 5005(a)(2).

Reference: Fed. R. Bankr. P. 5005(2)(a).

D.N.J. LBR 5005-2 FILING PAPERS - NUMBER OF COPIES

An original and one copy of the petition, statement of financial affairs and schedules are required for filing in hard copy in cases under Chapters 7, 9, 11, 12 and 13.

Only the originally filed petition, statement of financial affairs and schedules are required for filing electronically in cases under Chapter 7, 9, 11, 12 and 13.

1997 Comment: Formerly Local Rule 2(b)(3).

2003 Comment: This rule is amended to recognize the reduced number of copies of petitions, statements of financial affairs and schedules required due to the implementation of the Court's Electronic Case Filing System (ECF).

D.N.J. LBR 5005-3 FILING PAPERS - SIZE OF PAPERS

All petitions, pleadings, schedules and other papers shall be of standard letter size (8-1/2 x 11 inches).

1997 Comment: Formerly part of Local Rule 2(a)(1).

D.N.J. LBR 5011-1 WITHDRAWAL OF REFERENCE

A motion for withdrawal of the reference of a case or proceeding shall be filed in the bankruptcy court in the form and manner prescribed by **Local Civil Rules** 5.1, 7.1, 10.1, 11.1 and 78.1 of the District Court Rules. All such motions are then to be immediately transmitted to the district court.

1997 Comment: Formerly Local Rule 14.

Reference: 28 U.S.C. § 157 Procedures; Fed. R. Bankr. P. 5005(c) Filing and Transmittal of Papers.

D.N.J. LBR 5071-1 CONTINUANCE

- (a) An adjournment request shall be made no later than 3 business days before the hearing date. Before requesting an adjournment, the requesting party shall attempt to obtain the consent of the other parties and inform the Court of their position, including the reasons for any opposition.
- (b) If a request cannot be presented to the Court within the time period provided in (a), the parties shall appear on the hearing date. The adjournment request will be considered at that time.

1997 Comment: Formerly Local Rule 11.

Dec., 2009 Comment Subsection (a) is amended to conform with the March 26, 2009, Supreme Court approval of changes to Bankruptcy Rule 9006 which addresses the method by which time is calculated. On May 7, 2009, the Statutory Time Period Technical Amendments Act of 2009 was enacted (Pub. L. No. 111-06). The law adjusts the time period in 28 statutes, including nine sections of the Bankruptcy Code, which are impacted by the federal rule changes. Both the statutory and rules changes take effect on the same day, December 1, 2009. Deadlines of less than 30 days have been changed to multiples of seven days so that the expiration of the deadline ordinarily would occur on a weekday. Under the revised rules: 5 day deadlines become 7 days; 10 and 15 day deadlines become 14 days; 20 day deadlines become 21 days; and 25 day deadlines become 28 days. Effective, December 1, 2009 conforming amendments to the Court's Local Rules, including the one set forth herein, have been approved by the Board of Bankruptcy Judges. Additional information concerning time computation amendments to the national rules, local rules, general orders and forms may be accessed at www.uscourts.gov/rules and www.njb.uscourts.gov.

Reference: Fed. R. Bankr. P. 9006(a) Time.

D.N.J. LBR 6004-1 SALE OF ESTATE PROPERTY

- (a) The trustee, debtor in possession, or an authorized representative shall attend and monitor the bidding process at all auctions of estate property.
- (b) In a Chapter 13 case, an Information for Notice of Private Sale of Real Property may include a request to pay at closing, the fees or commissions of a duly retained real estate broker or debtor's real estate attorney.

2004 Comment:

Subsection (b) is added in conjunction with the 2004 amendment to **D.N.J. LBR 2016-1(j)(5)** which allows, exclusively in a Chapter 13 case, a real estate broker or debtor's real estate attorney retained pursuant to **D.N.J. LBR 2014-1**, to include a request for reasonable fees to be paid upon closing, in the debtor's Information for Notice of Private Sale. The notice of private sale pursuant to Fed. R. Bankr. P. 2002(a) will include the requested real estate broker's commission as a percentage of the sale price, and/or the debtor's real estate attorney's fee, as well as the date of the respective orders of appointment. A request for approval of a section 363(f) sale requires the filing of a motion (Fed. R. Bankr. P. 6004(a)), in addition to the Information for Notice of Private Sale (2002(a)). Moreover, where debtor's counsel seeks entry of an order authorizing debtor to sell real property and pay certain professionals at closing, a motion will accompany the filing of the Information for Notice of Private Sale. The Court retains its discretion, on a case by case basis, to require the filing of an application for fees and expenses pursuant to **D.N.J. LBR 2016-1**, setting forth a statement of services rendered and itemization of expenses incurred by the real estate broker or debtor's closing attorney.

D.N.J. LBR 6005-1 APPRAISERS & AUCTIONEERS

- (a) No auctioneer shall be directly or indirectly interested in the sale or purchase of any of the assets or property of the estate being administered.
- (b) In all sales at public auction the personal property shall first be offered in bulk. After the bidding in bulk is completed, the property shall be offered for sale in lots set forth in the original lotting and selling sheets. Copies of lotting and selling sheets shall be available for prospective purchasers the day of the sale.
- (c) Upon completion of the sale, the auctioneer shall deliver to the trustee or debtor in possession all cash or its equivalent received from the sale and the original selling or lotting sheets. The auctioneer shall be liable for the collection and payment of the proceeds of sale. The original selling sheets shall contain an itemized statement of the property offered for sale, the names and addresses of the bulk bidders and the amounts of the bids, the name and address of the highest bidder for each lot, the price bid or received for each lot and the total amount bid or received for all lots.
- (d) No property shall be delivered to the successful bidder until payment of the balance of the bid price. All funds collected by the auctioneer on the date of delivery shall be promptly remitted to the trustee or debtor in possession, together with a list setting forth the amount of each payment and from whom such payment was received.
- (e) A successful bidder shall deposit with the auctioneer the required percentage deposit as announced before the sale. All deposits and final payments shall be made in cash, certified check or bank check. The terms of sale shall be announced by the trustee or auctioneer before the sale. All advertisements shall specify the conditions, including the monetary terms of the sale.

1997 Comment: Formerly Local Rule 7(d), (e), (g), (h), and (i).

Reference: [D.N.J. LBR 2016-1, 6004-1.](#)

D.N.J. LBR 6007-1 ABANDONMENT

A trustee or debtor in possession seeking approval to abandon property of the estate shall file Local Form, *Notice of Proposed Abandonment*. The clerk shall send notice in accordance with Fed. R. Bankr. P. 6007 of the proposed abandonment.

1997 Comment: Formerly Local Rule 15.

2010 Comment: This rule is amended to eliminate the reference to "D.N.J. Local Forms 5 and 6," by substituting the caption of the Local Form.

Reference: 11 U.S.C. § 554 Abandonment of property of the estate.

D.N.J. LBR 7001-1 ADVERSARY PROCEEDINGS - GENERAL

A party or attorney filing a complaint or third party complaint shall prepare a summons and notice of pretrial conference conforming to **Form B250B** of the Director of the Administrative Office as authorized by Fed. R. Bankr. P. 9009 and shall deliver the complaint and summons to the clerk for the issuance of the summons and notice of pretrial conference.

1997 Comment: Formerly Local Rule 2(e)(1).

Reference: Fed. R. Civ. P. 4 Summons; Fed. R. Civ. P. 16 Pretrial Conferences, Scheduling, Management; Fed. R. Bankr. P. 7004 Process, Service of Summons, Complaint; Fed. R. Bankr. P. 7016 Pretrial Procedure; Formulating Issues.

D.N.J. LBR 7003-1 COVER SHEET

Each complaint shall have attached an official bankruptcy cover sheet, **Form B-104**, which shall be provided by the clerk on request.

1997 Comment: Formerly Local Rule 2(e)(2).

**D.N.J. LBR 7005-1 SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS -
ELECTRONIC CASE FILING SYSTEM**

- (a) Participants in the Court's electronic case filing system (ECF), by accepting a login and password from the Court, waive their right to service by personal service or first class mail and agree to electronic service, except with regard to service of process of a summons and complaint in an adversary proceeding under Fed. R. Bankr. P. 7004 and the initiating motion in a contested matter under Fed. R. Bankr. P. 9014.
- (b) A party may make service upon a Participant in the Court's electronic case filing system under Fed. R. Civ. P. 5(b)(2)(E) made applicable to bankruptcy cases pursuant to Fed. R. Bankr. P. 7005, through the Notice of Electronic Filing automatically generated by the Court's transmission facilities.

2003 Comment: The December 2001 amendment to Fed. R. Civ. P. 5(b)(2)(D) requires the promulgation of a local rule if a court wants to authorize parties to use its transmission facilities to make electronic service. Express written consent to electronic service through the Court's transmission facilities as further required by Fed. R. Civ. P. 5(b)(2)(D) is provided by the Participant's signature on the Court's ECF registration form.

2009 Comment: Subpart (b) is amended to conform with the requirements of Fed. R. Civ.P. 5(b)(2)(E).

D.N.J. LBR 7026-1 DISCOVERY- GENERAL

The provisions of **Local Civil Rules** 26.1 and 37.1 of the District Court Rules may be applied in adversary proceedings in the discretion of the Court.

1997 Comment: Formerly Local Rule 5.

D.N.J. LBR 7055-1 ENTRY OF DEFAULT AND DEFAULT JUDGMENT

- (a) *Entry of Default.* To obtain **entry of default** pursuant to Fed. R. Civ. P. 55(a), the party moving for entry of default shall file with the Clerk of the Court an application requesting entry of default, together with a supporting affidavit listing all defaulting parties and alleging the following:
 - (1) The party against whom default is sought has been properly served with a summons and a complaint.
 - (2) The party has failed to plead or otherwise defend within the allowed time and that time has run.
 - (3) The party has not requested or has not been granted an extension of time to plead or otherwise defend.

- (b) *Entry of Default Judgment.* In addition to the filing of an application requesting entry of default, along with supporting affidavit, the party seeking the entry of a default judgment shall file with the Clerk of the Court an application for default judgment containing the following:
 - (1) A request to enter default judgment.
 - (2) An affidavit in support of default judgment, executed by an individual having personal knowledge of the facts set forth therein, which sets forth with specificity each element of at least one cause of action asserted in the initial pleading. The supporting affidavit must comply with 50 App. U.S.C. § 521 regarding defendant’s military status. The affidavit must also allege that the defendant is not an infant or incompetent person, unless represented in the action by a general guardian, committee, conservator, or other such representative who has appeared in the action.
 - (3) Appropriate documentary evidence to support the allegations in the affidavit.
 - (4) A proposed form of judgment.

- (c) *Notice.* Notice shall be served in accordance with Fed. R. Civ. P. 55(b)(2).

- (d) *Proof Hearing.* Chambers shall advise the party seeking entry of a default judgment of the time and date of a proof hearing, if required.

1999 Comment: This new Rule is intended to amplify and clarify the procedures to obtain the entry of default and default judgment pursuant to Fed. R. Civ. P. 55(a) and (b), respectively, made applicable to adversary proceedings pursuant to Fed. R. Bankr. P. 7055. Compliance with this new Rule should ease the burdens on both Chambers and the Clerk’s office by reducing the number of nonconforming pleadings which must be returned to counsel with remedial instructions.

Subdivisions (a) and (b) detail the content of the pleadings and supporting documentation required to obtain the entry of default and a default judgment.

Subdivision (d) is intended to clarify that a default judgment may be entered upon the submission of pleadings and supporting documentation conforming to the provisions of the Rule, without a proof hearing, unless the Court notifies counsel that a proof hearing is required.

2009 Comment: Subdivision (b)(2) relating to default judgments for persons in service is amended to conform with the omission of 50 App. U.S.C.A. § 520. These issues are now governed by 50 App. U.S.C. A. § 521.

References: Fed. R. Bankr. P. 7054 Judgment; Costs.
Fed. R. Bankr. P. 7055 Default.
50 App. U.S.C. § 520. Default Judgments; Affidavits; Bonds; Attorneys For Persons in Service.

D.N.J. LBR 7067-1 REGISTRY FUND

- (a) Registry funds maintained pursuant to 28 U.S.C. § 2041 shall include, but shall not be limited to:
 - (1) Unclaimed distributions in chapter 7, 12 or 13 cases remaining unpaid 90 days after the final distribution.
 - (2) Monies to be held in escrow pending resolution of a particular dispute before the Court.
- (b) An order requiring the deposit of funds shall be served personally by the movant upon the clerk, chief deputy clerk, deputy-in-charge, or chief financial deputy. The movant shall also verify that the clerk has deposited the funds.
- (c) In accordance with 28 U.S.C. § 1930(b) and 56 F.R. 56356, the Clerk shall collect a fee of 10% of all income earned on funds in the Registry when the funds total less than \$100,000,000. On amounts exceeding \$100,000,000, the 10% fee shall be reduced by one percent for each increment of \$50,000,000 over the initial \$100,000,000. The fee will be collected in pro rata amounts prior to ordered disbursements. The amount collected at any such time shall be 10% of that proportion of total accrued interest which equals the claimant's proportion of principal in the account.

1997 Comment: Formerly Local Rule 12.

2009 Comment: Former Subsection (b) has been eliminated as duplicative of *D.N.J. LBR 3011-1* (a). Former Subsections (c) and (d) have been renumbered as subsections (b) and (c).

Reference: 11 U.S.C. § 347(a) Unclaimed property; Fed. R. Bankr. P. 3011 Unclaimed Funds in a Chapter 7 Liquidation, Chapter 12 Family Farmer's Debt, and Chapter 13 Individual's Debt Adjustment Cases.

D.N.J. LBR 8006-1 DESIGNATION OF RECORD - APPEAL

If an appellant fails to timely file the designation and statement required by Fed. R. Bankr. P. 8006, the clerk shall file a certification of such failure with the clerk of the District Court and serve same upon all parties to the appeal.

1997 Comment: Formerly Local Rule 13.

Reference: Fed. R. App. P. 16 Appeal in Bankruptcy Case from a Final Judgment, Order or Decree of a District Court or a Bankruptcy Appellate Panel; Fed. R. Bankr. P. 8007 Completion and Transmittal of Record; Docketing of the Appeal.

D.N.J. LBR 9004-1 PAPERS - REQUIREMENTS OF FORM

All petitions, pleadings, schedules and other documents filed in paper form, shall be legibly typewritten, printed or reproduced. The papers shall be of standard weight and shall have an upper margin of not less than 1-1/2 inches. No such document may be stapled or similarly fastened so as to cause punctures in the paper.

1997 Comment: Formerly Local Rule 2(a)(1).

2001 Comment: This Rule amendment is intended to facilitate the imaging process when utilized in conjunction with the electronic case filing system.

D.N.J. LBR 9004-2 CAPTION - PAPERS, GENERAL

- (a) All papers, including motions, complaints, orders, judgments, letters, and briefs shall set forth a caption, and the title shall include a specific reference to the subject of the paper and shall state the hearing date as follows: "Hearing Date: , 20__."
- (b) All papers shall set forth the case number, chapter, initials of judge assigned and, when applicable, the adversary proceeding number. In the case of motions, the notice of motion and any answering papers shall state below the hearing date either "oral argument requested" or "oral argument waived."
- (c) All pleadings commencing with the original petition shall contain in the top left margin the typewritten or printed name, address, telephone number, the initials of the first and last names and the last 4 digits of the social security number of the attorney of record for the filing party, and the identity of the party represented, or, if a party is appearing pro se, the typewritten or printed name, address and telephone number of such party.

1997 Comment: Formerly Local Rule 2(a)(2), (3), and (4).

2001 Comment: This Rule amendment substitutes reference to the year "20__" for the year "19__."

D.N.J. LBR 9013-1 MOTION PRACTICE

- (a) *General Provisions.* An application to the Court for an order requiring notice and opportunity for hearing shall be by motion. Every motion shall state the time and place returnable, the grounds upon which it is made, and the nature of the relief sought. A motion shall be deemed uncontested unless responsive papers are timely filed in accordance with subdivision (d). A proposed form of order shall accompany the moving papers, except as provided in **D.N.J. LBR 9072-1(b)**.
- (b) *Scheduling.* An application by motion except in a chapter 13 case shall be made returnable on a regular motion day before the judge to whom the case has been assigned. The regular motion day shall be Monday for all three vicinages. A motion in a chapter 13 case shall be made returnable on a date assigned by the Court. A motion not timely filed pursuant to subdivision (c) will be scheduled for the next motion day.
- (c) *Time and Place of Filing.* All moving papers shall be filed in the vicinage of the case. Such papers shall be filed and served at least 21 days before the return date, except as provided in Fed. R. Bankr. P. 3007.
- (d) *Responsive Papers; Cross Motions.*
- (1) All answering papers and cross-motions shall be filed and served at least 7 days before the return date. All cross motions shall be deemed contested. No motion shall be designated as a cross motion unless it is related to the original motion.
 - (2) All reply papers, as well as answering papers to a cross- motion, shall be filed and served at least 4 days before the return date. Upon the request of a party, the Court may enlarge the time for the filing of answering and reply papers.
- (e) *Orders Shortening Time.* An application under Fed. R. Bankr. P. 9006(c) for an order shortening time for hearing on a motion shall be submitted with the moving papers in a form substantially the same as Local Forms, ***Application for Order Shortening Time*** and ***Order Shortening Time Period For Notice and Setting Hearing***. Use of orders to show cause shall be limited to adversary proceedings in accordance with **D.N.J. LBR 9075-1**.
- (f) *Oral Argument.* Unless a party requests oral argument or the Court otherwise directs, all motions shall be decided on the papers. All parties must state their intentions regarding oral argument in the moving or answering papers.
- (g) *Telephone Conference.* The Court, on its own motion or on a party's request, may direct argument of any motion by telephone conference without Court appearance. A verbatim record shall be made of all such telephone arguments.
- (h) *Motion for Reconsideration.* A motion for reconsideration shall be filed within 14 days of the entry of the Court's order or judgment on the original motion. The motion shall be filed with a memorandum setting forth concisely the matters or controlling decisions which the movant believes constitute cause for reconsideration. A timely motion for reconsideration shall be deemed to be a motion under Fed. R. Bankr. P. 8002(b).

- (i) *Testimony.* Unless the Court authorizes or directs otherwise prior to the return date, no testimony shall be taken on a motion except by certification or affidavit under Fed. R. Civ. P. 43(e) and Fed. R. Bankr. P. 9017. Notwithstanding the foregoing, live testimony may be taken on a motion under Code § 363(c) or § 364 without prior authorization from the Court.
- (j) *Consent Order in Lieu of Motion.*
 - (1) Requests to the Court for an order on which all parties who are entitled to notice have affixed their written consent may be presented by application without motion or hearing. The application shall explain the grounds for entry of the order.
 - (2) Notwithstanding subsection (j) (1) of this rule, a consent order in lieu of a motion under Code § 363(e) in a chapter 11 case can be filed without the written consent of the 20 largest unsecured creditors if no committee of unsecured creditors has been appointed. In such event, the 20 largest unsecured creditors shall be served with the application and consent order and shall have 7 days to serve an objection. The proponent of the consent order must simultaneously submit a separate certification of service to the Court indicating service on the 20 largest unsecured creditors. If a committee of unsecured creditors has been appointed, its written consent must be affixed to a consent order in lieu of a motion under Code § 363(e).
- (k) *Duty to Confer.* If a motion is contested, the movant shall confer with the respondent prior to the hearing to determine whether a consent order may be entered disposing of the motion, or, in the alternative, to stipulate the resolution of as many issues as possible.
- (l) *Duty to Report Settlement or Withdrawal.* If a motion is settled or withdrawn, the movant shall inform the Court immediately by telephone, and send written confirmation promptly thereafter.
- (m) Any motion seeking relief from the automatic stay, the use, sale or lease of property or the assumption, rejection or assignment of executory contracts and unexpired leases shall specifically state in the caption of the motion whether the movant seeks a waiver of the 14 day stay of the effectiveness of any proposed order for the relief sought under Federal Rules of Bankruptcy Procedure 4001(a)(3), 6004(h) or 6006(d). The movant shall bear the burden of establishing cause for the waiver of the 14 day stay provisions and shall detail the cause in its moving papers.

1997 Comment: Formerly Local Rule 3(a) through (h), and (j) through (m).

1999 Comment: Subsection (h) of this rule was amended. The amendment substituted the word "entry" for the word "filing" in the first sentence to be consistent with the federal rules of civil and bankruptcy procedure.

2004 Comment: Subsection (j)(2) is amended to require that the proponent of the consent order in lieu of motion under Code § 363(e) in a Chapter 11 case, simultaneously submit a separate certification of service to the Court indicating service on the 20 largest unsecured creditors, where the consent order in lieu of motion is filed, without the written consent of the 20 largest unsecured creditors if no committee of unsecured creditors has been appointed, and the 20 largest unsecured creditors have been served with the application and consent order providing 5 days to file and serve an objection.

2008 Comment: Subsection (d) of this rule is amended to require that the proponent of a reply or answer to a cross-motion file and serve such papers at least 4 days before the return date of the original motion.

- 2009 Comment: Subsection (d) of this rule is amended to clarify the time required for filing and service of a reply or answer to a cross-motion. Subsection(m) is amended to conform with Fed. R. Bankr.P. 6004(h) stating an order authorizing the use, sale or lease of property other than cash collateral for ten days unless the court orders otherwise.
- Dec., 2009 Comment This Rule is amended to conform with the March 26, 2009, Supreme Court approval of changes to Bankruptcy Rule 9006 which addresses the method by which time is calculated. On May 7, 2009, the Statutory Time Period Technical Amendments Act of 2009 was enacted (Pub. L. No. 111-06). The law adjusts the time period in 28 statutes, including nine sections of the Bankruptcy Code, which are impacted by the federal rule changes. Both the statutory and rules changes take effect on the same day, December 1, 2009. Deadlines of less than 30 days have been changed to multiples of seven days so that the expiration of the deadline ordinarily would occur on a weekday. Under the revised rules: 5 day deadlines become 7 days; 10 and 15 day deadlines become 14 days; 20 day deadlines become 21 days; and 25 day deadlines become 28 days. Effective, December 1, 2009 conforming amendments to the Court's Local Rules, including the one set forth herein, have been approved by the Board of Bankruptcy Judges. Additional information concerning time computation amendments to the national rules, local rules, general orders and forms may be accessed at www.uscourts.gov/rules and www.njb.uscourts.gov.
- 2010 Comment: This rule is amended to eliminate the reference to "D.N.J. Local Forms 1 and 2," by substituting the captions of the Local Forms.
- Reference: Fed. R. Bankr. P. 5005 Filing and Transmittal of Papers; Fed. R. Bankr. P. 9006 Time; Fed. R. Bankr. P. 9014 Contested Matters; Fed. R. Bankr. P. 9001(7) and 9021.

D.N.J. LBR 9013-2 BRIEFS & MEMORANDA OF LAW

All moving papers, answering papers, and cross-motions shall include a brief, or a statement that no brief is necessary and the reasons therefor. The brief shall be a separate document.

1997 Comment: This rule is new and is derived from Local Rule 3(c) and (d).

2001 Comment: This Rule amendment is intended to maintain and clarify the current requirement that a brief is to be a separate document whether submitted electronically or in paper form.

D.N.J. LBR 9013-3 CERTIFICATE OF SERVICE - MOTIONS

- (a) All moving papers, answering papers, and cross motions, including those filed electronically, must be supported by a certificate of service. The certificate of service shall identify the relationship to the case of each party served.
- (b) Where service is accomplished through the Notice of Electronic Filing pursuant to **D.N.J. LBR 7005-1(b)** upon a Participant in the Court’s electronic case filing system, the certificate of service must indicate that the document was electronically filed and the manner in which the party was served.
- (c) The certificate of service shall be a separate document.

1997 Comment: This rule is new and is derived from Local Rule 3(c) and (d).

1998 Comment: The second sentence of this rule was added [April 1998]. It is intended to facilitate the court’s meaningful review of the certification of service. The service list should identify the name of the party served, the address of the party served, and the party’s relationship to the case. For example:

John Doe, Esq.	Jane Doe
123 Main Street	456 Main Street
Anytown, USA 12345	Anytown, USA 12345
Attorney for Secured Creditor, Big Bank, N.A.	Unsecured Creditor

2001 Comment: This Rule amendment is intended to clarify that where electronic case filing is utilized, a certificate of service may be filed subsequent to the filing of the moving papers, answering papers, and cross motions.

2004 Comment: This Rule amendment specifies that the Court requires a certificate of service to be filed with respect to documents filed electronically indicating the manner in which the party was served. It also requires the certificate of service to be a separate document, thereby precluding inclusion of the certificate within the pleading.

Reference: Fed. R. Civ. P. 5 Service and Filing of Pleadings and Other Papers; Fed. R. Bankr. P. 7005 Service and Filing of Pleadings and Other Papers.

D.N.J. LBR 9015-1 JURY TRIALS

Where a party to a case or proceeding demands a trial by jury, the party making the demand shall, within 90 days after serving the demand, (i) file with the Clerk of the Bankruptcy Court the consent of all parties to trial by jury in the Bankruptcy Court, (ii) move pursuant to **D.N.J. LBR 5011-1** for withdrawal of the reference of the case or proceeding by the District Court, or (iii) move to extend the time. The failure of a party to file or move as required by this rule constitutes a waiver by the party of trial by jury.

D.N.J. LBR 9019-2 ALTERNATIVE DISPUTE RESOLUTION (ADR)

(a) Register of Mediators.

1. The clerk shall maintain a register of eligible individuals who wish to serve as mediators.
2. An individual may be eligible for appointment to the register upon the filing of an application for appointment to the register demonstrating the qualifications of the individual as mediator and satisfactory completion of such training as may be required from time to time by the Court.
3. The register of eligible mediators shall be reviewed and approved by the Court periodically and shall be posted by the clerk in each vicinage.

(b) Compensation of Mediators.

1. Mediators shall be compensated at the rate two hundred (\$200) dollars per hour, unless otherwise ordered by the Court.
2. In the event that the parties to mediation and the mediator agree on an hourly rate in excess of or less than two hundred dollars (\$200), the order of referral for mediation shall indicate the agreed hourly rate of the mediator, if in the opinion of the Court such rate is reasonable.
3. The parties shall share the charges of the mediator equally, unless otherwise provided in the order allowing the mediator's compensation.
4. A mediator seeking compensation shall comply with the requirements of **D.N.J. LBR 2016-1(a)**.
5. A copy of the mediator's application for compensation shall be served on each party to the mediation.

(c) Referral to Mediation.

1. An adversary proceeding or contested matter may be referred to mediation either by joint request of the parties or by the Court at a status conference or other hearing.
2. Where the parties consent to mediation, they shall file an **application** and **consent order**, as allowed by **D.N.J. LBR 9013-1(j)**, requesting referral to mediation and designating a mutually acceptable mediator and alternate selected from the current register. If the parties are unable to agree on a mediator and alternate, the application shall request selection by the Court from the current register.
3. Where mediation is directed by the Court, on its own motion, the parties shall confer and attempt to designate a mutually acceptable mediator and alternate from the current register. If the parties cannot agree, the Court shall appoint a mediator and alternate.

(d) Mediation Procedure.

- (1) Conflicts.* Within 7 days of the filing of the referral order, the mediator shall determine whether he or she is disqualified. Disqualification shall include, but not be limited to, acting as trustee in the case or in the case of an insider or affiliate of the debtor. If the mediator determines that he or she is disqualified, the mediator shall promptly file a

notice of disqualification, serving copies on the parties and the alternate, and the alternate shall become the mediator.

- (2) *Time and Place.* The mediator shall fix a time and place for the mediation conferences which are reasonably convenient for the parties and shall serve written notice of the initial conference at least 14 days before the return date. The conference shall be commenced as early as practicable, and in any event not more than 45 days following the entry of the referral order. Upon consent of all parties, the mediator may adjourn the conference and inform the Court, in writing, of the need for adjournment and the new date(s).
- (3) *Information Statement.* Each party shall prepare an information statement which shall contain the following:
 - (A) A copy of the pleading setting forth the party's cause of action or defense;
 - (B) A list of all witnesses upon which the party would rely at trial, and a summary of their expected testimony;
 - (C) Copies of the principal exhibits upon which the party would rely at trial; and
 - (D) A statement, not exceeding 3 pages, of the principal rules of law upon which the party relies.

Where an exhibit is voluminous, a *summary* may be provided. The submission of a *summary* of expected testimony shall constitute a certification by the attorney that he or she, or other counsel of record for the party, has personally spoken with the witness or has reviewed a written statement of the witness, deposition transcript, or interrogatory answers signed by the witness, and believes in good faith that the witness will testify substantially in conformity with the *summary*.

The information statement shall be served on the mediator and all parties at least 7 days before the initial conference. The information statement shall not be filed, shall not be construed as a pleading, shall not satisfy any discovery obligation, and shall not limit the evidence the parties may use at trial, if mediation does not result in settlement. No responsive or supplemental statements shall be permitted.

- (4) *Attendance by Attorneys.* The attorney with primary responsibility for representation in the proceeding or matter to be mediated shall personally attend the conference(s). Attorneys shall be prepared to discuss in detail and in good faith the following:
 - (A) All liability issues;
 - (B) All damages issues; and
 - (C) Authorized parameters for settlement.
- (5) *Attendance by Parties.* An individual party who resides within the vicinage of the case shall personally attend the mediation conference(s) unless excused by the mediator for cause. A party, other than an individual, whose principal place of business is located in the vicinage of the case shall attend the mediation conference(s) through a representative with authority to negotiate. All other parties shall be available for consultation with their attorneys and the mediator by telephone.

- (6) *Caucus*. The mediator shall decide which parties and/or attorneys shall be present, and the nature of any caucus sessions.
 - (7) *Failure to Attend*. A party's willful failure to attend the mediation conference(s) shall be reported to the Court by the mediator and may result in the imposition of sanctions by the Court.
 - (8) *Privilege*. All proceedings or writings of the mediation conference, including the information statement, mediator's settlement recommendation, and any statement made by any party, attorney or other participant, shall in all respects be privileged and not reported, recorded, placed in evidence, communicated to the Court or jury, where applicable, or construed for any purpose as an admission against interest.
 - (9) *Settlement Recommendations*. The mediator may, but need not, make oral or written recommendations for settlement. Attorneys shall confer with their parties to review the mediator's recommendations and to determine whether a consent order or stipulation may be entered disposing of the adversary proceeding or contested matter or resolving as many issues as possible.
- (e) **Completion of Mediation**. Upon completion of the mediation conference(s), the mediator shall inform the Court, **in writing**, whether the parties have reached agreement to settle the adversary proceeding or contested matter. If settlement has been reached, the mediator shall direct the preparation of a consent order or stipulation containing the terms of settlement, which shall be filed.

1997 Comment: Formerly Local Rule 17.

2002 Comment: Subsections (b)(1) and (b)(2) of this rule were amended. The amendments increased the mediators hourly rate of compensation from one hundred and fifty (\$150) to two hundred dollars (\$200) per hour.

Dec., 2009 Comment This Rule is amended to conform with the March 26, 2009, Supreme Court approval of changes to Bankruptcy Rule 9006 which addresses the method by which time is calculated. On May 7, 2009, the Statutory Time Period Technical Amendments Act of 2009 was enacted (Pub. L. No. 111-06). The law adjusts the time period in 28 statutes, including nine sections of the Bankruptcy Code, which are impacted by the federal rule changes. Both the statutory and rules changes take effect on the same day, December 1, 2009. Deadlines of less than 30 days have been changed to multiples of seven days so that the expiration of the deadline ordinarily would occur on a weekday. Under the revised rules: 5 day deadlines become 7 days; 10 and 15 day deadlines become 14 days; 20 day deadlines become 21 days; and 25 day deadlines become 28 days. Effective, December 1, 2009 conforming amendments to the Court's Local Rules, including the one set forth herein, have been approved by the Board of Bankruptcy Judges. Additional information concerning time computation amendments to the national rules, local rules, general orders and forms may be accessed at www.uscourts.gov/rules and www.njb.uscourts.gov.

D.N.J. LBR 9072-1 ORDERS - PROPOSED

- (a) Any order or judgment must be a separate document. The title of an order or judgment shall identify the nature of the relief granted.
- (b) The Court may approve standard forms of order and judgment pursuant to Fed. R. Bankr. P. 9021. When a decision by the Court is identical to that provided in any such standard form of order or judgment, and includes no additional relief or ruling, the clerk shall prepare, sign and enter an order or judgment on the appropriate form as directed by the Court. Where use of a standard form of order or judgment is required under this subdivision, there shall be no substitution for, or modification or supplementation of such form without the express consent of the Court.
- (c) Except as provided in subdivision (b), if the ruling on a motion or application differs from that reflected in any proposed orders which have been submitted, the prevailing party or applicant shall file and serve a revised form of order within 7 days of the Court's decision. If the prevailing party or applicant fails to do so, any other party may file and serve such form of order.
- (d) If all parties consent to the form of an order submitted under subdivision (c), the correspondence transmitting such order shall so state in bold face or upper case type, and such order shall be signed and entered in the discretion of the court. In all other cases under subdivision (c), all parties served with such order shall have 7 days to file and serve an objection and alternative form of order. A hearing may be conducted on the objection in the Court's discretion.
- (e) Any proposed order seeking relief from the automatic stay, the use, sale or lease of property or the assumption, rejection or assignment of executory contracts and unexpired leases shall not include a waiver of the 14 day stay provisions provided in Federal Rule of Bankruptcy Procedure 4001(a)(3), 6004(h), or 6006(d) unless cause for relief from the stay is specifically plead in the moving papers. The caption of the proposed order must state the order waives the 10 day stay provisions contained in the applicable Federal Rule.

1997 Comment: Formerly Local Rule 4.

2001 Comment: This Rule amendment substitutes the phrase "shall be signed and entered in the discretion of the court" for the phrase "shall be signed and entered forthwith."

2009 Comment: Subsection (e) is amended to eliminate reference to the Interim Rule 6004(h) by its adoption into the Federal Rules of Bankruptcy Procedure as of December 1, 2008.

Dec., 2009 Comment This Rule is amended to conform with the March 26, 2009, Supreme Court approval of changes to Bankruptcy Rule 9006 which addresses the method by which time is calculated. On May 7, 2009, the Statutory Time Period Technical Amendments Act of 2009 was enacted (Pub. L. No. 111-06). The law adjusts the time period in 28 statutes, including nine sections of the Bankruptcy Code, which are impacted by the federal rule changes. Both the statutory and rules changes take effect on the same day, December 1, 2009. Deadlines of less than 30 days have been changed to multiples of seven days so that the expiration of the deadline ordinarily would occur on a weekday. Under the revised rules: 5 day deadlines become 7 days; 10 and 15 day deadlines become 14 days; 20 day deadlines become 21 days; and 25 day deadlines become 28 days. Effective, December 1, 2009 conforming amendments to the Court's Local Rules, including the one

set forth herein, have been approved by the Board of Bankruptcy Judges. Additional information concerning time computation amendments to the national rules, local rules, general orders and forms may be accessed at www.uscourts.gov/rules and www.njb.uscourts.gov.

Reference: **D.N.J. LBR 4001-1(d)** Automatic Stay - Relief From; Fed. R. Bankr. P. 9022 Notice of Judgment or Order.

LBR 9072 -2 ORDERS PROPOSED - ELECTRONIC CASE FILING SYSTEM

- (a) Orders submitted under **D.N.J. LBR 9072-1(c)** shall be directed to the presiding judge's electronic mail box designated for this purpose. The address box of the electronic mail shall reflect the names of the parties served. If any party is not served electronically, the filer must serve a copy of the order on that party conventionally and indicate such service in the electronic correspondence directed to the presiding judge's electronic mail box.
- (b) Pursuant to the requirements of **D.N.J. LBR 9072-1(d)**, if all parties consent to the form of an order submitted electronically, the electronic correspondence transmitting such order shall so state in bold face or upper case type, and such order shall be signed and entered in the discretion of the court. In all other cases under subdivision (a), all parties served with such order shall have 7 days to submit and serve an objection and alternative form of order to the presiding judge's electronic mail box. A hearing may be conducted on the objection in the Court's discretion.

2001 Comment: This Rule is new and is intended to provide a procedure for orders submitted by electronic means under **D.N.J. LBR 9072-1(c)**.

Dec., 2009 Comment Subsection (b) is amended to conform with the March 26, 2009, Supreme Court approval of changes to Bankruptcy Rule 9006 which addresses the method by which time is calculated. On May 7, 2009, the Statutory Time Period Technical Amendments Act of 2009 was enacted (Pub. L. No. 111-06). The law adjusts the time period in 28 statutes, including nine sections of the Bankruptcy Code, which are impacted by the federal rule changes. Both the statutory and rules changes take effect on the same day, December 1, 2009. Deadlines of less than 30 days have been changed to multiples of seven days so that the expiration of the deadline ordinarily would occur on a weekday. Under the revised rules: 5 day deadlines become 7 days; 10 and 15 day deadlines become 14 days; 20 day deadlines become 21 days; and 25 day deadlines become 28 days. Effective, December 1, 2009 conforming amendments to the Court's Local Rules, including the one set forth herein, have been approved by the Board of Bankruptcy Judges. Additional information concerning time computation amendments to the national rules, local rules, general orders and forms may be accessed at www.uscourts.gov/rules and www.njb.uscourts.gov.

D.N.J. LBR 9075-1 EMERGENCY ORDERS

Use of orders to show cause shall be limited to adversary proceedings in which immediate injunctive relief is requested.

1997 Comment: Formerly part of Local Rule 3(e).

Reference: Fed. R. Bankr. P. 7001 Scope of Rules of Part VII.

APPENDIX

Appendix A Guidelines for Legal Services to Be Rendered in a Chapter 13 Case Where a
Standard Fee Is Charged Pursuant to D.N.J. LBR 2016-1(j)(1).67

**Guidelines For Legal Services to be Rendered in a Chapter 13 Case
Where a Standard Fee is Charged Pursuant to D.N.J. LBR 2016-1(j)(1)**

Subsection 2016-1(j)(1) requires a debtor's attorney to file an application for allowances if the fee disclosed under Fed. R. Bankr. P. 2016(b) exceeds \$3500. If a debtor's attorney charges \$3500 or less for services to be rendered in a Chapter 13 case, the following guidelines have been developed to list the legal services to be provided by the debtor's attorney in the course of the Chapter 13 case:

- a. Meet with the debtor to review the debtor's assets, liabilities, income and expenses.
- b. Analyze the debtor's financial situation, render advice to the debtor in determining whether to file a petition in bankruptcy and what type of case to file, and review the necessary requirements and procedures of the bankruptcy process with the debtor.
- c. Timely prepare, file and serve the debtor's petition, plan, schedules, statement of financial affairs and any necessary amendments thereto which may be required prior to confirmation of the debtor's case.
- d. Provide to debtor's Trustee all required documentation, including payment advices, redacted tax returns, real property valuations and any other documents required by the Trustee.
- e. Appear and represent the debtor at the section 341(a) meeting of creditors and the confirmation hearing.
- f. Respond to any routine objections to plan confirmation as necessary.
- g. Advise debtor as to requirement to complete course in personal financial management and file completed statement regarding completion of a course in personal financial management as required by Fed. R. Bankr.P.1007(b)(7).
- h. Provide such other legal services as are necessary for the administration of the case, which include, but are not limited to, a continuing obligation to assist the debtor by returning telephone calls, the routine answering of questions from the debtor and the receipt, review and sending of correspondence.

CHRONOLOGY TABLE

DATE	COMMENT
April 15, 1997	Rules amended and renumbered.
April, 1998	Rules 3011-1 and 9013-3 amended.
January, 1999	Rules 7055-1 added and 9013-1(h) amended.
January, 2000	Rule 4001-1(b)(3) amended.
March 8, 2001	Rule 3015-6 added and Rule 2016-1(j) amended.
May 30, 2001	Rules 5005-1 and 9072-2 added; Rules 1001-1, 1007-2, 9004-1, 9004-2, 9013-2, 9013-3 and 9072-1 amended.
June 28, 2002	Rule 1073-1 amended.
September 18, 2002	Rules 2004-1 and 9019-2 amended.
January 2, 2003	Rule 9015-1 added
May 12, 2003	Rules 3015-1 and 3015-6 amended
July 2, 2003	Rules 1002-1, 1007-2, 1009-1, 1019-1, 2016-1, 3016-1, 3016-2, 5005-2 amended. Rules 7005-1, 9013-1(m) and 9072-1(e) added. Rule 1007-1 deleted.
August 1, 2004	Rules 1002-1, 2016-1, 3016-1, 3018-2, 6004-1, 7005-1, 9013-1 and 9013-3 amended.
August 1, 2005	Rules 2016-1, 3015-6 and 4001-1 amended.
August 1, 2006	Rules 2016-1, 2090-1, 3015-6, 4001-1 amended. Rule 3003-2 added.
August 1, 2007	Rules 1073-1 and 9072-1 amended.
August 1, 2008	Rules 1009-1, 2014-1, 2016-1 and 9013-1 amended.
August 1, 2009	Rules 1002-1(a)(6), 2014-1(b), (c) and (d); 2016-1(g), 3011-1(a) and (b), 3015-1(b), 7005-1(b), 7055-1(b)(2), 7067-1(b), (c) and (d); 9013-1(d) and (m); and 9072-1(e) amended.

DATE	COMMENT
December 1, 2009	Amendments made to Local Rules 2014-1, 2016-1, 2090-1, 3015-1, 3015-2, 4001-1, 5071-1, 9013-1, 9019-2, 9072-1 and 9072-2 to conform with the March 26, 2009, Supreme Court approval of changes to Bankruptcy Rule 9006 which addresses the method by which time is calculated. Deadlines of less than 30 days have been changed to multiples of seven days so that the expiration of the deadline ordinarily would occur on a weekday. Under the revised rules: 5 day deadlines become 7 days; 10 and 15 day deadlines become 14 days; 20 day deadlines become 21 days; and 25 day deadlines become 28 days.
August 1, 2010	Rules 1007-2, 2016-1, 3003-2, 3015-1, 3021-1, 4001-1, 6007-1, 9013-1 amended. Appendix A added.