

**D.N.J. LBR 6003-1 RELIEF IMMEDIATELY FOLLOWING THE COMMENCEMENT OF THE CASE**

The Guidelines Governing First Day Matters, set forth in Appendix A to this Rule; the Guidelines Governing Complex Chapter 11 Cases, set forth in [Appendix B](#) to this Rule; and the Guidelines Establishing Case Management and Administrative Procedures for Cases Designated as Complex Chapter 11 Cases, set forth in [Appendix C](#) to this Rule, apply in qualifying Chapter 11 cases.

**APPENDIX A**  
**GUIDELINES GOVERNING FIRST DAY MATTERS**

The following guidelines apply in Chapter 11 cases.

**A. DEFINITION**

1. A “First Day Matter” is defined as a motion filed simultaneously with the Chapter 11 petition, which in the opinion of counsel, requires expedited consideration by the Court within two business days of the filing.
2. First Day Matters seeking extraordinary relief will be granted in the Court’s discretion only upon good cause shown.

**B. FILING AND SERVING THE MOTION AND OBJECTIONS/RESPONSES**

3. If a Chapter 11 debtor has matters requiring expedited consideration by the Court at the beginning of a case, it should file the Local Form *Application for Expedited Consideration of First Day Matters*, together with the Local Form *Order Regarding Application for Consideration of First Day Matters* with a blank return date. The Court will treat the Application as a motion under Fed.R.Bankr.P. 9006(c) and [D.N.J. LBR 9013-1\(e\)](#) for an order shortening time on a hearing.
4. First Day Matters must be supported by certification(s).
5. The debtor shall, simultaneously with the filing of the Application for Expedited Consideration of First Day Matters, serve by electronic transmission, telecopy, hand delivery or overnight mail a copy of the Application and supporting documents upon all affected parties and the United States Trustee.
6. If the debtor determines that its case may require special scheduling and other procedures, it should simultaneously file the Local Form *Application for Designation As Complex Chapter 11 Case* in accordance with the Guidelines Governing Complex Chapter 11 Cases, set forth in [Appendix B](#) to D.N.J. LBR 6003-1.

**C. ENTRY AND SERVICE OF ORDER**

7. At or immediately after the hearing on the First Day Matters, the Court may enter the Local Form *Order Regarding Application for Expedited Consideration of First Day Matters*.
8. Upon receipt of the Order, the debtor’s counsel shall immediately serve by electronic transmission, telecopy, hand delivery or overnight mail a copy of the Order upon all affected parties and the United States Trustee.
9. If the Court finds that a matter does not require immediate consideration, but does require hearing on an expedited basis, it may designate in the Order a hearing date and time for the matter and a deadline for filing and serving an objection and/or response to the matter.

**APPENDIX B**  
**GUIDELINES GOVERNING COMPLEX CHAPTER 11 CASES**

The following guidelines apply in Complex Chapter 11 cases.

1. A “Complex Chapter 11 Case” is defined as a case pending in the District of New Jersey under Chapter 11 of the Bankruptcy Code that may require special scheduling and other procedures because of the existence of one or more of the following factors:
  - (a) The size of the case in terms of assets, liabilities or number of creditors and/or parties in interest;
  - (b) The fact that claims against the debtor and/or equity interests in the debtor are publicly traded; or
  - (c) The case, for reasons satisfactory to the Court, would be more efficiently administered as a Complex Chapter 11 Case.
2. If a Chapter 11 debtor believes that the case should be classified as a Complex Chapter 11 Case, it shall file, with the Chapter 11 petition, the Local Form *Application for Designation As Complex Chapter 11 Case*.
3. If a Chapter 11 debtor has matters requiring expedited consideration by the Court, it should simultaneously file the Local Form *Application for Expedited Consideration of First Day Matters* in accordance with the Guidelines Governing First Day Matters, set forth in **Appendix A** to D.N.J. LBR 6003-1.
4. If the Court determines that the case does not qualify as a Complex Chapter 11 Case, it may enter the Local Form ***Order Denying Complex Chapter 11 Case Treatment***. If the Court determines that the case qualifies as a Complex Chapter 11 Case, it may enter the Local Form ***Order Granting Complex Chapter 11 Case Treatment***.
5. Upon receipt of the Order, the debtor’s counsel shall, within one business day, serve by electronic transmission, telecopy, hand delivery or overnight mail a copy of the Order Granting or Denying Complex Chapter 11 Case Treatment on all affected parties and the United States Trustee.
6. At the hearing on First Day Matters, the debtor’s counsel shall:
  - (a) Request the entry of a proposed case management order in accordance with the instructions set forth in the Guidelines Establishing Case Management and Administrative Procedures for Cases Designated As Complex Chapter 11 Cases, set forth in **Appendix C** to D.N.J. LBR 6003-1; and
  - (b) Submit, within the time prescribed by the Court, a proposed case management order in accordance with said Guidelines.
7. To the extent that the complex Chapter 11 procedures referenced herein conflict with the Local Bankruptcy Rules, these Procedures shall control in Complex Chapter 11 Cases.

## APPENDIX C

### GUIDELINES ESTABLISHING CASE MANAGEMENT AND ADMINISTRATIVE PROCEDURES FOR CASES DESIGNATED AS COMPLEX CHAPTER 11 CASES

After the Court has reviewed the initial pleadings and conducted its initial status conference at the hearing on First Day Matters, the debtor's counsel shall submit, within the time prescribed by the Court, a proposed "Order Establishing Case Management and Administrative Procedures for Cases Designated As Complex Chapter 11 Cases" containing the following guidelines:

#### **A. DEFINITION OF "DEBTOR"**

1. Any reference to the term "debtor" in these Guidelines shall include any trustee appointed in the case.

#### **B. OMNIBUS HEARING DATES**

2. The Court may conduct omnibus hearings on a weekly/bi-monthly/monthly basis as dictated by the circumstances of the case (the "Omnibus Hearing Dates"). To the extent possible, all matters requiring a hearing in the case shall be set for and be heard on Omnibus Hearing Dates unless alternative hearing dates are approved by the Court for good cause shown.
3. Omnibus Hearing Dates may be modified by the Court as it deems appropriate for management of the case.
4. If a movant does not schedule its matter on an Omnibus Hearing Date and the matter is filed at least 21 days prior to an Omnibus Hearing Date, the matter will be scheduled for the Omnibus Hearing Date. If the matter is filed less than 21 days prior to an Omnibus Hearing Date, it will be scheduled for hearing on the next Omnibus Hearing Date thereafter. In either case, the movant must provide all interested parties with notice of the corrected hearing date and file a certificate of service. This paragraph shall not apply to any matter for which the Court has set a different hearing date.
5. If any person fails to comply with the terms of an Order establishing a hearing for a particular date and time, the debtor's counsel shall, within three business days of the receipt of such filing, forward a copy of the Order Establishing Case Management and Administrative Procedures to such person.

#### **C. EXPEDITED HEARINGS**

6. If a party in interest believes that a motion requires a hearing on less than the 21 days required [D.N.J. LBR 9013-1\(c\)](#), the moving party should follow the procedure required by [D.N.J. LBR 9013-1\(e\)](#) in order to obtain an earlier hearing date.
7. The Court will attempt to rule on the request for shortened time within 24 hours of the time it is presented. If the Court grants the motion for expedited hearing, the underlying motion will be set at the next available Omnibus Hearing Date or at some other appropriate shortened date approved by the Court.
8. Requests for expedited hearings will be granted only under emergency or exigent circumstances.
9. This section does not apply to matters addressed in an Application For Expedited Consideration of First Day Matters. For such matters, parties are directed to consult the Guidelines Governing First Day Matters, set forth in [Appendix A](#) to D.N.J. LBR 6003-1.

#### **D. NOTICING PROCEDURES**

10. All filings, unless otherwise ordered by the Court, shall be served upon the following entities constituting the “Core Service List”:
  - (a) The debtor(s);
  - (b) The debtor’s counsel;
  - (c) The Newark office of the United States Trustee for Region III;
  - (d) The chairperson of any official committees established pursuant to 11 U.S.C. § 1102;
  - (e) Counsel retained by any official committees established pursuant to 11 U.S.C. § 1102, or the twenty largest creditors if an official committee for unsecured creditors has not been appointed;
  - (f) Counsel to any secured creditors; and
  - (g) Any other person or entity as authorized by the Court.
11. The debtor’s counsel must maintain and update the Core Service List at least every 14 days during the first 60 days of the case and at least every 30 days thereafter. Further, the debtor’s counsel must file with the Court a Core Service List every time it is updated.
12. The debtor’s counsel shall maintain and update a master service list (the “Master Service List”) comprised of the Core Service List and the parties that have filed a notice of appearance and request for notices in the case. Service on the persons/entities listed on the Master Service List shall be made only with respect to those matters enumerated in the Order Establishing Case Management and Administrative Procedures. The debtor’s counsel must update the Master Service List at least every 14 days during the first 60 days of the case and at least every 30 days thereafter. Further, the debtor’s counsel must file with the Court the Master Service List each time it is updated.
13. The certificate of service for each filing must be filed with the Court together with the complete service list that was utilized and served for the filing but said certificate of service is not to be served on the recipients of the filing.
14. Whether filed conventionally or electronically, a summons and complaint or the initiating motion in a contested matter shall be served pursuant to Fed.R.Bankr.P. 7004 upon all parties having a particularized interest in the subject of the filings or motions and upon all parties listed on the Core Service List.
15. All notices required by subdivisions (a)(2), (3) and (6) of Fed.R.Bankr.P. 2002 and by Fed.R.Bankr.P. 4001 and 6007 shall be served upon:
  - (a) Each entity designated on the Core Service List;
  - (b) When the notice relates to a proposed use, sale, lease or abandonment of property, each entity designated on the most recent Master Service List and each entity having a lien, encumbrance or interest in the property;
  - (c) When the notice relates to relief from the stay in order to take action against property of the debtor’s estate, each entity having a lien, encumbrance or interest in the subject property;

- (d) When the notice relates to use of cash collateral or obtaining credit, each entity which has an interest in the cash collateral and each entity which has a lien, encumbrance or other interest in property on which a lien is proposed to be granted;
  - (e) When the notice relates to a proposed compromise or settlement, each entity which is a party to the compromise or settlement and each entity designated on the most recent Master Service List; and
  - (f) When the notice relates to compensation or reimbursement of expenses, each professional seeking compensation or reimbursement and each entity designated on the most recent Master Service List.
16. The Office of the United States Trustee for Region III—New Jersey Office must be served with the following documents in hard copy format regardless of whether the United States Trustee’s Office receives same electronically:
- (a) Petition;
  - (b) Schedules and Statement of Financial Affairs;
  - (c) All First Day Matters and supporting pleadings and documents thereto;
  - (d) Monthly Operating Reports;
  - (e) Chapter 11 Plan and Disclosure Statement; and
  - (f) Fee applications.

**E. NEGATIVE NOTICING PROCEDURES**

17. The Court may approve notice procedures which provide that if no objections are timely filed and served by a deadline set in accordance with the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules, or an Order Establishing Case Management and Administrative Procedures, the Court may enter an order granting the relief requested without further notice or a hearing (“Negative Notice”). The notice accompanying such motion must specify the objection deadline and provide that if no objections are filed and served, the Court may enter an order granting the motion without further notice or hearing.
18. “Negative Notice” may be used in connection with motions, including but not limited to the following matters:
- (a) Rejection of a non-residential real property lease or executory contract pursuant to 11 U.S.C. § 365;
  - (b) Retention and employment of a professional pursuant to 11 U.S.C. §§ 327 and 328;
  - (c) Extension of a deadline for removal of a claim or cause of action pursuant to Fed.R.Bankr.P. 9027;
  - (d) Sales of assets outside the ordinary course of business pursuant to 11 U.S.C. § 363 where the purchase price does not exceed a designated amount; and
  - (e) Approval of settlements and compromises pursuant to Fed.R.Bankr.P. 9019 where the settled amount of the claim does not exceed a designated amount.
19. If an objection is timely filed and served, a hearing will be scheduled for the next Omnibus Hearing Date unless otherwise ordered by the Court.

20. If the objection date has passed and no objection has been filed or served, the movant's counsel may file the Local Form *Certification of No Objection* stating that no objection has been filed or served on the movant.
21. By filing such certifications, the movant's counsel is representing to the Court that the movant is unaware of any objection to the motion or application and that counsel has reviewed the Court's docket and that no objection appears thereon.
22. Upon receipt of the Certification of No Objection, the Court may enter the Order accompanying the motion without further pleading or hearing, and upon entry of the Order, the hearing scheduled on the motion or application shall be cancelled without further notice.

**F. NOTICE OF AGENDA**

23. If the Court has authorized a Notice of Agenda to be utilized, the debtor's counsel shall maintain, file and serve the Local Form *Notice of Agenda* for each hearing in conformity the guidelines set forth below (F.24 - F.31) unless modified or otherwise directed by the Court to the contrary.
24. The debtor's counsel shall file a proposed Notice of Agenda before 12:00 Noon on the day that is two business days before the Omnibus Hearing Date.
25. Resolved or continued matters shall be listed ahead of unresolved matters on the Notice of Agenda. Contested matters shall be listed in the order of docketing with corresponding docket number.
26. All amended Notices of Agenda shall list matters as listed in the original Notice of Agenda with all edits and additional information listed in **boldface type**.
27. Copies of the Notice of Agenda shall be served, simultaneously with the filing of the Notice of Agenda with the Court, upon all parties who have filed an appearance or who have a direct interest in any matter on the Notice of Agenda and upon the United States Trustee.
28. For each motion and/or application, the Notice of Agenda shall indicate the movant and/or the applicant, the nature of the motion and the docket number. Supporting papers of the movant/applicant shall be similarly denoted.
29. For each motion/application, the Notice of Agenda shall indicate the objection deadline and any objection filed and its docket number, if available.
30. For each motion/application, the Notice of Agenda shall indicate whether any or all of the objections have been resolved, whether the matter is going forward, whether a continuance is requested (and any opposition to the continuance if known), and any other pertinent status information.
31. When a matter in an adversary proceeding is scheduled, the Notice of Agenda shall indicate, in addition to the information regularly required in a Notice of Agenda, the adversary proceeding number and the corresponding docket number for adversary proceeding pleadings on the Notice of Agenda.

**G. PRO HAC VICE APPLICATIONS**

32. An application for permission to practice *pro hac vice* before the Court must be served upon each entity designated on the Core Service List, and it may be granted by the Court without a hearing unless an objection to the application is filed within seven days of the service of the application.

## **H. MODIFICATION OF ORDER**

33. Any party may at anytime move for reconsideration or modification of the Order Establishing Case Management and Administrative Procedures. Service of said motion shall be made upon all persons/entities on the Master Service List. The Court may amend the Order Establishing Case Management and Administrative Procedures from time to time as necessary.

## **NEW JERSEY BOARD OF BANKRUPTCY JUDGES NOTES**

2011 Comment: The provisions of the appendices to D.N.J. LBR 6003-1 were previously contained in the Court's General Order Adopting Guidelines Governing First Day Matters and General Order Governing Procedures for Complex Chapter 11 Cases. In September 2009, the Judicial Conference approved a set of Guidelines for Distinguishing Between Matters Appropriate for Standing Orders and Matters Appropriate for Local Rules. In response to these Guidelines, the Board of Bankruptcy Judges concluded that the provisions of the Court's General Orders cited above should be addressed in an appendix to a local rule. As a result, on August 1, 2011, the Court adopted D.N.J. LBR 6003-1 and incorporated the provisions of the General Orders, with some minor changes, in appendices to the rule. Pursuant to D.N.J. LBR 1001-1(b), the Court may modify any of the Guidelines and any related Forms in order to accommodate a specific case.