

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

**NOTICE TO THE BAR AND PUBLIC CONCERNING
AMENDMENTS TO THE LOCAL BANKRUPTCY RULES**

On or about June 17, 2010, the Board of Bankruptcy Judges for the District of New Jersey approved proposed amendments to the Court's Local Bankruptcy Rules. The proposed amendments are subject to the approval of the United States District Court for the District of New Jersey, subsequent to a thirty day public comment period. Approved Local Rule Amendments are effective August 1, 2010.

The following are the proposed Amendments for 2010:

- [1007-2 Mailing List or Matrix](#)
- [2016-1 Compensation of Professionals](#)
- [3003-2 Filing Request For Payment of Administrative Expense Claim in Chapter 11 Reorganization of Chapter 7 Liquidation Cases](#)
- [3015-1 Chapter 13 Plan](#)
- [3021-1 Distribution - Under Plan \(Chapter 11\)](#)
- [4001-1 Automatic Stay - Relief From](#)
- [6007-1 Abandonment](#)
- [9013-1 Motion Practice](#)

New Guidelines

- [Guidelines to 2016-1\(j\)\(1\)](#)

Related Amended Local Forms and Specifications:

- [Report of Distributions Under Confirmed Chapter 11 Plan](#)
- [Specifications For Submitting Scheduled Creditors](#)

The Court hereby gives notice of the above referenced proposed Local Rule amendments, and invites comments from interested persons to be submitted within thirty (30) days of publication to: James J. Waldron, Clerk, United States Bankruptcy Court, Martin Luther King, Jr. Federal Building & U.S. Courthouse, 50 Walnut Street, Newark, N.J. 07102.

A copy of this Notice, together with the text of the aforementioned local rule amendments, is available on the Court's Website at: www.njb.uscourts.gov or at the Clerk's Office in each vicinage.

DATED: June 21, 2010

James J. Waldron, Clerk

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

- (a) The matrix shall consist of an alphabetized mailing list of creditors (~~last name first, first name last~~), equity security holders, partners and other parties in interest with complete names and addresses, including zip codes. A complete ~~The~~ 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). ~~to the extent required, by the filing of amended matrices containing only those additions in the amended schedules.~~
- (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 ~~typefaces or print styles~~ fonts in 10 or 12 point size:
- (1) ~~Courier 10 pitch.~~ Times New Roman
 - (2) ~~Prestige Elite.~~ Arial
 - (3) ~~Letter Gothic.~~ Verdana
- (c) Each name and address block shall consist of no more than 5 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 containing 50 or more parties shall be submitted in the form of a computer diskette accompanied by a paper copy. The diskette shall be prepared in accordance with instructions provided by the clerk. 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 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) ~~D.N.J. Local Form 3~~ 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, a general overview of the legal services to be provided by the debtor's attorney in the course of the Chapter 13 case is attached as Appendix A, Guidelines for Legal Services to be Rendered in a Chapter 13 Case Where a Standard Fee is Charged.
 - (2) *Supplemental Fees.*
 - A. For supplemental fee applications of up to \$2,000 per application, the attorney for the debtor may submit ~~D.N.J. Local Forms 13 and 14~~. 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)(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, the 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. The guidelines are set forth at Appendix ____.

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.](#)**

**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*, ~~in accordance with D.N.J. Local Bankruptcy Form 24.~~
- (c) The filing of a ~~request for payment of an administrative expense in accordance with D.N.J. Local Bankruptcy Form 24~~ *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 3015-1 CHAPTER 13 PLAN

- (a) The Debtor shall file Local Form, a Chapter 13 Plan on Local Form 8: 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. ~~that conforms with Local Form 22.~~ 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 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 ~~the initial~~ each distribution under ~~any~~ 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. ~~report of initial distribution utilizing Local Form 7. The disbursing agent shall serve reports of any subsequent distributions on the parties named above. These subsequent reports shall not be filed.~~
- (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 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, a Local Form, Chapter 13 Debtor's Certification in Opposition to Creditor's Motion or Certification of Default ~~on Local Form 23~~ 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 ~~Local Form No. 15 ("Calculation of Amounts Due")~~; 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) ~~Local Form No. 16 ("Post-Petition Payment History Note and Mortgage")~~ or Local Form No. 16A ("Post-Petition Payment History Vehicle Loan/Lease") ~~Local Form No. 16A ("Post-Petition Payment History Vehicle Loan/Lease")~~ Certification of Secured Creditor Regarding Post Petition Payment History (Vehicle Loan/Lease) ~~Local Form Nos. 15, 16 and 16A~~ shall be certified by the secured creditor. 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 6007-1 ABANDONMENT

A trustee or debtor in possession seeking approval to abandon property of the estate ~~may~~ shall file Local Form, ~~a Notice of Intent to Abandon on Local Form No. 5 or 6~~ *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 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 1 and 2~~ 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.

**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.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

In Re: _____ :
: Case No.: _____
: _____
: Judge: _____
Debtor(s) _____ :
_____ : Chapter: 11

**REPORT OF DISTRIBUTIONS
UNDER CONFIRMED CHAPTER 11 PLAN**

Date of Distribution: _____ Date Plan Confirmed: _____

Check one: Initial Distribution
 Subsequent Distribution

Will future distributions be made under the Plan Yes No

Future distributions will be made to (*check all that apply*):

- Administrative fees and expenses
- Secured claims
- Priority secured claims
- General unsecured claims
- Equity security holders

Anticipated date of next distribution, if known: _____

Percentage dividend to general unsecured creditors:

Paid in this distribution: _____ %
Paid to date: _____ %
To be paid after all distributions made under Plan: _____ %

Summary of Payments Made in This Distribution:

\$ _____	Administrative fees and expenses
\$ _____	Secured claims
\$ _____	Priority unsecured claims
\$ _____	General unsecured claims
\$ _____	Equity security holders
\$ _____	TOTAL PAYMENTS MADE IN THIS DISTRIBUTION

Questions regarding Plan distributions may be directed to:

Name: _____

Company: _____

Address 1: _____

Address 2: _____

City, State, ZIP: _____

Telephone: _____

Facsimile: _____

Email: _____

Relationship to Plan proponent: _____

I certify under penalty of perjury that the ~~information provided on this form~~ foregoing is true and correct. ~~to the best of my knowledge, information and belief.~~

DATE: _____

Disbursing Agent

SPECIFICATIONS FOR SUBMITTING SCHEDULED CREDITORS

General Information

Pursuant to [Fed.R.Bankr.P. 1007\(a\)](#), the debtor shall file *with the petition* a complete list of creditors containing the name and address of each entity to be listed on Schedules D, E, F, G and H. Further guidance may be found in [D.N.J. LBR 1007-2 Mailing - List or Matrix](#).

Unless added manually, the court's computer system requires Lists of Creditors (Matrices) to be in .txt format. Accordingly, the List **MUST** be produced using the specifications noted below. Failure to comply with these requirements will result in the matter being brought to the attention of the Court.

Amended Lists of Creditors must also be submitted using these guidelines.

GENERAL REQUIREMENTS

1. Lists should be typed in a single column on the page.
2. Each block of name and address must consist of no more than five (5) total lines, with at least ONE BLANK LINE between blocks. Be sure the address is deliverable.
3. Each line must NOT exceed 40 characters in length.
4. Do not use all caps. Use both upper and lower case characters as appropriate.
5. List the creditor's first name first, middle initial next, and last name last. Do not include titles, i.e., Mr., Mrs., Ms.
6. Zip codes must be on the last line, along with the city and state. Use the standard 2 letter abbreviations for states. Use capital letters for state abbreviations, e. g., NJ. Do not use periods to separate these initials, e.g., N.J.
7. Use 9 digit zip codes as much as possible. Use a hyphen for nine digit zip codes. Use only numbers for zip codes.
8. Do not include account numbers in the List of Creditors.
9. Do not use attention lines on the last line of an address block. (see also item 12). Put these on the second line following the creditor's name if needed.
10. Do not include the following parties on your Matrix: debtor, joint debtor, attorney(s) for the debtor(s), U. S. Trustee, trustees. They will automatically be included by our computer for noticing.

11. Do not use the following symbols:

% ` (this is a backward apostrophe) ! # \$ ^ * \ + ~ [] () @ |

12. Use "ATTN:" instead of "c/o".

13. Use "PO Box" instead of "P.O. Box"

14. Do not put any other information on the Matrix, such as heading, date, lines, page numbers, etc.

15. Lists should be typed in one of the following fonts:

- Times New Roman
- Arial
- Verdana

EXAMPLE:

USA Company
123 Any Street
Newark, NJ 07102-1033

Marks and Company
456 Main Street
Trenton, NJ 08608-2310

John Smith
1 Small Street
Camden, NJ 081010-3122

PAPER SUBMISSION

A paper copy of the complete List of Creditors must be submitted with all conventionally filed petitions. All Lists of Creditors containing more than 20 parties must also be submitted on CD-Rom in TXT format. See Electronic Submission Via CM/ECF requirements for instructions on preparing a List of Creditors in TXT format. Once the file is saved in TXT format, it must be saved on a CD-Rom and submitted with the petition.

ELECTRONIC SUBMISSION VIA CM/ECF

As stated above, Lists of Creditors prepared for electronic submission must be in TXT format. Take the steps below to save a document in TXT format in either Microsoft Word or Word Perfect.

MS Word 2007:

- After the List of Creditors is completed, click **Office Button** > **Save As**
- Using the **Save In** pull down list, navigate to the folder in which you will save the document
- Enter the name of the file in the **File Name** field, example: Jones List of Creditors
- Click the pull down list for the **Save As Type** field
- Select **Plain Text**
- Click **Save**
- A **File Conversion** window displays. Select the **Other Encoding** radio button, then select **US-ASCII**

Word Perfect X3:

- After the List of Creditors is completed, click **File** > **Save As**
- Using the **Save In** pull down list, navigate to the folder in which you will save the document
- Enter the name of the file in the **File Name** field, example: Jones List of Creditors
- Click the pull down list for the **Save As Type** field
- Select **Plain Text**
- Click **Save**

ELECTRONIC SUBMISSION VIA PETITION PREPARATION SOFTWARE

Attorneys submitting a List of Creditors using commercial petition preparation software should prepare the List in accordance with the software vendor's specifications. A PDF copy of the List of Creditors must be included with the petition.