

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

IMPORTANT NOTICE TO THE BAR AND PUBLIC

**THIRTY DAY PUBLIC COMMENT PERIOD
CONCERNING ADOPTION AND AMENDMENT OF
2018 LOCAL BANKRUPTCY RULES AND FORMS**

Please be advised that the Board of Judges of the United States Bankruptcy Court for the District of New Jersey has approved for publication for a thirty day public comment period, a draft of proposed 2018 new or amended Local Bankruptcy Rules and related local forms as highlighted below:

D.N.J. LBR 2016-5. Application for Compensation of Debtor's Attorney in a Chapter 13 Case

- *Chapter 13 Disclosure of Debtor's Attorney Compensation*
- *Chapter 13 Debtor's Attorney Fee Application Cover Sheet*

D.N.J. LBR 4001-4. Status of Automatic Stay

- *Application for Order Confirming Automatic Stay is Not in Effect*

D.N.J. LBR 4002-1. Certification in Support of Discharge

- *Certification in Support of Discharge*

D.N.J. LBR 9013-4. Motions: Proposed Order

- *Certification Concerning Order to be Submitted*

D.N.J. LBR 9024-1. Reinstatement

- *Order Reinstating Case*

For ease of reference, the following link may be accessed to review the proposed Local Bankruptcy Rules: www.njb.uscourts.gov/localrules/comments/2018

Dates for public comment and implementation are set forth as follows:

- **March 1, 2018 –Publication of draft rules for public comment.**
- **March 31, 2018 – Close of public comment period.**

- **April 6, 2018 – Consideration of comments received by the Board of Judges of the Bankruptcy Court for the District of New Jersey.**
- **April 7 - June 30, 2018 – Submission of draft rules for formal approval by the Board of Judges of the District Court for the District of New Jersey.**
- **August 1, 2018 - Effective date of 2018 Local Bankruptcy Rules.**

By approving a publication draft, the Board of Judges solicits comments from bankruptcy professionals and members of the public.

Comments may be submitted to the Court email address: local_rules@njb.uscourts.gov

Dated: March 1, 2018

Jeanne A. Naughton, Clerk

D.N.J. LBR 2016-5. Application for Compensation of Debtor's Attorney in a Chapter 13 Case

(a) Disclosure of compensation. The attorney must file with the petition, Local Form *Chapter 13 Disclosure of Debtor's Attorney Compensation*. The attorney must select a compensation method as set forth in subsection (b) or (c).

(b) Standard fee.

(1) An attorney who charges a fee of \$4,750 or less is not required to file an application for compensation. The standard fee includes all services and expenses required to confirm a plan, including administrative services required subsequent to confirmation. The debtor's attorney may file an application for compensation in accordance with Local Rule 2016-1 for the following services which are excluded from the standard fee:

- (A) representation of the debtor(s) in an adversary proceeding;
- (B) representation of the debtor(s) in loss mitigation/loan modification efforts;
- (C) representation of the debtor(s) in a post confirmation contested matter.

(2) An attorney who elects to be compensated under subsection (b)(1), and subsequently determines that circumstances in the case warrant additional fees, must, prior to the debtor incurring additional fees, file and serve an application, on the debtor and Standing Chapter 13 Trustee, requesting the court's authorization to convert to hourly billing or to seek an additional flat fee.

(c) Hourly billing. A debtor's attorney who elects hourly billing as the method of compensation must file and serve on the Standing Chapter 13 Trustee and the debtor an application for compensation and reimbursement of expenses under Local Bankruptcy Rule 2016-1 not later than 7 days before the confirmation hearing.

(d) Request for compensation for \$10,000 or more. An application for compensation, for \$10,000 or more, must be accompanied by Local Form, *Chapter 13 Debtor's Attorney Fee Application Cover Sheet* and comply with Local Rule 2016-1.

2018 Comment

This Rule has been amended to increase the standard fee and to eliminate the practice of submitting supplemental fee applications. The standard fee in subsection (b)(1) is the maximum amount an attorney may charge the debtor, unless the exceptions enumerated in subsection (b)(1)(A), (B), or (C) apply or the court enters an order approving conversion to hourly billing or an additional fixed rate. This comment supersedes the 2015 comment to the Rule.

2015 Comment

This Rule was formerly Local Bankruptcy Rule 2016-1(j).

Taking the steps necessary to discharge liens modified under the plan under subdivision (a)(1)(G) includes the filing of Local Forms *Application to Cancel and Discharge Mortgage/Lien* and *Chapter 13 Order Authorizing Cancellation, Voiding and/or Discharge of Record of Mortgage/Lien*.

The calculation of the fee amounts in this Rule is exclusive of the filing fee and expenses.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)

In Re:

Case No.: _____

Chapter: 13

Judge: _____

CHAPTER 13 DISCLOSURE OF DEBTOR'S ATTORNEY COMPENSATION

1. Pursuant to 11 U.S.C. § 329(a) and Fed. R. Bankr. P. 2016(b), I certify that I am the attorney for the debtor(s) and that compensation paid to me within one year before the filed date of the petition, or agreed to be paid to me, for services rendered or to be rendered on behalf of the debtor(s) in connection with this bankruptcy case is as follows:

Under D.N.J. LBR 2016-5(b), I have agreed to accept for all legal services required to confirm a plan, subject to the exclusions listed below, including administrative services that may occur post confirmation, a flat fee in the amount of \$ _____. I understand that if circumstances occur that require a change to hourly billing or an additional flat fee, I must file and serve on the debtor and standing trustee, prior to the debtor incurring additional fees, an application seeking authorization from the court to modify the parameters of my fee.

Legal services on behalf of the debtor in connection with the following are not included in the flat fee:

Representation of the debtor in:

- adversary proceedings,
- loss mitigation/loan modification efforts,
- post confirmation contested matters.

Prior to the filing of this statement I have received: \$ _____

The balance due is: \$ _____

The balance will will not be paid through the plan.

Under D.N.J. LBR 2016-5(c), I have agreed to accept for legal services provided on behalf of the debtor in this case, an hourly fee of \$ _____. The hourly fee charged by other members of my firm that may provide services to this client range from \$_____ to \$_____. I understand that I must receive the Court's approval of any fees or expenses to be paid to me in this case post petition, pursuant to D.N.J. LBR 2016-1.

Prior to the filing of this statement I have received: \$ _____

2. The source of the funds paid to me was:

Debtor(s) Other (specify below)

3. If a balance is due, the source of future compensation to be paid to me is:

Debtor(s) Other (specify below)

4. I have or have not agreed to share compensation with another person(s) unless they are members of my law firm. If I have agreed to share compensation with a person(s) who is not a member of my law firm, a copy of that agreement and a list of the people sharing in the compensation is attached.

Date: _____
Debtor's attorney

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

CHAPTER 13 DEBTOR'S ATTORNEY FEE APPLICATION COVER SHEET

Debtor: _____ Applicant: _____
 Case No.: _____ Chapter: 13
 Case Filed: _____

**SECTION 1
FEE SUMMARY**

Interim Fee Application No. _____ or Final Fee Application

	<u>FEEES</u>	<u>EXPENSES</u>
Total Previous Fee Requested:	\$ _____	\$ _____
Total Fees Allowed to Date:	\$ _____	\$ _____
Total Retainer (If Applicable):	\$ _____	\$ _____
Total Received by Applicant:	\$ _____	\$ _____

NAME OF PROFESSIONAL & TITLE	YEAR ADMITTED (Or Years of Professional Service)	HOURS	RATE	FEE
1.				
2.				
3.				
4.				
5.				
6.				
7.				

Fee Totals: _____
 Disbursements Totals: _____
 Total Fee Application _____

**SECTION II
SUMMARY OF SERVICES**

SERVICES RENDERED	HOURS	FEE
a) Preparation of Petition Meeting with client(s), drafting and signing of petition		
b) Attendance at Meeting of Creditors Preparation for, and attendance at meeting of creditors.		
c) Review of Claims; Prosecution of Objections to Claims Review and analysis of filed claims. Negotiate with creditors and coordinate with debtor.		
d) Case Administration Coordination of administrative tasks with debtor. Communication with Trustee and creditors. Filing and service of amendments to schedules, change of address, Certification in Support of Discharge, Financial Management Certification.		
e) Plan and Modification of Plan Formulation and drafting of Plan or Modified Plan. Coordination with client and creditors. Review of objections to confirmation. Attend confirmation hearing(s).		
f) Prosecution of Motion(s) Draft motion(s), reply to opposition filed, attend hearing if necessary.		
g) Defense of Motion(s)/Certification(s) of Default Review and analysis of pleadings. Coordinate response with client. Draft opposition documents. Attend hearing.		
h) 2004 Examination Preparation for, and attendance at 2004 examination(s).		
i) Prosecution/Defense of Adversary Proceeding Review and analyze issues. Preparation for and attendance at depositions. Preparation of related pleadings and responses. Court appearances.		
j) Loss Mitigation/Loan Modification Communication with secured lender. Coordination with debtor. Preparation of pleadings. Participation in settlement conference(s). Attendance at hearings.		
k) Travel Time		
SERVICE TOTALS:		

**SECTION III
SUMMARY OF DISBURSEMENTS**

DISBURSEMENTS	AMOUNT
a) Computer Assisted Legal Research Westlaw, Lexis and a description of manner calculated.	
b) Pacer Fees Payable to the Pacer Service Center for search and/or print.	
c) Fax Include per page fee charged.	
d) Case Specific Telephone/Conference Call Charges Exclusive of overhead charges.	
e) In-house Reproduction Services Exclusive of overhead charges.	
f) Outside Reproduction Services Including scanning services.	
g) Other Research Title searches, UCC searches, Asset searches, Accurint.	
h) Court Reporting Transcripts.	
i) Travel Mileage, tolls, airfare, parking.	
j) Courier & Express Carriers Overnight and personal delivery.	
l) Postage	
m) Other (specify)	
DISBURSEMENTS TOTAL:	

I certify under penalty of perjury that the above is true.

Date: _____

Signature

new.2/21/18

D.N.J. LBR 4001-4. Status of Automatic Stay

- (a) Relief by Application.** A party seeking an order confirming the status of the automatic stay under § 362(b)(22), § 362(b)(23), § 362(c)(4) or § 362(n) of the Code must file Local Form *Application for Order Confirming Automatic Stay is Not in Effect*.
- (b) Service.** A party seeking an order under this rule must file and serve Local Form *Application for Order Confirming the Automatic Stay is Not in Effect* and a proposed order on the debtor, the debtor's attorney, secured creditors, official committees, trustees, and parties in interest.
- (c) Objection.** An objection must be filed and served within 7 days after the filing of the application. The court may conduct a hearing on the objection in its discretion.

2018 Comment

This Rule is new. A party may, by application, seek an order in a case where the automatic stay is not in effect by operation of law.

This Rule does not include requests for relief under § 362(c)(3) of the Code, for which a motion must be filed.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)

In Re:

Case No.: _____

Chapter: _____

Judge: _____

**APPLICATION FOR ORDER CONFIRMING
THE AUTOMATIC STAY IS NOT IN EFFECT**

I, _____, creditor, attorney for creditor, request an order confirming that the automatic stay provisions of 11 U.S.C. § 362(a) are not in effect as to this case for the reason(s) indicated below.

11 U.S.C. § 362(b)(22).

The debtor has not filed with the petition an *Initial Statement About an Eviction Judgment Against You (Official Form 101A)*.

The debtor has not served upon the applicant an *Initial Statement About an Eviction Judgment Against You (Official Form 101A)*.

The debtor has not deposited with the Clerk the rent due within 30 days of the filing of the petition in the amount of \$_____.

The debtor filed with the petition and served upon the applicant an *Initial Statement About an Eviction Judgment Against You (Official Form 101A)*. The Clerk has forwarded to me, and I have received, the amount of _____ \$ _____ representing the full amount of rent due within 30 days after the filing of the petition.

The debtor has not filed a *Statement About Payment of an Eviction Judgment Against You (Official Form 101B)*.

The debtor has not served on the applicant a *Statement About Payment of an Eviction Judgment Against You (Official Form 101B)*.

The debtor has not paid the total amount of arrears due in the amount of \$ _____ within 30 days of the date of the petition.

11 U.S.C. § 362(b)(23).

On _____ the applicant filed a certification regarding the debtor's actions, specifically endangerment of the property, and/or illegal use of controlled substances on the property by the debtor, or others. It is more than 15 days from the filed date of the Certification and the debtor has not filed an objection to the certification, or has filed an objection to the certification but has not served it upon the applicant.

11 U.S.C. § 362(c)(4). The following cases have been pending in the preceding one year period, and have been dismissed.

_____ [Case number]	_____ [Case number]
_____ [Case number]	_____ [Case number]
_____ [Case number]	_____ [Case number]

11 U.S.C. § 362(n). Section 362(n) of the Code applies.

Date: _____

Applicant

D.N.J. LBR 4002-1. Certification in Support of Discharge

Upon completion of payments under a Chapter 12 Plan, or upon receipt of the Trustee's Plan Complete Letter in a Chapter 13, the debtor must within 30 days, file Local Form *Certification in Support of Discharge*.

2018 Comment

This Rule is new. It is added to ensure compliance with § 1228(a) or §1328(a) of the Code concerning payment of domestic support obligations, and to eliminate the practice of filing the *Certification in Support of Discharge* before completion of plan payments. Importantly, each debtor in a joint case must file a separate *Certification in Support of Discharge*. Discharges will not be entered for Debtors who do not file a completed *Certification in Support of Discharge*.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

In Re:

Case No.: _____

Chapter: _____

Judge: _____

CERTIFICATION IN SUPPORT OF DISCHARGE

I, _____, debtor in this case certify as follows:

1. All payments required to be made by me under my plan have been made and are paid in full.
2. I am not required to pay domestic support obligations, or
 I am required to pay domestic support obligations, and have paid all amounts payable under court order or statute that were due on or before the date of this certification.

I certify under penalty of perjury that the above is true.

Date: _____

Debtor's Signature

IMPORTANT:

- Each debtor in a joint case must file separate Certifications in Support of Discharge.
- A discharge will not be issued for a debtor who does not submit a completed Certification in Support of Discharge.

D.N.J. LBR 9013-4. Motions: Proposed Order

(a) Separate document. A proposed order must be a separate document.

(b) Order Template. A party submitting a proposed order must use Local Form *Order Template*.

(c) Title. The title of a proposed Order must identify the relief sought.

(d) Order to be submitted. During a hearing, if the court instructs a party to submit a new order to reflect its ruling, the new order must be submitted to the chambers's email address. The same procedure is used if the parties resolve a pending motion prior to the hearing and request that the calendar be marked "order to be submitted." The order will be held for a 7-day objection period. If the parties want the order entered immediately, they must inform the court in their email that they have filed Local Form *Certification Concerning Order to be Submitted*.

(e) Objection period. An objection to an order submitted under subdivision (d) must be submitted to the chambers's email address and served on all interested parties not later than 7 days after submission of the order. The objection must include an alternative proposed order. The court may conduct a hearing in its discretion.

2018 Comment

This Rule has been amended to reflect the prevailing practice of attorneys asking that the calendar be marked "order to be submitted." Local Form *Certification Concerning Order to be Submitted* is new and is intended to provide a better record of the consent of parties to the form of the order.

Consent orders resolving adversary proceedings and those filed in lieu of a motion are still governed by Local Bankruptcy Rule 9021-1.

2015 Comment

This Rule is new. It is derived from former Local Bankruptcy Rules 9072-1 and 9072-2, which have been deleted.

The 7-day objection period in subdivision (e) does not apply if the parties inform the court that they agree to entry of the revised order.

Local Bankruptcy Rule 7058-1 addresses proposed judgments in adversary proceedings.

Local Bankruptcy Rule 9021-1 addresses consent orders.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)

In Re:

Case No.: _____

Chapter: _____

Hearing Date: _____

Judge: _____

CERTIFICATION CONCERNING ORDER TO BE SUBMITTED

I, _____, certify that with respect to the order submitted to the court, the following is true and correct to the best of my knowledge.

The matter captioned _____ filed on _____ was marked "order to be submitted," and

The proposed order comports with the Court's ruling, and all interested parties have reviewed the proposed order and consent to its entry.

OR

The parties have resolved this matter, and all interested parties have reviewed the proposed order and consent to its entry.

The parties to the proposed order have been served. Their name and relationship to the case are:

NAME	RELATIONSHIP TO CASE
	<input type="checkbox"/> Trustee
	<input type="checkbox"/> U.S. Trustee

I certify under penalty of perjury that the foregoing is true.

Date: _____

Signature

D.N.J. LBR 9024-1. Reinstatement

(a) Motion. A debtor seeking to reinstate a previously dismissed case must file a Motion to Reinstate Case, and include Local Form *Order Reinstating Case* as a proposed order.

(b) Service of Order. When a Motion to Reinstate Case is granted, the debtor must serve a copy of the order granting the motion on all creditors and parties in interest, and must subsequently file Local Form *Certification of Service* evidencing compliance with this Rule.

(c) Meeting of Creditors. If a Meeting of Creditors under § 341(a) of the Code was not concluded prior to dismissal of the debtor's case, the debtor must, upon reinstatement, contact the case trustee to reschedule the meeting. The debtor must also provide notice of the new date to all creditors and parties in interest.

2018 Comment

This Rule is new. It codifies the procedure for reinstatement of a dismissed case, and sets forth the debtor's responsibilities if reinstatement is granted.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)

In Re:

Case No.: _____

Chapter: _____

Judge: _____

ORDER REINSTATING CASE

The relief set forth on the following page is hereby **ORDERED**.

This matter having come before the Court by the debtor's Motion to Reinstate Case; the Court having considered any objections filed; and for good cause shown; it is

ORDERED that the case is reinstated effective as of the date of this order. The order dismissing this case dated _____, remains in effect through the date of entry of this Order and its service as provided herein. No actions taken by third parties during the period this case was dismissed are or were subject to the automatic stay or other provisions of the Bankruptcy Code.

IT IS FURTHER ORDERED that any deadline unexpired at the time of dismissal is nullified and reset as follows. Creditors and/or parties in interest have:

1. until the original deadline fixed by the Court to file a complaint to object to the debtor's discharge or dischargeability of certain debts, or sixty (60) days from the date of this Order, whichever is later;
2. until the original deadline fixed by the Court to file a proof of claim or required supplement, or sixty (60) days from the date of this Order, whichever is later; and
3. until the original deadline fixed by the Court to object to exemptions, or thirty (30) days from the date of this Order, whichever is later.

IT IS FURTHER ORDERED that if the meeting of creditors has not been concluded, the debtor must contact the case trustee to schedule a new date.

IT IS FURTHER ORDERED that if this is a Chapter 13 case, and the debtor's Plan has not been confirmed, the confirmation hearing is rescheduled to _____ at _____.

IT IS FURTHER ORDERED that the debtor must, within three (3) days of the date of this Order, serve **ALL** creditors and other parties in interest with a copy of this Order and immediately thereafter, file a Local Form *Certification of Service*. This Order will be effective as to such parties only upon service in accordance with this Order.