

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

**NOTICE TO THE BAR AND PUBLIC  
CONCERNING 2018 LOCAL RULE AND FORM REVISIONS**

The bar and public are advised that, pursuant to the Court's annual rule making cycle, the following Local Rules of the U.S. Bankruptcy Court for the District of New Jersey are new or have been revised. The changes are effective **August 1, 2018**.

- **D.N.J. LBR 2016-5. Compensation of Debtor's Attorney in a Chapter 13 Case**
- **D.N.J. LBR 4001-4. Status of Automatic Stay**
- **D.N.J. LBR 4002-1. Certification in Support of Discharge**
- **D.N.J. LBR 9013-4. Motions: Proposed Order**
- **D.N.J. LBR 9024-1. Vacating Dismissal of Case**

The Local Rules of the U.S. Bankruptcy Court for the District of New Jersey, when published, supersede all previously entered general orders concerning Court policy governed by Local Rule. The Court has also revised or added the following mandatory local forms:

- **Disclosure of Chapter 13 Debtor's Attorney Compensation (new)**
- **Chapter 13 Debtor's Attorney Fee Application Cover Sheet (new)**
- **Motion for Order Confirming Automatic Stay is Not in Effect (new)**
- **Certification in Support of Discharge (revised)**
- **Certification Concerning Order to be Submitted (revised)**
- **Order on Motion to Vacate Dismissal of Case (new)**

The above-referenced Local Rules and forms are attached for ease of reference. The complete Local Rules package will be posted to the Court's website, [www.njb.uscourts.gov](http://www.njb.uscourts.gov), on August 1, 2018.

Dated: July 18, 2018

Jeanne A. Naughton, Clerk

## **D.N.J. LBR 2016-5. Compensation of Debtor’s Attorney in a Chapter 13 Case**

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

**(b) Standard fee.** 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 reimbursable necessary expenses required to confirm a plan, including administrative services required subsequent to confirmation. The attorney may file an application for compensation and reimbursement of necessary expenses under Local Bankruptcy Rule 2016-1 for the following services which are excluded from the standard fee:

- (1) representation of the debtor in an adversary proceeding;
- (2) representation of the debtor in loss mitigation/loan modification efforts;
- (3) representation of the debtor in postconfirmation filings and matters brought before the court.

**(c) Hourly billing.** An attorney who elects hourly billing must file and serve on the debtor and the chapter 13 standing trustee an application for compensation and reimbursement of necessary expenses under Local Bankruptcy Rule 2016-1 not later than 7 days after the date of the order confirming the chapter 13 plan.

**(d) Application for additional preconfirmation fees and expenses.** An attorney who elected a standard fee under subdivision (b) may seek additional compensation and reimbursement of necessary expenses by filing an application under Local Bankruptcy Rule 2016-1 on notice to the debtor and chapter 13 standing trustee. The applicant must demonstrate that the additional services were unforeseeable at the time of the filing of the disclosure required under subdivision (a).

**(e) Request for compensation of \$10,000 or more.** An attorney seeking compensation and reimbursement of necessary expenses of \$10,000 or more must file and serve on the debtor and the chapter 13 standing trustee Local Form *Chapter 13 Debtor’s Attorney Fee Application Cover Sheet* and comply with Local Bankruptcy Rule 2016-1.

### 2018 Comment

This Rule is amended to increase the standard fee and to eliminate the practice of submitting supplemental fee applications.

Examples of administrative services under subdivision (b) include preparation and filing of a Certification in Support of Discharge, preparation and filing of a Certification About a Financial Management Course, and providing documentation requested by the chapter 13 standing trustee.

### 2015 Comment [Abrogated]

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: \_\_\_\_\_

**DISCLOSURE OF CHAPTER 13 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 was 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 postconfirmation, a flat fee in the amount of \$ \_\_\_\_\_. I understand that I must demonstrate that additional services were unforeseeable at the time of the filing of this disclosure if I seek additional compensation and reimbursement of necessary expenses.

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 filings and matters brought before the Court.

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.

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>FEES</u>	<u>EXPENSES</u>
Total Previous Fees Received	\$ _____	\$ _____
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: \_\_\_\_\_  
 Expense Totals: \_\_\_\_\_  
 Total Fee Application \_\_\_\_\_

**SECTION II  
SUMMARY OF SERVICES**

<b>SERVICES RENDERED</b>	<b>HOURS</b>	<b>FEE</b>
a) <b>Preparation of Petition</b> Meeting with client(s), drafting and signing of petition.		
b) <b>Attendance at Meeting of Creditors</b> Preparation for, and attendance at meeting of creditors.		
c) <b>Review of Claims; Prosecution of Objections to Claims</b> Review and analysis of filed claims. Negotiate with creditors and coordinate with debtor. Preparation of pleadings and responses. Attend Hearing.		
d) <b>Case Administration</b> 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. Preparation and filing of retention and fee applications.		
e) <b>Plan and Modification of Plan</b> Formulation and drafting of plan or modified plan. Coordination with client and creditors. Review of objections to confirmation. Attend confirmation hearing(s).		
f) <b>Prosecution of Motion(s)</b> Draft motion(s), reply to opposition filed and attend hearing.		
g) <b>Defense of Motion(s)/Certification(s) of Default</b> Review and analysis of pleadings. Coordinate response with client. Draft opposition documents. Attend hearing.		
h) <b>2004 Examination</b> Preparation for, and attendance at 2004 examination(s).		
i) <b>Prosecution/Defense of Adversary Proceeding</b> Review and analyze issues. Preparation for and attendance at depositions. Preparation of related pleadings and responses. Court appearances.		
j) <b>Loss Mitigation/Loan Modification</b> Communication with secured lender. Coordination with debtor. Preparation of pleadings. Participation in settlement conferences. Attend hearing.		
k) <b>Travel Time</b>		
<b>TOTALS:</b>		

**SECTION III  
SUMMARY OF EXPENSES**

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

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

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

*new.8/1/18*



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

- (a) **Relief by motion.** 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 *Motion for Order Confirming Automatic Stay is Not in Effect*.
- (b) **General requirements.** A party seeking an order under subdivision (a) must file and serve Local Form *Motion for Order Confirming Automatic Stay is Not in Effect* and a proposed order on the debtor, the debtor's attorney, secured creditors, official committees, trustees, and parties requesting notice of all proceedings. The party must file Local Form *Certification of Service* evidencing compliance with this subdivision.
- (c) **Objection.** An objection to the motion must be filed and served within 7 days after the filing of the motion. The court may conduct a hearing on the objection in its discretion, which will be scheduled not later than 10 days after the objection is filed.

### 2018 Comment

This Rule is new and provides an expedited procedure for obtaining an order confirming the status of the automatic stay in situations where the stay is inapplicable or has expired pursuant to statute.

To obtain an order in cases where §362(c)(3) of the Code applies, a motion complying with Local Bankruptcy Rules 9013-1 through 9013-3 is required.

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: \_\_\_\_\_

**MOTION FOR ORDER CONFIRMING  
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(c)(4).** The following cases were pending within the previous year but were dismissed.

\_\_\_\_\_ [Case number]

\_\_\_\_\_ [Case number]

\_\_\_\_\_ [Case number]

\_\_\_\_\_ [Case number]

\_\_\_\_\_ [Case number]

\_\_\_\_\_ [Case number]

**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 movant 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 movant 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 movant 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 movant 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 on the applicant.

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

Date: \_\_\_\_\_

\_\_\_\_\_  
Movant

new.8/1/18

## **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 case, the debtor must within 30 days file Local Form *Certification in Support of Discharge*.

### 2018 Comment

This Rule is new. It ensures compliance with § 1228(a) or §1328(a) of the Code concerning payment of domestic support obligations and eliminates the practice of filing the *Certification in Support of Discharge* before completion of plan payments. Each debtor in a joint case must file a separate *Certification in Support of Discharge*. A discharge will not be entered for a debtor who fails to 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.  
 I am required to pay domestic support obligations and I 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 a separate Certification in Support of Discharge.
- A discharge will not be entered for a debtor who fails to file 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.** If the court instructs a party to submit a new proposed order to reflect its ruling during a hearing, the new proposed order must be submitted to the chambers' email address. The same procedure must be used if the parties resolve a pending motion prior to the hearing and the calendar is marked "order to be submitted." The proposed order will be held for a 7-day objection period. If the parties seek immediate entry of the proposed order, 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' 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 on the objection in its discretion.

### 2018 Comment

This Rule has been amended to reflect the prevailing practice of attorneys requesting that a calendar be marked "order to be submitted" and to clarify the procedure for seeking immediate entry of a proposed order. Local Form *Certification Concerning Order to be Submitted* is new and is intended to document the parties' consent to entry of the proposed order.

Consent orders resolving adversary proceedings and those filed in lieu of a motion are 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 proposed order submitted to the court, the following is true and correct to the best of my knowledge.

The matter titled \_\_\_\_\_ and 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. Each party's name and relationship to the case is as follows:

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. Vacating Dismissal of Case**

**(a) Motion.** A debtor seeking to vacate an order dismissing a case must file a motion in accordance with Bankruptcy Rule 9024 and include Local Form *Order on Motion to Vacate Dismissal of Case*.

**(b) Service of motion.** The motion required under subdivision (a) must be served on all creditors and parties in interest. The debtor must file Local Form *Certification of Service* evidencing compliance with this subdivision.

### 2018 Comment

This Rule is new. It formalizes the procedure for vacating dismissal of a case.

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY

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

In Re:

Case No.: \_\_\_\_\_

Chapter: \_\_\_\_\_

Judge: \_\_\_\_\_

**ORDER ON MOTION TO VACATE DISMISSAL OF CASE**

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

The debtor having filed a motion to vacate dismissal of case; and the court having considered any objections filed; and for good cause shown; it is

ORDERED that the motion is granted and the order dismissing case is vacated effective on the date of this order. No actions taken during the period this case was dismissed 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 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 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 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 for the meeting, and must provide 21 days' notice under Bankruptcy Rule 2002(a)(1) of the new date to all creditors and parties in interest.

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 \_\_\_\_\_.

ORDERED that the motion to vacate order dismissing case is denied.

IT IS FURTHER ORDERED that whether the motion is granted or denied, the debtor must, within 3 days of the date of this Order, serve all creditors and parties in interest with a copy of this Order and immediately thereafter file Local Form *Certification of Service*.