

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

**IMPORTANT NOTICE TO THE BAR AND PUBLIC
CONCERNING LOCAL RULE CHANGES DUE TO
DECEMBER 1, 2019 AMENDMENTS TO THE
FEDERAL RULES OF BANKRUPTCY PROCEDURE**

The bar and public are advised that, pursuant to forthcoming amendments to the Federal Rules of Bankruptcy Procedure effective December 1, 2019, the following [Local Rules of the U.S. Bankruptcy Court for the District of New Jersey](#) have been revised, as of December 1, 2019, pending formal amendment of the Rules under the Court's Annual Local Rule Making Cycle.

D.N.J. LBR 3011-1. Unclaimed Funds in a Chapter 7, 12, or 13 Case

This rule is amended to conform with the adoption of *Director's Form 1340 Application for Payment of Unclaimed Funds* by the Judicial Conference of the United States, which has been converted to mandatory *Local Form Application for Payment of Unclaimed Funds*.

D.N.J. LBR 5005-1. Filing and Service of a Document

This rule is amended to account for modifications to Federal Rule of Bankruptcy Procedure 9036 relating to electronic service requirements.

D.N.J. LBR 6007-1. Abandonment

This rule is amended to conform with Federal Rule of Bankruptcy Procedure 6007(b) to account for additional service requirements on a motion brought by a party in interest.

D.N.J. LBR 9013-2. Motions: Filing and Service; Hearing Date

This rule is amended to account for modifications to Federal Rule of Bankruptcy Procedure 9036 relating to electronic service requirements.

D.N.J. LBR 9037-1. Privacy Protection for Transcripts (revised title)

This rule is amended to conform with Federal Rule of Bankruptcy Procedure 9037, which requires a motion for redacting information from a previously filed document. Local Forms *Application Requesting Redaction of Personal Information* and *Order Directing Redaction of Personal Information* are no longer applicable. The procedures for redacting information from a filed transcript remain unchanged.

Date: November 21, 2019

Jeanne A. Naughton, Clerk

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

**GENERAL ORDER PENDING ADOPTION OF
LOCAL RULE CHANGES DUE TO
DECEMBER 1, 2019 AMENDMENTS TO THE
FEDERAL RULES OF BANKRUPTCY PROCEDURE**

The Court having determined the need for local rule changes to conform with December 1, 2019 amendments to the Federal Rules of Bankruptcy Procedure, it is

ORDERED that the amendments to the following Local Bankruptcy Rules, as set forth in the November 21, 2019 *Notice to the Bar and Public*, are effective **December 1, 2019**:

- **D.N.J. LBR 3011-1. Unclaimed Funds in a Chapter 7, 12, or 13 Case**
- **D.N.J. LBR 5005-1. Filing and Service of a Document**
- **D.N.J. LBR 6007-1. Abandonment**
- **D.N.J. LBR 9013-2. Motions: Filing and Service; Hearing Date**
- **D.N.J. LBR 9037-1. Privacy Protection for Transcripts (revised title)**

DATE: November 21, 2019

_____/s/ Kathryn C. Ferguson_____
KATHRYN C. FERGUSON, CHIEF JUDGE
UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

D.N.J. LBR 3011-1. Unclaimed Funds in a Chapter 7, 12, or 13 Case

(a) Deposit. A trustee must file Local Form *Notice Depositing Unclaimed Funds Pursuant to D.N.J. LBR 3011-1* to deposit unclaimed funds into the court's registry without court order.

(b) Payment of unclaimed funds.

(1) All claimants must use Local Form *Application for Payment of Unclaimed Funds*.

(2) A claimant must be:

(A) the Owner of Record (original payee) or its legal successor; or

(B) the Owner of Record's assignee or its legal successor.

(3) The *Application* must include the supporting documentation identified in the Instructions for Filing an Application for Payment of Unclaimed Funds.

(4) The *Application* must be served on the United States Attorney for the District of New Jersey and Local Form *Certification of Service* must be filed.

(5) The *Application* must include Local Form *Order Granting Application for Payment of Unclaimed Funds*.

(c) Objection. Unless a party in interest files an objection within 21 days of the filing of the *Application*, the request will be considered by the court without a hearing.

2019 Comment

This Rule is amended to conform with the adoption of Director's Form 1340 (to be effective December 1, 2019) by the Judicial Conference of the United States.

If an objection is timely filed in accordance with subsection (c) the court will schedule a hearing.

In a closed case, no motion to reopen is required and no reopening fee will be charged.

2015 Comment

Section 2041 of title 28 governs deposit of funds in pending or adjudicated cases, and section 2042 governs withdrawal of funds deposited in court.

This Rule applies only to unclaimed distributions deposited into court by a trustee under § 347(a) of the Code. All other funds deposited into court are governed by Local Bankruptcy Rule 7067-1. In a closed case, the chief bankruptcy judge will hear the motion for withdrawal.

D.N.J. LBR 5005-1. Filing and Service of a Document

(a) Mandatory electronic filing. An attorney who files 10 or more documents in a 12 month period must file electronically.

(b) Case Management/Electronic Case Filing System.

(1) By accepting a login and password from the court, an individual becomes a registered user in CM/ECF.

(2) A registered user must file all related documents under a single docket entry.

(3) Signatures.

(A) The filing of a document in CM/ECF constitutes the registered user's signature for purposes of Bankruptcy Rule 9011.

(B) An electronic signature must be preceded by "/s/", e.g., "/s/Jane Doe."

(C) A registered user must retain a document bearing the original signature of a third party for 7 years after the closing of the case or proceeding. On request of the court or a party, a registered user must produce the document bearing the original signature.

2019 Comment

Subdivisions (c) and (d) were eliminated because service by electronic means is now addressed by Bankruptcy Rule 9036 (effective December 1, 2019).

The changes to Bankruptcy Rule 9036 do not eliminate the requirement that a motion or cross-motion must be served by non-electronic means because motions must be served in accordance with Bankruptcy Rule 7004.

2015 Comment

This Rule is amended to delete provisions that have become outdated since the adoption of electronic filing in 2001. Also, certain technical requirements have been moved to the *CM/ECF User's Guide* available on the court's website.

Subdivision (b)(2) provides that related documents must be filed under a single docket entry. For example, a Notice of Motion should be filed as the main document, and any certification in support, memorandum of law, certification of service, and proposed order should be filed as attachments.

Subdivision (c) identifies the types of documents and parties that must be served in the manner required for service of a summons and complaint under Bankruptcy Rule 7004. Subdivision (c)(1)(B) clarifies that electronic service of a motion or other document initiating a contested matter under 9014 through the Notice of Electronic Filing is not proper service. All motions are deemed "contested matters" under Bankruptcy Rule 9014, regardless of whether opposition is

filed; therefore, the initiating pleading or document, *e.g.*, a Notice of Motion, must be served in accordance with Bankruptcy Rule 9014(b).

Subdivision (d)(1) provides that a document filed after the initiating pleading, *e.g.*, an opposition or reply, may be electronically served on a participant under Federal Rule 5(b)(2)(E).

Subdivision (d)(2) makes clear that in accordance with Bankruptcy Rule 7004(g), if the debtor is represented by an attorney, whenever service is made upon the debtor under Bankruptcy Rule 7004, service must also be made upon the debtor's attorney by any means authorized under Federal Rule 5(b)(2)(E).

Electronic filing of a document under seal is now addressed in Local Bankruptcy Rule 9018-1.

Former Local Bankruptcy Rule 7005-1, which is deleted, is incorporated into this Rule.

D.N.J. LBR 6007-1. Abandonment

(a) By trustee or debtor in possession. A trustee or debtor in possession seeking to abandon property under § 554(a) of the Code must file Local Form *Notice of Proposed Abandonment*. The clerk will send notice of the proposed abandonment.

(b) By party in interest. A party in interest seeking to compel abandonment of property of the estate under § 554(b) must file a motion in accordance with the Local Rules and serve the parties specified in Bankruptcy Rule 6007(b).

2019 Comment

Federal Rule 6007 was amended effective December 1, 2019 to specify the parties who must be served with a motion to compel abandonment brought by a party in interest. This Rule was amended accordingly and seeks to highlight the differences between the two procedures.

2015 Comment

The changes to this Rule are stylistic.

D.N.J. LBR 9013-2. Motions: Filing and Service; Hearing Date

(a) Filing and service.

- (1) Unless specified elsewhere in these Rules, a motion must be filed and served not later than 21 days before the hearing date.
- (2) Any (i) opposition to a motion or (ii) cross-motion must be filed and served not later than 7 days before the hearing date. A cross-motion must relate to the original motion.
- (3) Any (i) reply or (ii) opposition to a cross-motion must be filed and served not later than 4 days before the hearing date.

(b) Hearing date. Unless specified elsewhere in these Rules, the movant must schedule the hearing date for the motion. Hearing dates for each judge are available on the court's website.

(c) Application to shorten time. A movant seeking shortened time for hearing on a motion must file Local Forms *Application for Order Shortening Time* and *Order Shortening Time Period for Notice, Setting Hearing and Limiting Notice*.

2019 Comments

The changes to Bankruptcy Rule 9036 (effective December 1, 2019) do not eliminate the requirement that a motion or cross-motion must be served by non-electronic means because motions must be served in accordance with Bankruptcy Rule 7004.

Subdivisions (a)(1) and (b) are amended to include the phrase “unless specified elsewhere in these Rules” to account for rules, such as Local Bankruptcy Rule 4001-4, that permit an expedited motion procedure.

2015 Comment

This Rule is new. It is derived from Local Bankruptcy Rule 9013-1.

A motion or cross-motion must be served by non-electronic means under Local Bankruptcy Rule 5005-1(c)(1)(B). Service of a motion or cross-motion by e-mail or Notice of Electronic Filing is not proper service.

Local Bankruptcy Rule 5071-1 addresses adjournment requests.

Local Bankruptcy Rule 7065-1 addresses use of an order to show cause.

D.N.J. LBR 9037-1. Privacy Protection for Transcripts

An entity seeking to redact from a filed transcript information set forth in Bankruptcy Rule 9037(a) must file Local Form *Notice of Intent to Request Redaction* not later than 7 days after the filing of the transcript; and file and provide to the transcriber Local Form *List of Items to be Redacted* not later than 21 days after the filing of the transcript.

2019 Comment

This Rule has been amended to eliminate subdivision (a) which is unnecessary because Federal Rule 9037(h) (effective December 1, 2019) sets forth the procedure for redacting information from a previously filed document.

Former subdivision (b) addresses the steps necessary for redacting information from a filed transcript. These steps remain unchanged.

The title has been amended accordingly.

2015 Comment

This Rule has been revised to streamline the procedure for protecting personal information in a filed document. On the filing of Local Form *Application Requesting Redaction of Personal Information*, the application and the document containing the personal information will be immediately restricted from public viewing until the court enters Local Form *Order Directing Redaction of Personal Information* and the entity that originally filed the document or such other entity as the court directs files the redacted document. Notice of the redaction is required under the Local Form *Order Directing Redaction of Personal Information*.

The procedure for obtaining redaction of personal information contained in a transcript is derived from the Judicial Conference Policy on Privacy and Public Access to Electronic Case Files. Bankruptcy Rule 9018 addresses the protection of other kinds of sensitive information.

Fill in this information to identify the case:

Debtor 1

First Name Middle Name Last Name

Debtor 2

(Spouse, if filing) _____
First Name Middle Name Last Name

United States Bankruptcy Court for the: District of New Jersey
(State)

Case number:

Form 1340 (12/19)

APPLICATION FOR PAYMENT OF UNCLAIMED FUNDS

1. Claim Information

For the benefit of the Claimant(s)¹ named below, application is made for the payment of unclaimed funds on deposit with the court. I have no knowledge that any other party may be entitled to these funds, and I am not aware of any dispute regarding these funds.

Note: If there are joint Claimants, complete the fields below for both Claimants.

Amount:

\$ _____

Claimant's Name:

Claimant's Current Mailing Address, Telephone Number, and Email Address:

Phone number:

Email address:

2. Applicant Information

Applicant² represents that Claimant is entitled to receive the unclaimed funds because (*check the statements that apply*):

- Applicant is the Claimant and is the Owner of Record³ entitled to the unclaimed funds appearing on the records of the court.
- Applicant is the Claimant and is entitled to the unclaimed funds by assignment, purchase, merger, acquisition, succession or by other means.
- Applicant is Claimant's representative (e.g., attorney or unclaimed funds locator).
- Applicant is a representative of the deceased Claimant's estate.

¹ The Claimant is the party entitled to the unclaimed funds.

² The Applicant is the party filing the application. The Applicant and Claimant may be the same.

³ The Owner of Record is the original payee.

3. Supporting Documentation

- Applicant has read the court's instructions for filing an Application for Unclaimed Funds and is providing the required supporting documentation with this application.

4. Notice to United States Attorney

- Applicant has sent a copy of this application and supporting documentation to the United States Attorney, pursuant to 28 U.S.C. § 2042, at the following address:

Office of the United States Attorney
District of New Jersey
Peter Rodino Federal Building
970 Broad Street, Suite 700
Newark, New Jersey 07102

5. Applicant Declaration

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: _____

Signature of Applicant

Printed Name of Applicant

Address: _____

Telephone: _____

Email: _____

5. Co-Applicant Declaration (if applicable)

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: _____

Signature of Co-Applicant (if applicable)

Printed Name of Co-Applicant (if applicable)

Address: _____

Telephone: _____

Email: _____

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 GRANTING APPLICATION FOR
PAYMENT OF UNCLAIMED FUNDS**

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

On _____, an application was filed for the Claimant(s), _____, for payment of unclaimed funds deposited with the court pursuant to 11 U.S.C. § 347(a). The application and supporting documentation establish that the Claimant(s) is entitled to the unclaimed funds; accordingly, it is hereby

ORDERED that pursuant to 28 U.S.C. § 2042, the sum of \$_____ held in unclaimed funds be made payable to _____ and be disbursed to the payee at the following address:

The Clerk will disburse these funds not earlier than 14 days after entry of this order.