LOCAL RULES

OF THE

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEW JERSEY

Dated: August 1, 2017

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Introduction to the 2015 Revised Local Bankruptcy Rules

These Local Rules, effective August 1, 2015, represent the first comprehensive revision of the Local Rules of the United States Bankruptcy Court for the District of New Jersey since 1992. The rules are the product of an ad hoc committee appointed almost three years ago by then Chief Judge Judith H. Wizmur. That committee has worked tirelessly to align the rules with current practices and best practices. The rules have been poked, prodded, sampled, debated, exposed to public comment, and redrafted scores of times. They represent the current best ideas about the practice of bankruptcy law in New Jersey. The rules were approved by the District Court for the District of New Jersey by order dated June 5, 2015.

In conjunction with the adoption of these new rules, the bankruptcy judges in New Jersey are undertaking a major effort to develop consistent practices from vicinage to vicinage and from judge to judge. This is considerably harder than you might think. You can help us with this effort by familiarizing yourself and your staff with the new rules and being guided by them in all of your dealings with the court.

These rules are not perfect. We will continue to hone and refine them as circumstances change or as implementation highlights gaps or idiosyncrasies. We welcome your comments about how the rules are being implemented or what changes might improve your practice. In the meantime, your attention to the rules will help us move towards a more consistent, fair, and effective administration of justice in our court.

Finally, along with the Board of Judges, I wish to thank the following members of the Local Rules Committee for their herculean efforts: Judge Judith Wizmur, Judge Novalyn Winfield, Judge Michael Kaplan, Judge Christine Gravelle, Jim Waldron (clerk of court), Jeanne Naughton (chief deputy clerk of court), Angela Abreu, Isabel Balboa, Roberta DeAngelis, Andrea Dobin, Jaimie Finberg, Mark Hall, Henry Karwowski, William Mackin, Christy McDonald, Richard Meth, Sean Quigley, Herbert Raymond, Robert Schneider, Stuart Seiden, and Meena Untawale. The court also wishes to acknowledge the contribution of Judi LeCompte of the clerk's office for her work on the Local Forms.

Respect the rules.

For the court,

Kathryn C. Ferguson
Chief Judge, United States Bankruptcy Court
Chair of the Local Rules Committee

August 1, 2015

D.N.J. LBR 1001-1. Scope of Rules

(a) Scope. These Local Bankruptcy Rules govern procedure before the United States Bankruptcy Court for the District of New Jersey, and supplement the United States Bankruptcy Code and the Federal Rules of Bankruptcy Procedure.

(b) Modification. The court may modify the application of a Local Bankruptcy Rule in a particular case or proceeding.

(c) Citation. A Local Bankruptcy Rule should be cited as "D.N.J. LBR ___."

2015 Comment

Certain of these Rules are derived from the Local Civil Rules of the United States District Court for the District of New Jersey. A Local Civil Rule not incorporated into these Rules does not apply.

The court's General Orders, Guidelines, and Local Forms also govern procedure before the court. They may be found on the court's website (www.njb.uscourts.gov).

D.N.J. LBR 1002-1. Commencement of Case

A petition commencing a case must be filed in the vicinage in which the debtor is domiciled or in which the debtor maintains its residence, principal place of business, or principal assets.

2015 Comment

This Rule is amended to eliminate petition content requirements that already appear in Bankruptcy Rule 1003 or Official Form B1.

The court is divided into three units known as "vicinages," based on the locations of the three federal courthouses in the District of New Jersey.

The Newark vicinage consists of Bergen, Essex, Hudson, Morris, Passaic, Sussex, and Union counties.

The Trenton vicinage consists of part of Burlington (except for the townships of Cinnaminson, Delran, Edgewater Park, Evesham (Marlton), Maple Shade, Moorestown, Mount Laurel, Palmyra, Riverside and Riverton), Hunterdon, Mercer, Middlesex, Monmouth, Ocean, Somerset, and Warren counties.

The Camden vicinage consists of Atlantic, part of Burlington (the townships of Cinnaminson, Delran, Edgewater Park, Evesham (Marlton), Maple Shade, Moorestown, Mount Laurel, Palmyra, Riverside and Riverton), Camden, Cape May, Cumberland, Gloucester, and Salem counties.

D.N.J. LBR 1006-1. Payment of Filing Fee in Installments

(a) An individual debtor seeking to pay the filing fee in installments must file Official Form 103A, *Application for Individuals to Pay the Filing Fee in Installments* at the time of the filing of the petition. The Application must be accompanied by a first installment payment of not less than 25 percent of the filing fee.

(b) If the court denies an *Application to Have the Chapter 7 Filing Fee Waived*, the first installment payment equal to an amount not less than 25 percent of the filing fee must be paid not later than 14 days from the filing of the petition.

2016 Comment

This Rule is new. It requires an initial installment payment of at least 25 percent of the filing fee when the petition and the *Application for Individuals to Pay the Filing Fee in Installments* are filed.

D.N.J. LBR 1007-1. Mailing List

(a) Instructions. The mailing list required by Bankruptcy Rule 1007 must comply with the instructions in the *CM/ECF User's Guide* available on the court's website.

(b) Amendment of schedule. The mailing list must be updated when an amendment to schedule D, E, F, G, or H is filed.

2015 Comment

This Rule was formerly Local Bankruptcy Rule 1007-2. The Rule eliminates obsolete formatting requirements and replaces the term "matrix" with "mailing list."

D.N.J. LBR 1009-1. Amendment to Schedule or List of Creditors

A debtor seeking to amend Schedules D through H or the List of Creditors must file the corresponding Official Form. If the amendment adds a creditor to Schedule D, E, F, G, or H, the debtor must also file an Amended List of Creditors, and include only the added creditor.

2015 Comment

The service requirements for an amendment are provided in Local Form *Order Respecting Amendment to Schedule D, E, F, G, H, or List of Creditors*.

2016 Comment

This Rule is amended to require the use of Official Forms B 106 through B 106 J-2 and delete reference to discontinued Local Form, *Amendment to Schedule D, E, F, G, H or List of Creditors*.

An individual debtor must also submit Official Forms, *Declaration about an Individual Debtor's Schedules* (106Dec) and an updated *Summary of Your Assets and Liabilities and Certain Statistical Information* (106Sum) when amending a Schedule.

A non-individual debtor must also file Official Forms, *Declaration Under Penalty of Perjury for Non-Individual Debtors* (202) and an updated *Summary of Assets and Liabilities (for Non-Individuals)* (206Sum) when amending a schedule.

D.N.J. LBR 1015-1. Joint Administration

A petition initially filed by an individual debtor may not be amended to add a spouse as a joint debtor. The spouse may file a separate voluntary petition, and move for joint administration of the cases.

2016 Comment

This Rule is new. It clarifies that a voluntary petition filed by a debtor may not be amended to add a spouse. The spouse must file a separate voluntary petition, and move for joint administration of the cases under Bankruptcy Rule 1015(b). This rule does not preclude the filing of a joint petition.

D.N.J. LBR 2002-1. Certification of Service; Change of Address

(a) Certification of service. A party seeking relief from the court must file Local Form *Certification of Service*.

(b) Change of address. A party changing its address during a case or proceeding must file Local Form *Change of Address*.

2015 Comment

This Rule is new. Use of the local form required under subdivision (a) simplifies the court's review of service.

Subdivision (b) provides a uniform method for informing the court, a trustee, and any affected party of a change of address.

D.N.J. LBR 2004-1. Examination

(a) Examination on parties' agreement. A motion under Bankruptcy Rule 2004(a) is not required if the party from whom an examination or document production is sought agrees to voluntarily appear or produce documents.

(b) Examination on subpoena. An attorney for a party in interest seeking to compel an examination or production of documents under Bankruptcy Rule 2004 may serve national Director's Form 2540 *Subpoena for Rule 2004 Examination*; a motion is not required. A self-represented party seeking to compel an examination or production of documents must file an application for an order compelling discovery.

(c) Date and place of examination. A subpoena issued under subdivision (b) must set the examination or document production not earlier than 14 days after service of the subpoena. The examination or document production must take place at the location set by the party issuing the subpoena, provided that the location complies with Federal Rule 45(c). The parties may agree to modify these requirements.

(d) Quashing or modifying subpoena. On motion of the examinee or a party in interest, the court may quash or modify a subpoena issued under subdivision (b). The filing of the motion prior to the date set for examination or document production stays the subpoena until the court rules on the motion.

(e) Compelling attendance and production of documents. If the examinee fails to comply with a subpoena issued under subdivision (b) and fails to file a motion under subdivision (d), the party issuing the subpoena may file a motion for an order directing an examination or document production under Bankruptcy Rule 2004.

2015 Comment

An attorney may serve a Bankruptcy Rule 2004 subpoena without a court order.

Subdivision (c) provides that the location set by the issuer of the subpoena will not be subject to challenge if the location is within the geographical limits specified in Federal Rule 45(c).

Local Bankruptcy Rule 9016-1 addresses other types of subpoenas.

2016 Comment

Subdivision (b) of this Rule is amended to reference the change in numbering of the national Director's Form to B2540 *Subpoena for a 2004 Examination*.

D.N.J. LBR 2014-1. Employment of Professional Persons

(a) General requirements. An applicant seeking approval of employment of a professional person must file and serve Local Forms *Application for Retention of Professional, Certification of Professional in Support of Application for Retention of Professional* and *Order Authorizing Retention* on the debtor, the trustee, secured creditors, official committees, and parties requesting notice of all proceedings.

(b) Objection. If an application seeking approval of the employment of a professional person is filed within 21 days after the filing of the petition, an objection to the application must be filed and served within 14 days after the filing of the application. After the initial 21 day period, 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.

2015 Comment

Subdivision (a) is amended to add a reference to the relevant Local Forms.

Local Bankruptcy Rule 2014-2 addresses the requirements for the retention of an auctioneer.

Local Bankruptcy Rule 6004-4 addresses the requirements for the retention of a liquidator.

Bankruptcy Rule 6003 provides that unless necessary to avoid harm, the court will not grant an application under Bankruptcy Rule 2014 within the first 21 days of a case. The 14 day objection period in subdivision (b) balances Rule 6003's goal of alleviating "some of the time pressures present at the start of a case" with a professional person's interest in obtaining a prompt determination on an employment application.

D.N.J. LBR 2014-2. Employment of an Auctioneer

(a) Additional requirements for auctioneers. An application for employment of an auctioneer must contain, in addition to the requirements under Bankruptcy Rule 2014 and Local Bankruptcy Rule 2014-1, the following information:

(1) the auctioneer's qualifications and prior experience with the liquidation or sale of similar property;

(2) a description of the property to be sold and its location;

(3) the proposed method of calculation, including rates and formulas, of the auctioneer's compensation;

(4) an estimate of all costs and expenses, including labor, security, advertising, delivery, mailing, and insurance, for which the auctioneer seeks reimbursement from the sale proceeds;

(5) whether the auctioneer or one of its principals has been convicted of a criminal offense; and

(6) proof of a surety bond in favor of such party as the court may direct and in an amount at least equal to the estimated gross proceeds of sale, or proof of an adequate blanket bond. The bond must be conditioned upon the faithful and prompt performance of the auctioneer's duties; an accounting for all monies and property that may come into the auctioneer's possession, control, or custody; and compliance with rules, orders, and judgments of the court. The auctioneer must certify that the bond is presently in effect, and that it will remain so through the date of turnover of the auction proceeds.

(b) Waiver of fee application requirement. An applicant may apply for a waiver of the requirements of Local Bankruptcy Rule 2016-1, unless the compensation and expenses sought exceed the estimate in the application for retention.

2015 Comment

This Rule was formerly Local Bankruptcy Rule 2014-1(c).

D.N.J. LBR 2014-3. Alternative Procedure for a Flat Fee Professional Person in a Chapter 13 Case

In a chapter 13 case, the court may authorize the retention of a professional person on a flat fee basis and waive the requirements of Local Bankruptcy Rule 2016-1 if the fee does not exceed $1,000 and the retention order provides that payment may be made only on satisfactory completion of services.

2015 Comment

This Rule is new. A fee application is no longer required in certain chapter 13 flat fee cases.

D.N.J. LBR 2016-1. Application for Compensation and Reimbursement of Expenses

(a) Compensation on an hourly rate basis. The statement of the services rendered, time expended, expenses incurred, and amounts requested under Bankruptcy Rule 2016 must contain:

(1) for an application for compensation under $10,000:

(A) the date and docket number of the applicant's order of retention or authorization;

(B) the date and docket number of any administrative fee order providing for interim compensation;

(C) a description of services rendered;

(D) the time spent in 1/10th of an hour increments by date and person, with applicable time sheets attached;

(E) the billing rate for each person who rendered services;

(F) the total time spent by each person who rendered services;

(G) a list of actual expenses summarized by category; and

(H) a narrative explaining the nature of the work performed and the results achieved; and any circumstances not apparent from the description of services or that the applicant seeks to emphasize, including special employment terms, billing or expense policies, voluntary reductions, reasons for the use of multiple professional persons for a particular activity, and reasons for substantial time billed for a particular activity.

(2) for an application for compensation of $10,000 or more:

(A) Local Form *Fee Application Cover Sheet*;

(B) a description of services rendered, by date and person;

(C) the time in 1/10th of an hour increments spent by each person, with applicable time sheets attached; and

(D) a narrative explaining the nature of the work performed and the results achieved; and any circumstances not apparent from the description of services or that the applicant seeks to emphasize, including special employment terms, billing or expense policies, voluntary reductions, reasons for the use of multiple professional persons for a particular activity, and reasons for substantial time billed for a particular activity.

(b) Compensation on a contingent fee basis. The statement of the services rendered, time expended, expenses incurred, and amounts requested under Bankruptcy Rule 2016 must contain:

(1) the date and docket number of the applicant's order of retention or authorization;

(2) a list of actual expenses summarized by category;

(3) a narrative explaining the nature of the work performed and the results achieved; and any circumstances not apparent from the description of services or that the applicant seeks to emphasize, including special employment terms, billing or expense policies, voluntary reductions, reasons for the use of multiple professional persons for a particular activity, and reasons for substantial time billed for a particular activity; and

(4) an explanation of the calculation of the fee and expense request.

(c) Compensation on a commission basis. The statement of the services rendered, time expended, expenses incurred, and amounts requested under Bankruptcy Rule 2016 must contain:

(1) the date and docket number of the applicant's order of retention or authorization;

(2) a list of actual expenses summarized by category;

(3) a narrative explaining the nature of the work performed and the results achieved; and any circumstances not apparent from the description of services or that the applicant seeks to emphasize, including special employment terms, billing or expense policies, voluntary reductions, reasons for the use of multiple professional persons for a particular activity, and reasons for substantial time billed for a particular activity; and

(4) an explanation of the calculation of the fee and expense request.

(d) Exemption for certain real estate brokers. A real estate broker who is retained under Local Bankruptcy Rule 2014-1 and whose fees and expenses are approved in an order authorizing the sale of real property and the payment of certain professional persons at closing under Local Bankruptcy Rule 6004-5 is exempt from this Rule.

(e) Compensation on a flat fee basis. The application must contain:

(1) the date and docket number of the applicant's order of retention or authorization; and

(2) a statement indicating that the purpose for which the applicant was retained has been fulfilled.

(f) Other compensation arrangements. In any other circumstances, the statement of the services rendered, time expended, expenses incurred, and amounts requested under Bankruptcy Rule 2016 must contain:

(1) a narrative explaining the grounds on which the applicant seeks allowance of fees and expenses; and

(2) to the extent applicable, the items required in an application of an hourly rate applicant under subdivision (a) or a contingent fee applicant under subdivision (b).

(g) Request for reimbursement of expenses of a committee member. An official committee member may submit a list of actual expenses summarized by category.

2015 Comment

This Rule has been significantly revised to accommodate both the electronic filing process and the variety of compensation arrangements in bankruptcy proceedings. The Rule now allows for payment of both flat fee professionals and real estate brokers retained on a commission basis without the need for a full fee application.

The required narrative assists the court in its review of fee applications consistent with the precedent established in In re Busy Beaver Building Centers, Inc., 19 F.3d 833 (3d Cir. 1994) and Zolfo Cooper & Co. v. Sunbeam-Oster Co., Inc., 50 F.3d 253 (3d Cir. 1995).

The procedure for compensating auctioneers is now found in Local Bankruptcy Rule 2016-2.

D.N.J. LBR 2016-2. Application for Compensation of an Auctioneer

If the court has under Local Bankruptcy Rule 2014-2(b) granted a waiver of the fee application requirement, the auctioneer must file Local Form *Notice of Proposed Auctioneer Compensation* not later than 21 days before payment of compensation. If an objection is filed, the court may require the applicant to file an application for compensation and reimbursement of expenses under Local Bankruptcy Rule 2016-1 or may schedule a hearing.

2015 Comment

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

D.N.J. LBR 2016-3. Application for Interim Compensation and Reimbursement of Expenses in a Chapter 11 Case; Monthly Fee Statement

(a) Motion for authority. A debtor seeking authorization for allowance of compensation of professional persons on a monthly basis must file a motion for an administrative fee order. The debtor must serve a copy of the order on all parties served with the motion; all affected professional persons; and all parties listed in subdivision (b)(1).

(b) Monthly fee statement.

(1) Not later than the 25th day of the month following the month for which compensation is sought, a professional person seeking compensation under an administrative fee order must file and serve, by electronic transmission, hand delivery, or overnight delivery, or by any means directed by the court, a monthly fee and expense statement on the following parties:

(A) the officer designated by the debtor as responsible for such matters;

(B) the debtor;

(C) any official committee;

(D) the United States trustee;

(E) any secured creditor;

(F) any post-petition lender;

(G) any party requesting notice of all proceedings; and

(H) any other party designated by the court.

(2) A monthly fee statement must comply with Local Bankruptcy Rule 2016-1(a).

(c) Objection. An objection to a monthly fee statement must be filed and served on the professional person and the parties listed in subdivision (b)(1) not later than 14 days after service of the statement. The objection must set forth the nature of the objection and the amount of fees and expenses at issue. Grounds for objection include: (i) the debtor's failure to timely file monthly operation reports; and (ii) the debtor's failure to remain current with administrative expenses and fees under 28 U.S.C. § 1930.

(d) Payment.

(1) On the expiration of the objection deadline under subdivision (c), a professional person may file and serve on the parties listed in subdivision (b)(1) Local Form *Certification of No Objection* or *Certification of Partial Objection*, and then receive 80% of the fees and 100% of the expenses not subject to an objection. The professional person may seek authorization as part of the next interim or final fee application to receive the remaining 20% of fees not subject to an objection.

(2) If the parties resolve an objection and if the professional person files and serves on the parties listed in subdivision (b)(1) a statement indicating that the objection is withdrawn and describing the terms of the resolution, the debtor may pay in accordance with subdivision (d)(1) that portion of the monthly fee statement which is no longer subject to an objection.

(3) If the parties are unable to reach a resolution of the objection not later than 14 days after the deadline for filing an objection under subdivision (c), the professional person may either (i) file a response to the objection together with a request for payment of the fees and expenses to which the objection applies; or (ii) forgo payment of those fees and expenses until the next interim or final fee application or another date directed by the court.

(e) Fee application.

(1) A professional person who has received monthly payments under an administrative fee order must, at four month intervals or such other intervals directed by the court, file and serve on the parties listed in subdivision (b)(1) an interim application under § 331 of the Code for allowance of the compensation and reimbursement of the expenses sought in the monthly statements issued during the applicable period.

(2) The interim fee application must include a summary of the monthly fee statements that are the subject of the request and any other information requested by the court.

2015 Comment

The text of this Rule was formerly part of the Appendix to Local Bankruptcy Rule 2016-1(h), which incorporated the Guidelines Governing Procedures for Payment of Interim Compensation and Reimbursement of Expenses to Professionals in Chapter 11 Cases.

D.N.J. LBR 2016-4. Application for Final Compensation and Reimbursement of Expenses in a Chapter 11 Case

An application for allowance of final compensation and reimbursement of expenses must be filed not later than 90 days after entry of the order confirming a chapter 11 plan.

2015 Comment

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

D.N.J. LBR 2016-5. Application for Compensation and Reimbursement of Expenses in a Chapter 13 Case

(a) Standard fee.

(1) A chapter 13 debtor's attorney who charges a fee of $3,500 or less is not required to file an application for allowance of compensation. The fee covers the following legal services:

(A) meeting with the debtor to review the debtor's financial situation and discuss the bankruptcy process;

(B) preparing, filing, and serving the debtor's petition, plan, schedules, and statement of financial affairs;

(C) providing the chapter 13 trustee with all required documents including payment advices, redacted tax returns, real property valuations, and any other documents requested by the trustee;

(D) representing the debtor at the meeting of creditors under § 341(a) of the Code and all confirmation hearings;

(E) responding to routine objections to plan confirmation;

(F) filing a statement of completion of a course concerning personal financial management as required under Bankruptcy Rule 1007(b)(7);

(G) taking the steps necessary to discharge liens modified under the plan; and

(H) providing such other legal services as necessary for the administration of the case, including telephone calls and correspondence.

(2) A chapter 13 debtor's attorney who charges a fee of more than $3,500 must file and serve on the chapter 13 trustee and the debtor an application for compensation and reimbursement of expenses in accordance with Local Bankruptcy Rule 2016-1 not later than 7 days before the confirmation hearing.

(b) Supplemental fee.

(1) A chapter 13 debtor's attorney who files a supplemental fee application of $2,000 or less must file and serve on the chapter 13 trustee and the debtor Local Forms *Certification of Debtor's Counsel Supporting Supplemental Chapter 13 Fee* and *Order Granting Supplemental Chapter 13 Fee*.

(2) A chapter 13 debtor's attorney who files a supplemental fee application of more than $2,000 must file and serve on the chapter 13 trustee and the debtor an application for compensation and reimbursement of expenses in accordance with Local Bankruptcy Rule 2016-1.

(3) A supplemental fee application in a chapter 13 case may not be submitted more than once every 120 days.

(c) Reimbursement of expenses. A chapter 13 debtor's attorney may file Local Forms *Certification of Debtor's Counsel Supporting Supplemental Chapter 13 Fee* and *Order Granting Supplemental Chapter 13 Fee* to request reimbursement of expenses.

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.

D.N.J. LBR 3001-1. Request for Payment of Administrative Expense

(a) Required form. An entity seeking payment of an administrative expense must file Local Form *Request for Payment of Administrative Expense*.

(b) Hearing. The court does not schedule a hearing on a request for payment of an administrative expense unless an objection is filed. To obtain immediate payment, the entity must file a motion.

2015 Comment

This Rule was formerly Local Bankruptcy Rule 3003-2.

The filing of Local Form *Request for Payment of Administrative Expense*, without a motion under subdivision (b), will result in payment in the ordinary course.

Local Bankruptcy Rule 2016-1 addresses an application for compensation and reimbursement of expenses filed by a professional person.

D.N.J. LBR 3002.1-1. Notice Relating to Claims Secured by Security Interest in the Debtor's Principal Residence

(a) Termination of notice requirements. The entry of an order granting a secured creditor relief from the automatic stay terminates the notice requirements of Bankruptcy Rule 3002.1(b) and (c).

(b) Applicability of notice requirements. If a post-petition event renders a secured creditor subject to the automatic stay and the requirements of Bankruptcy Rule 3002.1, the secured creditor must:

(1) within 30 days of the date on which the automatic stay becomes applicable, file and serve on the debtor a notice of payment changes under Bankruptcy Rule 3002.1(b) if the amount of the monthly payment changed during the period in which the automatic stay was not in effect; and

(2) within 180 days of the date on which the automatic stay becomes applicable, file and serve on the debtor a notice under Bankruptcy Rule 3002.1(c) for any fees, expenses, and charges incurred during the period in which the automatic stay was not in effect.

2015 Comment

This Rule was formerly Local Bankruptcy Rule 3002.1-2.

A post-petition event under subdivision (b) includes the entry of an order reopening a case, reinstating a case, or converting a case to chapter 13.

D.N.J. LBR 3003-1. Filing Proof of Claim or Equity Security Interest in a Chapter 11 Case

(a) Time for filing. A creditor or equity security holder subject to Bankruptcy Rule 3003(c)(2) must file a proof of claim or interest not later than 90 days after the original date set for the meeting of creditors under § 341(a) of the Code.

(b) Rejection damages. A proof of claim arising from the rejection of an executory contract or unexpired lease must be filed by the later of:

(i) 30 days after rejection; or

(ii) 90 days after the original date set for the meeting of creditors under § 341(a) of the Code.

2015 Comment

An adjournment of the meeting of creditors does not affect the deadlines in this Rule.

D.N.J. LBR 3007-1. Objection to Claim in a Chapter 11, 12, or 13 Case

(a) Procedure. An objection to the allowance of a claim must be brought by motion or adversary proceeding.

(b) Time for filing. A motion or adversary proceeding objecting to a claim must be filed by the later of:

(1) 60 days after the entry of the order confirming plan; or

(2) 60 days after the claim is filed or amended.

(c) Extension. A request for an extension of the time to object to the allowance of a claim must be brought by motion filed before the expiration of the time to object.

2015 Comment

An objection to the allowance of a claim now requires a motion or complaint; a letter to the court or other document, such as an "objection," is insufficient.

D.N.J. LBR 3007-2. Omnibus Objection to Claims

An omnibus objection to claims may be filed to reduce the amount of a claim or to modify a claim's priority status. Local Form *Notice of Objection to Your Claim* must be filed and served on each claimant.

2017 Comment

This Rule is new. Promulgated under Bankruptcy Rule 3007(c), the rule expands the grounds upon which an omnibus objection may be based beyond those set forth under Bankruptcy Rule 3007(d). It introduces Local Form *Notice of Objection to Your Claim,* which must be filed and served on individual claimants in support of the motion or adversary proceeding objecting to a claim required under Local Bankruptcy Rule 3007-1(a).

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) Withdrawal.

(1) All requests for withdrawal must be brought by motion.

(2) The motion may be brought only by:

(A) the original payee or its legal successor; or

(B) the original payee's assignee or its legal successor.

(3) The certification in support of the motion must include the reason the funds were unclaimed.

(4) The motion must be served on the trustee or the disbursing agent, as applicable. In a closed case, the motion must be served on the United States trustee.

(5) The motion must include Local Form *Order Directing Payment of Unclaimed Funds*.

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 3015-1. Filing and Service of a Chapter 13 Plan and Motions

(a) Required form. A chapter 13 debtor must file Local Form *Chapter 13 Plan and Motions*.

(b) Motions permitted in plan. Only the following motions may be included in a chapter 13 plan: (i) a motion to avoid a judicial lien under § 522(f) of the Code; and (ii) a motion to avoid a lien and reclassify the related claim.

(c) Service. If a chapter 13 plan includes a motion, the debtor must serve, in accordance with Bankruptcy Rule 9014, each affected lienholder with Local Forms *Chapter 13 Plan and Motions* and *Notice of Chapter 13 Plan Transmittal*. The debtor must serve each affected lienholder not less than 28 days before the confirmation hearing, and must immediately file Local Form *Certification of Service*.

2015 Comment

The 21 day time period in former subdivision (b) was changed to 28 days as required under Bankruptcy Rule 2002(b). The phrase "potentially affected creditor" was changed to "each affected lienholder" to clarify to whom notice of the plan and *Notice of Chapter 13 Plan Transmittal* must be provided.

This Rule applies to both the original chapter 13 plan and any modified plan under Local Bankruptcy Rule 3015-2 that includes a motion.

D.N.J. LBR 3015-2. Modified Chapter 13 Plan and Motions

(a) Hearing. The filing of a modified chapter 13 plan does not change the date of any previously scheduled confirmation hearing unless an adjournment is granted.

(b) Service. The debtor must serve by first class mail each affected lienholder with the entire modified plan and immediately file Local Form *Certification of Service*.

2015 Comment

If a modified chapter 13 plan includes a motion, the debtor must serve, in accordance with Local Rule 3015-1, each affected lienholder with Local Forms *Chapter 13 Plan and Motions* and *Notice of Chapter 13 Plan Transmittal*.

Notice of the hearing on the modified plan will be provided in accordance with Bankruptcy Rule 2002(b).

D.N.J. LBR 3015-3. Objection to Confirmation of a Chapter 13 Plan

An objection to chapter 13 confirmation must be filed and served not later than 7 days before the hearing date set in the *Notice of Hearing on Confirmation of Plan* or *Notice of Modification of Chapter 13 Plan*.

2015 Comment

This Rule was formerly part of Local Bankruptcy Rule 3015-6. The Rule eliminates the provision in the former Rule that allowed the filing of a proof of claim to serve as an objection to confirmation.

Local Bankruptcy Rule 3015-4 provides that an objecting party must appear at the confirmation hearing.

D.N.J. LBR 3015-4. Appearance at a Chapter 13 Confirmation Hearing

(a) Debtor. The debtor's attorney or a self-represented debtor must appear at any chapter 13 confirmation hearing unless, before the hearing, the chapter 13 trustee has recommended confirmation of the plan.

(b) Objecting party. An objecting party must appear at the confirmation hearing.

2015 Comment

This Rule was formerly Local Bankruptcy Rule 3015-3. Subsection (a) codifies the current practice of excusing an appearance when, before the hearing, the chapter 13 trustee recommends confirmation. A chapter 13 trustee will not recommend confirmation if a filed objection remains unresolved.

D.N.J. LBR 3016-1. Chapter 11 Plan or Disclosure Statement

(a) Table of Contents. Every Chapter 11 Plan or Disclosure Statement must contain a Table of Contents.

(b) Modification. If a chapter 11 plan proponent files a modified plan or disclosure statement, the entire modified document must be filed. The title must use a numerical designation such as "First Modified Plan" or "Second Modified Plan."

2015 Comment

The following Local Forms are available: *Chapter11 Plan*; *Chapter 11 Small Business Debtor's Combined Plan of Reorganization [or Liquidation] and Disclosure Statement*; and *Individual Debtor's Chapter 11 Combined Plan of Reorganization [or Liquidation] and Disclosure Statement.*

2016 Comment

This Rule was amended to add subdivision (a).

D.N.J. LBR 3018-1. Acceptance or Rejection of a Plan in a Chapter 11 Case

(a) Return of ballots. Ballots must be sent to the attorney for the chapter 11 plan proponent or to an entity authorized by the court not later than 7 days before the confirmation hearing.

(b) Certification of balloting. The ballot recipient must file Local Form *Certification of Balloting* not later than 3 days before the confirmation hearing. A copy of the *Certification of Balloting* must be served on the debtor, trustee, United States trustee, and any official committee.

(c) Retention of ballots. The ballot recipient must retain the ballots for two years from the closing of the case.

2015 Comment

This Rule was formerly Local Bankruptcy Rule 3018-2. The Rule now sets a deadline for balloting and introduces a new Local Form *Certification of Balloting*.

D.N.J. LBR 3020-1. Chapter 11 Plan Effective Date

The effective date of a chapter 11 plan is 30 days after entry of the order confirming the plan unless the plan or confirmation order provides otherwise.

2015 Comment

This Rule was formerly Local Bankruptcy Rule 3016-1(b). The default effective date was changed from "when the order of confirmation becomes final" to "30 days after entry of the order confirming the plan" to provide a definitive effective date.

D.N.J. LBR 3021-1. Chapter 11 Plan Distributions

(a) Disbursing agent. A chapter 11 plan providing for distribution of property must designate a disbursing agent and state the terms of any compensation to the disbursing agent.

(b) Deposit of funds. The disbursing agent must deposit funds in a segregated account. Distributions from the account must indicate the source of the funds.

(c) Funds held for more than 30 days. If the chapter 11 plan requires the disbursing agent to maintain funds for more than 30 days, the funds must be held in an interest-bearing account or certificate for the benefit of creditors and interest holders.

(d) Report of Distributions. Within 14 days after each distribution, and until the case is closed, the disbursing agent must file and serve on the debtor, the chapter 11 plan proponent, the United States Trustee, and any official committee Local Form *Report of Distributions Under Confirmed Chapter 11 Plan*.

(e) Unclaimed distributions. Unclaimed security, money, or other property must be returned to the debtor or the entity acquiring the assets of the debtor under the chapter 11 plan not later than 180 days from the date of distribution unless the plan provides otherwise.

(f) Individual debtor. A chapter 11 debtor who is an individual must file Local Form *Chapter 11 Individual Debtor's Certification of Completion of Plan Payments and Notice to Creditors* after the final distribution.

2015 Comment

Subdivision (a) has been amended to require that a chapter 11 plan providing for distribution of property must designate a disbursing agent.

Subdivision (b) has been amended to eliminate the requirement in the former rule that a distribution be only by check. The Rule now permits distribution by other means, such as electronic transfer. If a check is used, it must identify the case name and the disbursing agent's name.

Subdivision (e) supplements § 347(b) of the Code, and in the absence of a time period set forth in a plan, provides a deadline for return of unclaimed security, money, or other property.

Subdivision (f) supplements § 1141(d)(5) of the Code, which provides that in a case in which the debtor is an individual the court does not grant a discharge until the debtor has completed all payments under the plan.

D.N.J. LBR 3022-1. Closing a Chapter 11 Case

(a) Closing case. The court will close a chapter 11 case 180 days after entry of the order confirming the plan.

(b) Extension. On motion of a party in interest filed before the case is closed, the court may extend the time for closing the case.

2015 Comment

The changes to this Rule are stylistic.

D.N.J. LBR 4001-1. Relief From Automatic Stay

(a) General requirements.

(1) A party moving for relief from the automatic stay must file a statement of amount due that includes, as applicable:

(A) unpaid principal;

(B) accrued interest from a specific date to a specific date;

(C) unearned interest;

(D) per diem interest;

(E) late fees from a specific date to a specific date;

(F) attorney's fees;

(G) advances for taxes and insurance;

(H) total post-petition arrearage;

(I) any other fees and charges; and

(J) date of last payment.

The movant must file Local Form *Certification Regarding Calculation of Amount Due* as the statement if the amount claimed due is secured by a mortgage on real property owned by the debtor.

(2) The movant must file a certification that includes the following exhibits, as applicable:

(A) note;

(B) bond;

(C) mortgage bearing the stamped date of recordation;

(D) security agreement;

(E) financing statement bearing the stamped date of filing;

(F) assignment; and

(G) appraisal.

(3) When the movant alleges that the debtor has failed to make a post-petition mortgage or vehicle payment, the party must file either Local Form *Certification of Creditor Regarding*

Post Petition Payment History (Note and Mortgage) or Local Form *Certification of Creditor Regarding Post Petition Payment History (Vehicle Loan/Lease).*

(b) Opposition in a chapter 13 case.

(1) To oppose a motion for relief from the automatic stay or a motion to dismiss filed by a chapter 13 trustee, a chapter 13 debtor must file and serve on the movant and the chapter 13 trustee Local Form *Chapter 13 Debtor's Certification in Opposition* not later than 7 days before the hearing date.

(2) To oppose a *Creditor's Certification of Default* or *Chapter 13 Trustee's Certification of Default*, a chapter 13 debtor must file and serve on the movant and the chapter 13 trustee Local Form *Chapter 13 Debtor's Certification in Opposition* not later than 14 days after the filing of the certification of default.

(c) Effect of failure to oppose an adjournment request. A movant's failure to oppose a request for an adjournment of a hearing on a motion for relief from the automatic stay constitutes consent to the adjournment under § 362(e) of the Code.

2015 Comment

This Rule eliminates the provision stating that court appearances are not required for unopposed motions relating to the automatic stay because Local Bankruptcy Rule 9013-3(d) provides that the court decides all unopposed matters on the papers.

Local Bankruptcy Rule 9021-1(c) addresses consent orders in lieu of a motion for stay relief in chapter 11 cases where no committee has been appointed.

D.N.J. LBR 4001-2. Monthly Statements, Payment Coupons, and Related Notices

A secured creditor or lessor does not violate the automatic stay imposed by § 362 of the Code or the discharge injunction imposed by § 524 of the Code when it sends any of the following documents to the debtor:

(1) a regular monthly statement or payment coupon;

(2) a reminder statement which is informational only and does not demand payment;

(3) a notice of the status of an escrow account, including a notice regarding calculation of a new monthly payment based on a change in the property tax or insurance premium; or

(4) a notice of an adjustment to a variable rate monthly mortgage payment resulting from a change in the interest rate.

2015 Comment

This Rule was formerly Local Bankruptcy Rule 4001-3(a). It has been amended to include lessors.

D.N.J. LBR 4001-3. Use of Cash Collateral; Obtaining Credit

(a) Motion for use of cash collateral. A motion for use of cash collateral must:

(1) include a detailed 4 week cash flow budget for a motion for interim use of cash collateral and a detailed 12 week budget for a motion for final use of cash collateral; and

(2) summarize the following provisions, if applicable, and identify the location of each in any relevant document and in the proposed order:

(A) the amount of cash collateral sought to be used;

(B) the adequate protection to be provided for the use of cash collateral; and

(C) any of the provisions in subdivision (c).

(b) Motion to obtain credit. A motion for authority to obtain credit must:

(1) include the following items:

(A) a description of the efforts to obtain credit;

(B) the facts demonstrating that the movant has obtained the best available terms for the proposed credit;

(C) a detailed budget supporting the proposed credit; and

(D) the facts demonstrating that the extension of credit is made in good faith;

(2) summarize the following provisions, if applicable, and identify the location of each in any relevant document and in the proposed order:

(A) the amount of credit sought, including any committed amount, and any borrowing base formula and the estimated availability under the formula;

(B) material conditions to closing;

(C) pricing and economic terms, including fees and the treatment of costs and expenses of the lender, any agent for the lender, and their respective professionals;

(D) the application of credit to pay pre-petition debt or that otherwise has the effect of converting pre-petition debt to post-petition debt, *i.e.*, a rollup;

(E) the repayment of post-petition credit in connection with a plan;

(F) the waiver of the right to incur liens that prime or that are *pari passu* with liens granted under § 364 of the Code; and

(G) any of the provisions in subdivision (c).

(c) Additional provisions. A motion for use of cash collateral or to obtain credit must summarize the following provisions, if applicable, and identify the location of each in any relevant document and in the proposed order:

(1) the effect of the relief sought on existing liens;

(2) elevation of pre-petition debt to administrative expense or super-priority status or the grant of a lien on post-petition assets to secure pre-petition debt;

(3) termination or default provision, including any cross-default provision or provision that the use of cash collateral or credit will cease on:

(A) the filing of a challenge to the lender's pre-petition lien or claim;

(B) the entry of an order granting relief from the automatic stay;

(C) the filing of a motion for the appointment of a trustee or examiner;

(D) the entry of an order granting a change of venue;

(E) a management change; or

(F) the departure of any identified employee;

(4) establishment of a deadline or a requirement for:

(A) the sale of property of the estate or of a non-debtor affiliate; or

(B) the filing of a plan;

(5) limitation of the court's authority, or enhancement or restriction of the rights, powers, or duties of a trustee, examiner, debtor, or committee appointed under the Bankruptcy Code;

(6) limitation or waiver of rights under § 506(c) of the Code;

(7) agreement binding the debtor or other parties in interest with respect to the validity, perfection, or amount of the lender's pre-petition claim, or the waiver of claims against the lender;

(8) grant of an interest on causes of action arising under §§ 544, 547, 548, or 549 of the Code;

(9) carve-outs from liens or super-priorities;

(10) change of control;

(11) cross-collateralization;

(12) funding of a non-debtor affiliate with cash collateral or credit proceeds and the approximate amount of such funding; and

(13) in related debtor cases, a term that affects joint liability of debtors or the allocation of liability among estates.

(d) Modification. A proposed order allowing use of cash collateral or authority to obtain credit may permit the parties to enter into waivers or consents with respect to the use of cash collateral or the credit agreement, or amendments thereto, without the need for further court approval provided that:

(1) the modification is not material;

(2) notice of the proposed modification is filed with the court; and

(3) notice of the proposed modification is provided in advance to counsel for any official committee, any party requesting notice of all proceedings, and the United States trustee.

2015 Comment

This Rule was formerly part of the Appendix to Local Rule 4001-4, which is deleted.

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 participant in CM/ECF.

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

(3) Signatures.

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

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

(C) A participant 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 participant must produce the document bearing the original signature.

(c) Service by non-electronic means.

(1) The following documents must be served by non-electronic means:

(A) a summons and complaint under Bankruptcy Rule 7004;

(B) a motion or other document initiating a contested matter under Bankruptcy Rule 9014; or

(C) any other document that the Local Bankruptcy Rules require be served under Bankruptcy Rule 7004; and

(2) The following parties must be served by non-electronic means:

(A) a non-participant;

(B) a state or federal governmental office or agency, other than the United States trustee; or

(C) an insured depository institution under Bankruptcy Rule 7004(h).

(d) Service by electronic means.

(1) Except for service of the documents in subdivision (c)(1), a participant consents to service by electronic means and waives the right to service by non-electronic means.

(2) Service on a debtor's attorney must be made under Bankruptcy Rule 7004(g).

(3) The court's issuance of a Notice of Electronic Filing constitutes service on a participant under Federal Rule 5(b)(2)(E).

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 5007-1. Requesting a Recording

A party may request that an audio file of a court proceeding be placed on the docket.

2015 Comment

This Rule is new. The request must be made to the judge's Electronic Court Recording Operator before the matter is heard. Due to current technical constraints, the court cannot provide an audio file when the request is made after the conclusion of the matter.

D.N.J. LBR 5011-1. Withdrawal of Reference

(a) Filing of motion. A party seeking withdrawal of the reference of a case or proceeding must file a motion with the clerk of the bankruptcy court.

(b) Service of motion. A motion to withdraw the reference of a case must be served on all creditors and parties in interest. A motion to withdraw the reference of a proceeding must be served on all parties.

(c) Transmittal to the district court. The clerk of the bankruptcy court will transmit the motion to the district court. All papers filed after the initial motion must be filed with the clerk of the district court.

2015 Comment

This Rule was amended to add service requirements.

D.N.J. LBR 5071-1. Adjournment

(a) Procedure.

(1) A party seeking an adjournment in advance of a scheduled hearing in a chapter 7 or 11 case must submit Local Form *Adjournment Request* to the chambers's email address.

(2) A party seeking an adjournment in advance of a scheduled hearing in a chapter 13 case must submit Local Form *Adjournment Request for Chapter 13* to the chapter 13 trustee.

(b) Timing. An adjournment request must be made not later than 3 days before the hearing date.

(c) Peremptory date. If cause exists for the court to grant an adjournment requested less than 3 days before the hearing, the resulting date will be a peremptory hearing date, with no further adjournment of that hearing permitted.

2015 Comment

This Rule now requires the use of Local Form *Adjournment Request* or *Adjournment Request for Chapter 13* for all adjournment requests made before the scheduled hearing date. This Rule does not prevent a party from appearing at a hearing to request an adjournment.

If the final day of the 3 day period under subdivision (b) falls on a weekend or federal holiday, the request should be made on the preceding day on which the court is open.

The court is instituting the peremptory hearing date procedure in subdivision (c) to strongly encourage parties to request an adjournment at least 3 days before the scheduled hearing.

This procedure does not apply to adjournments of the meeting of creditors under § 341(a) of the Code.

D.N.J. LBR 6004-1. Motion to Sell Property

(a) General requirements. A motion to sell property under § 363 of the Code must include:

(1) a copy of the proposed sale agreement, or a form of agreement substantially similar to the form that will be executed in connection with the proposed sale;

(2) a copy of the proposed order approving the sale;

(3) the material terms of the proposed sale, including:

(A) a description of the property to be sold;

(B) the date, time, and place of sale;

(C) the purchase price;

(D) a condition of the sale;

(E) a deadline for the approval or closing of the sale;

(F) a deposit requirement and the conditions under which the deposit may be forfeited;

(G) a request for a tax determination under § 1146(b) of the Code;

(H) an identification of the entity that will retain or have access to the debtor's books and records, if the proposed sale is of substantially all of the debtor's assets;

(I) an identification of any executory contract or unexpired lease to be assumed and assigned under § 365 of the Code;

(J) a provision regarding credit bidding under § 363(k) of the Code; and

(K) a broker or sales agent's anticipated fee or commission; and

(4) a request for the appointment of a consumer privacy ombudsman under § 332 of the Code, if applicable.

(b) Special provisions. The motion must identify the location of any of the following provisions in the sale agreement and proposed order:

(1) identification of any insider to which property is being sold; description of the insider's relationship to the debtor; and description of any measures taken to ensure the fairness of the sale process and the proposed transaction;

(2) description of the material terms of any agreement with management or key employees regarding compensation or future employment; statement as to whether the terms comply with § 503(c) of the Code; and a description of the measures taken to ensure the fairness of the sale and the agreement;

(3) a waiver, release, or satisfaction of any claim;

(4) an agreement to limit marketing of the property or to not solicit competing offers;

(5) an interim agreement with the proposed purchaser;

(6) a release of sale proceeds on or after the closing, or allocation of sale proceeds between or among sellers, without further court order;

(7) a sale or limitation of the right to pursue avoidance claims under chapter 5 of the Code;

(8) a limitation of the proposed purchaser's successor liability;

(9) a provision to sell property free and clear of a leasehold interest, license, or other right; and

(10) a provision to waive the stay of an order imposed by Bankruptcy Rule 6004(h) or 6006(d).

(c) Notice of sale. Except where the motion is heard on shortened time, a motion to sell property must be accompanied by Local Form *Notice of Proposed Private Sale* or *Notice of Proposed Public Sale*.

2015 Comment

This Rule now incorporates a portion of the Guidelines for Sale of Estate Property in Chapter 11 cases, which were formerly in the Appendix to the Rule.

Local Bankruptcy Rule 6004-2 addresses bidding and auction procedures.

Subdivision (c) provides the procedure for a party seeking approval of a proposed sale to supply information to the court to satisfy the clerk's responsibility to send notice under Bankruptcy Rule 2002(a)(2).

2016 Comment

This rule is amended to clarify that Local Form *Notice of Proposed Private* or *Public Sale* need not be filed with a motion to sell property when the motion will be heard on shortened time. The motion should be served as directed by the Order Shortening Time.

D.N.J. LBR 6004-2. Bidding and Auction Procedures for Sale of Property

(a) Motion. An entity requesting approval of bidding and auction procedures for a sale of property under § 363 of the Code must file a motion. The entity may include the request in a motion to sell property under Local Bankruptcy Rule 6004-1 or file a separate motion.

(b) Material provisions. The motion must identify the following material provisions:

(1) a provision governing a bidder's qualifications, including an obligation to:

(A) deliver financial information by a stated deadline to the movant and other key parties;

(B) demonstrate a bidder's financial ability to consummate a sale;

(C) maintain the confidentiality of information obtained from the debtor or other parties or execute a non-disclosure agreement; or

(D) make a non-binding expression of interest or execute a binding agreement.

(2) a provision governing a bid's qualifications, including:

(A) a requirement regarding a deposit, including the amount and the conditions under which the deposit may be refundable;

(B) a deadline for submitting a bid or for modifying a bid not deemed a qualifying bid; or

(C) a requirement regarding the form of a bid, including whether:

(i) a bidder must mark its bid against a stalking horse agreement or a template of the movant's preferred sale terms;

(ii) a bidder may bid for a portion of the assets; or

(iii) a bidder must leave its bid open for a specified period.

(3) a proposed form of stalking horse bidder protection, including:

(A) the amount of an initial overbid and any successive bidding increments;

(B) a no-shop, no-solicitation, or other limitation on the movant's ability or right to solicit higher or better offers;

(C) an agreement to seek an order authorizing break-up or topping fees and reimbursement of expenses, and the terms and conditions of payment; or

(D) a requirement that the stalking horse bidder receive a bidding credit equal to the amount of the break-up fee, topping fee, or reimbursement of expenses, or a requirement that the stalking horse bidder, upon submitting a higher or better bid, is deemed to have waived the break-up fee, topping fee, or reimbursement of expenses.

(4) a provision that would authorize the movant to modify any bidding or auction procedures without court order.

(5) a provision that would authorize the movant to accept and close on an alternative qualified bid if the successful bidder fails to close the transaction.

(c) Order. A proposed order approving bidding and auction procedures must provide:

(1) the date, time, and place at which the auction will be conducted, and the method for providing notice to parties of these terms and any changes;

(2) that each participating bidder will be required to confirm that it has not engaged in any bad faith or collusion with respect to the bidding or the sale;

(3) that the auction will be conducted openly and that all parties in interest will be permitted to attend;

(4) that bidding at the auction will be documented, recorded, or videotaped; and

(5) the date on which the court will consider whether to confirm the results of the auction and whether to approve the sale.

2015 Comment

This Rule was formerly part of the Appendix to Local Bankruptcy Rule 6004-1(c), which contained the Guidelines for Sale of Estate Property in chapter 11 cases. The Rule addresses only requests for approval of bidding and auction procedures for a sale of property. The information and disclosures that must be included in a motion to sell property are now addressed in revised Local Bankruptcy Rule 6004-1.

D.N.J. LBR 6004-3. Public Auction

(a) Advertisement. Any advertisement regarding a public auction of property under § 363 of the Code must specify all terms and conditions of the auction.

(b) Announcement of terms. The terms and conditions of the auction must be announced before the start of the auction.

(c) Alternative bidder. If the highest bidder fails to pay the balance of the bid price, the sale may proceed with the next highest bidder.

(d) Report. An auctioneer report must be filed not later than 14 days after the conclusion of bidding.

2015 Comment

This Rule was formerly Local Bankruptcy Rule 6005-1. The Rule now permits conclusion of the sale to the next highest bidder from the public auction if the highest bidder defaults. Also, the deadline for filing an auctioneer report formerly in Local Bankruptcy Rule 2014-1 has been shortened to 14 days after the auction.

The portion of the former Local Bankruptcy Rule 6004-1(a), which required the trustee, debtor, or authorized representative to attend the auction, has been deleted because that fiduciary duty arises independent of the Rule.

D.N.J. LBR 6004-4. Liquidator

(a) Motion. A motion to sell property under § 363 of the Code by use of a liquidator must include:

(1) the information required of an auctioneer under Local Bankruptcy Rule 2014-2;

(2) a description of any state and local laws and regulations applicable to the sale and the liquidator's proposal for compliance;

(3) a description of the effect of the sale on any leasehold agreement; and

(4) a description of all applicable agreements between and among the liquidator and any affiliate, the debtor, the trustee, and others, including agreements that provide for the following:

(A) financing;

(B) acquisition of an interest in estate property; or

(C) indemnification or release of claims.

(b) Report. The liquidator must file a report not later than 14 days after the conclusion of the sale.

2015 Comment

This Rule is derived from former Local Bankruptcy Rule 2014-1(d). It imposes the disclosure and reporting requirements for auctioneers on liquidators.

D.N.J. LBR 6004-5. Payment of a Professional Person for Services Relating to Use, Sale, or Lease of Property

(a) A motion for the use, sale, or lease of property may include a request to pay a commission or fee at closing to a professional person retained to provide services relating to the use, sale, or lease. The motion, Local Form *Notice of Proposed Private Sale*, and proposed order must: (i) identify the professional; (ii) describe the services rendered; and (iii) state the amount to be paid.

(b) A movant seeking shortened time for notice and hearing with respect to a motion for the use, sale, or lease of property which includes a request to pay commission or fee to a professional person at closing under paragraph (a), must set forth in Local Form *Application for Order Shortening Time*, cause for shortened time for notice and hearing concerning the request for payment.

2015 Comment

This Rule was formerly Local Bankruptcy Rule 6004-1(b).

The Rule was expanded to permit, under any chapter, the payment at closing of the commission or fees of a retained professional person under the conditions provided.

2017 Comment

This Rule is amended to clarify that when a movant seeks to shorten the time for notice and hearing concerning a motion for use, sale or lease of property, and the motion includes a request for payment of professional fees at closing, the movant must in the Application to Shorten Time, set forth the reason why the professional person should be compensated on shortened notice.

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

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

2015 Comment

The changes to this Rule are stylistic.

D.N.J. LBR 7003-1. Commencement of Adversary Proceeding

A complaint filed by non-electronic means must be accompanied by a completed adversary proceeding cover sheet. A complaint filed electronically does not require a cover sheet.

2015 Comment

This Rule incorporates former Local Bankruptcy Rule 7001-1, which has been deleted.

The adversary proceeding cover sheet should conform to Director's Form 1040.

2016 Comment

The 2015 Comment to this Rule is amended to reference the change in numbering of the national Director's Form to 1040 *Adversary Proceeding Cover Sheet*.

D.N.J. LBR 7007-1. Affidavits, Declarations and Certifications

Affidavits, declarations, certifications and other documents of the type referenced in 28 U.S.C. § 1746 must contain only statements of fact within the personal knowledge of the signatory. Argument of the facts and the law must not be contained in such documents.

2017 Comment

This Rule is new. It requires that certified submissions to the Court contain only facts, and that the party signing the document have personal knowledge of those facts. To the extent any adversary proceeding, motion under Local Bankruptcy Rule 9013-1 or other paper seeks relief based on factual matters, compliance with this Rule is required.

D.N.J. LBR 7015-1. Amended Pleading

(a) Proposed amended pleading. A party seeking leave to file an amended pleading must attach to the motion (i) a copy of the proposed amended pleading; and (ii) a redlined or similar document marked with the changes to the original pleading.

(b) Filing and service. If leave is granted, the movant must file and serve the amended pleading.

(c) Timing. A motion to amend pleadings must be filed no later than 30 days after the close of fact discovery.

2015 Comment

This Rule is new. It is derived from Local Civil Rule 7.1(f). Subdivision (a)(ii) imposes the additional requirement that the movant include a document comparing the proposed amended pleading to the original.

2017 Comment

Subsection (c) has been added to provide a deadline for filing motions to amend pleadings, consistent with Federal Rule of Civil Procedure 16(b)(3)(A).

D.N.J. LBR 7016-1. Pretrial Procedure

(a) Duty to confer. The parties must confer on the dates to be included in Local Form *Joint Order Scheduling Pretrial Proceedings and Trial*. Based on those dates, the court will set a trial date.

(b) Appearance at pretrial conference. If the parties agree on dates and submit Local Form *Joint Order Scheduling Pretrial Proceedings and Trial* and, when required under Local Bankruptcy Rule 9019-2(a)(4), Local Form *Mediation Order* not later than 3 days before the scheduled pretrial conference, they do not need to appear at the pretrial conference.

(c) Initial disclosures. The parties must exchange the initial disclosures required by Federal Rule 26(a)(1)(A) not later than 7 days before the scheduled pretrial conference. Any modification of the Federal Rule 26 disclosure requirements must be included in the *Joint Order Scheduling Pretrial Proceedings and Trial*.

(d) Additional terms. By agreement, the parties may add terms to the joint order, including: (i) the scope of discovery; (ii) protocol concerning preservation, storage, and production of discoverable information, including electronically stored information; or

(e) Consent to Adjudication. By default, the parties are deemed to have consented to the Bankruptcy Court's adjudication and entry of final judgment on all claims and defenses raised in the proceeding. To the extent any party does not so consent, that party must comply with Federal Rules of Bankruptcy Procedure 7008 and 7012, as well as file a motion within the later of 30 days following either: (i) the of entry of the initial *Joint Order Scheduling Pretrial Proceedings and Trial* or (ii) the filing of a responsive pleading, seeking a determination as to whether the bankruptcy court may adjudicate to final judgment any or all claims and defenses.

2015 Comment

This Rule is new. It codifies the existing practice of allowing parties to confer and submit a consensual proposed *Joint Order Scheduling Pretrial Proceedings and Trial* in lieu of appearance at a pretrial conference.

The date for the pretrial conference is set in the summons issued by the clerk when the adversary proceeding is initiated.

Subdivision (c) modifies the deadline in Federal Rule 26(a)(1)(C) for the exchange of initial disclosures to reflect the timing of events in an adversary proceeding.

Local Bankruptcy Rule 9019-2 addresses mediation procedures.

2017 Comment

This Rule was amended to delete a provision which allowed for permissive addition of deadlines for joining parties and amending pleading to the joint order, because Federal Rule of Civil Procedure 16(b)(3)(A) provides that inclusion of those terms is mandatory.

This Rule was further amended as a result of changes to Bankruptcy Rules 7008 and 7012; specifically, the removal of the requirement that the pleader state whether the proceeding is core or non-core. Subdivision (e) was added to reflect the court's adoption of a presumption of consent to adjudication in the bankruptcy court.

D.N.J. LBR 7026-1. Discovery Subject to a Claim of Privilege

When a party asserts a claim of privilege in response or objection to a discovery request, the party must identify the nature of the privilege claimed and indicate whether with respect to the privilege (i) any document exists, or (ii) any oral communication occurred.

2015 Comment

This Rule has been amended to delete the reference to Local Civil Rules 26.1 and 37.1.

Local Bankruptcy Rule 7016-1(c) addresses initial disclosures under Federal Rule 26(a)(1)(A).

Local Bankruptcy Rule 7037-1 addresses a motion for an order compelling disclosure or discovery.

D.N.J. LBR 7033-1. Interrogatories

(a) Format. A blank space, reasonably calculated to enable the answering party to insert the answer, must appear after each separate question or request. Each question must be answered separately in the space allowed. If the space allowed is insufficient, the answering party may insert an additional page or retype the question followed by the answer.

(b) Signature. If the person who signs the answers to interrogatories does not have personal knowledge of an answer, the person must identify the individual from whom the information was obtained or, if the source of the information is documentary, provide a full description of the document, including its location.

2015 Comment

This Rule is new. It is derived from Local Civil Rule 33.1. Subdivision (c) of Local Civil Rule 33.1 is now incorporated in Local Bankruptcy Rule 7026-1.

The answering party may request that interrogatories be provided in an electronically fillable format.

D.N.J. LBR 7036-1. Requests for Admission

A blank space, reasonably calculated to enable the answering party to insert the answer, must appear after each separate request for admission. Each request must be answered separately in the space allowed. If the space allowed is insufficient, the answering party may insert an additional page or retype the request followed by the answer.

2015 Comment

This Rule is new. It is derived from Local Civil Rule 36.1. Subdivision (c) of Local Civil Rule 36.1 is now incorporated in Local Bankruptcy Rule 7026-1.

The answering party may request that requests for admission be provided in an electronically fillable format.

D.N.J. LBR 7037-1. Motion for an Order Compelling Disclosure or Discovery

(a) Certification. The certification required under Bankruptcy Rule 7037 must identify the date and means by which the movant conferred or attempted to confer with the person or party failing to make disclosure or provide discovery.

(b) Supporting evidence. The certification in support of a motion for an order compelling disclosure or discovery must include as an exhibit a copy of the pertinent portion of the deposition, interrogatory, request for admission, response, or any other document on which the motion is based.

2015 Comment

This Rule is new. It is derived from Local Civil Rule 37.1.

D.N.J. LBR 7055-1. Default; Default Judgment

(a) Entering a Default. A party requesting entry of default must file:

(1) a request for entry of default;

(2) a certification stating that:

(A) the party against whom default is sought was properly served with the summons and complaint;

(B) the party has failed to plead or otherwise defend within the allowed time; and

(C) the party has not requested or the party has not been granted an extension of time to plead or otherwise defend; and

(3) Local Form *Entry of Default*.

(b) Entering a Default Judgment under Federal Rule 55(b)(1). A party requesting entry of default judgment under Federal Rule 55(b)(1) must file:

(1) a request for entry of default judgment;

(2) a certification that includes:

(A) a statement regarding the defendant's military status in compliance with 50 App. U.S.C. § 521; and

(B) a statement that the defendant is not a minor or incompetent person, unless represented by a fiduciary who has appeared; and

(3) Local Form *Default Judgment for a Sum Certain*.

(c) Entering a Default Judgment under Federal Rule 55(b)(2). A party applying for entry of default judgment under Federal Rule 55(b)(2) must file:

(1) a request for entry of default judgment;

(2) a certification that includes:

(A) facts supporting at least one cause of action asserted in the party's pleading;

(B) a statement regarding the defendant's military status in compliance with 50 App. U.S.C. § 521; and

(C) a statement that the defendant is not a minor or incompetent person, unless represented by a fiduciary who has appeared;

(3) any documentary evidence;

(4) a memorandum of law or a statement why no memorandum of law is necessary; and

(5) a proposed judgment.

(d) Proof Hearing. The court will schedule a proof hearing if necessary.

2015 Comment

This Rule has been amended to clarify that a party seeking entry of default or default judgment need file only a request, not a motion.

D.N.J. LBR 7056-1. Summary Judgment; Statement of Material Facts Not in Dispute

(a) Statement of Material Facts Not in Dispute. A motion for summary judgment must include a statement which sets forth material facts as to which there does not exist a genuine issue, in separately numbered paragraphs citing to the affidavits and other documents submitted in support of the motion. A motion for summary judgment unaccompanied by a statement of material facts not in dispute may be dismissed. The opponent of summary judgment must file, with its opposition papers, a responsive statement of material facts, addressing each paragraph of the movant's statement, indicating agreement or disagreement and, if not agreed, stating each material fact in dispute and citing to the affidavits and other documents submitted in connection with the motion; any material fact not disputed will be deemed undisputed for purposes of the summary judgment motion. In addition, the opponent may also file a supplemental statement of disputed material facts, in separately numbered paragraphs citing to the affidavits and other documents submitted in connection with the motion, if necessary to substantiate the factual basis for opposition. The movant must respond to any supplemental statement of disputed material facts, with its reply papers.

(b) Format. Each statement of material facts may be included in a party's brief as part of the Statement of Facts with the separate numbering required by this Rule and may not contain legal arguments or conclusions of law.

2017 Comment

This Rule is new. Subdivision (a) is derived from Local Civil Rule 56.1. Subdivision (b) permits the required Statement of Material Facts Not in Dispute to be included in a party's brief as part of the Statement of Facts with the separate numbering required by this Rule, thereby eliminating the need for the filing of a separate document.

D.N.J. LBR 7058-1. Entering Judgment in Adversary Proceeding

(a) Order template. A party submitting a proposed judgment must use Local Form *Order Template – Adversary*.

(b) Title. The title of a proposed judgment must identify the relief sought.

(c) Revised proposed judgment. If the court's ruling differs from a proposed judgment, the prevailing party must not later than 7 days after the court's ruling submit to the chambers's email address and serve on all interested parties a revised proposed judgment reflecting the court's ruling. The email must identify the parties served and the manner of service.

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

2015 Comment

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

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

Local Bankruptcy Rule 9013-4 addresses proposed orders.

Local Bankruptcy Rule 9021-1 addresses consent orders.

D.N.J. LBR 7065-1. Order to Show Cause

A party applying for an order requiring an adverse party to show cause why a preliminary injunction or temporary restraining order should not issue must file a verified complaint or verified counterclaim. An order to show cause will not be granted except on a showing by certification or verified pleading of sufficient reasons why emergent relief is necessary.

2015 Comment

This Rule is new. It is derived from Local Civil Rule 65.1.

Former Local Bankruptcy Rule 9075-1, which addressed emergency orders, has been deleted. Use of an order to show cause is limited to an adversary proceeding in which immediate injunctive relief is requested.

An order to show cause served at the beginning of the action is not a substitute for a summons under Bankruptcy Rule 7004.

Local Bankruptcy Rule 9013-2(c) addresses an application for an order shortening time on a motion.

D.N.J. LBR 7067-1. Registry Fund

(a) Eligible funds. Registry funds maintained under 28 U.S.C. § 2041 may include:

(1) unclaimed distributions in chapter 7, 12, or 13 cases remaining unpaid 90 days after the distribution deposited under Local Bankruptcy Rule 3011-1; and

(2) funds held in escrow by court order pending resolution of a dispute.

(b) Deposit of funds.

(1) No funds may be sent to the court for deposit in the court's registry without a court order.

(2) The party depositing or transferring funds to the court's registry must serve on the clerk the order permitting the deposit.

2015 Comment

This Rule is amended to avoid unnecessary repetition of the court's *Amended Order Regarding Deposit and Investment of Registry Fund*.

Subdivision (b)(1) does not apply to unclaimed distributions deposited by a trustee under § 347(a) of the Code. Local Bankruptcy Rule 3011-1 addresses unclaimed distributions.

D.N.J. LBR 9001-1. Definitions

The following words and phrases used in these Local Bankruptcy Rules have the meanings indicated:

"Bankruptcy Rules" means the Federal Rules of Bankruptcy Procedure.

"Chambers's email address" means the email address for the office of the judge before whom a case or proceeding is pending. The email address for each judge's chambers is available on the court's website.

"Court" means the United States Bankruptcy Court for the District of New Jersey.

"District Court" means the United States District Court for the District of New Jersey.

"Federal Rule" means the Federal Rules of Civil Procedure.

"Local Civil Rules" means the Local Civil Rules of the United States District Court for the District of New Jersey.

"Local Form" means a form prescribed by the court. All local forms are available on the court's website.

2015 Comment

This Rule is new.

D.N.J. LBR 9004-1. General Requirements of Form

(a) Attorney; party represented. All documents must contain in the top left corner of the first page the following information:

(1) the name, address, telephone number, and email address of the attorney of record for the filing party; and

(2) the name of the party represented, or if a party is self–represented, the name, address, telephone number, and email address of the self-represented party.

(b) Caption. A document requiring a caption must include the chapter of the case, initials of the judge, and applicable hearing date.

2015 Comment

This Rule was formerly Local Bankruptcy Rule 9004-2.

D.N.J. LBR 9009-1. Forms

Use of the Local Forms included in these Rules is required.

2015 Comment

This Rule is new. Forms can be found on the court's website.

D.N.J. LBR 9010-1. Admission of Attorney to Practice

(a) Scope of admission. The bar of this court consists of attorneys admitted to practice before the United States District Court for the District of New Jersey. An attorney of this bar is within the disciplinary jurisdiction of the District Court and is bound by the Rules of Professional Conduct.

(b) Admission *pro hac vice*

(1) Local counsel must file on behalf of an attorney seeking admission *pro hac vice* an application and Local Form *Order for Admission Pro Hac Vice* on notice to the debtor, any official committee, and the United States trustee, and make the payments required by the *Order for Admission Pro Hac Vice*.

(2) The application must include a certified statement from the attorney seeking admission that discloses:

(A) each bar in which the attorney seeking admission is a member in good standing, and the year of admission;

(B) whether a disciplinary proceeding is pending against the attorney seeking admission, and if so, the jurisdiction, the nature of the alleged violation, and the likely date of disposition; and

(C) whether discipline has been imposed against the attorney seeking admission during the five year period preceding the application, and if so, the date, the jurisdiction, the nature of the violation, and the penalty imposed.

(3) Local counsel must file Local Form *Notice of Appearance*.

(4) Only local counsel, and not the attorney admitted *pro hac vice*, may file papers, enter appearances, and receive notices and service of papers.

(5) An attorney admitted *pro hac vice* must promptly advise the court of the disposition of a pending disciplinary proceeding or the institution of a new disciplinary proceeding against the attorney.

(6) An attorney admitted *pro hac vice* is within the disciplinary jurisdiction of the District Court and is bound by the Rules of Professional Conduct.

2015 Comment

This Rule is derived in part from Local Civil Rule 101.1(c). The Rule allows admission by application rather than motion, and allows good standing to be established by attorney certification rather than a certificate of good standing.

An attorney of this bar, including one admitted *pro hac vice*, is bound by Local Civil Rule 103.1(a) regarding the Rules of Professional Conduct and Local Civil Rule 104.1 regarding discipline of attorneys.

D.N.J. LBR 9010-2. Substitution or Withdrawal of Appearance

(a) Substitution of attorney. An attorney seeking to substitute for another attorney must file Local Form *Notice of Substitution of Attorney*. Both attorneys must sign the form.

(b) Withdrawal of appearance. Unless another attorney is substituted, an attorney may not withdraw an appearance except by permission of court.

2015 Comment

This Rule is new.

Subdivision (b) is derived from Local Civil Rule 102.1.

A separate *Notice of Substitution of Attorney* must be filed in each case and adversary proceeding in which a substitution has occurred. A motion is required to substitute an attorney for a self-represented litigant.

2016 Comment

The final sentence of the 2015 Comment to this Rule means that an attorney who has already entered an appearance in a case may not withdraw his appearance by filing a *Notice of Substitution of Attorney* that substitutes in a self-represented litigant. Subdivision (b) requires a motion to be relieved as counsel. A motion is not required for an attorney entering a case on behalf of a previously self-represented litigant, that may be done by filing a *Notice of Appearance*.

This Rule is not intended to address employment of professional persons under 11 U.S.C. § 327.

D.N.J. LBR 9013-1. Motions: Form

a) Required documents. A motion or cross-motion must consist of the following documents:

(1) a notice of motion stating the date, time, and place of the hearing;

(2) a certification containing the facts supporting the relief requested in compliance with Local Bankruptcy Rule 7007-1;

(3) a memorandum of law stating the legal basis for the relief requested, or a statement why a memorandum of law is unnecessary;

(4) a proposed order; and

(5) Local Form *Certification of Service*.

(b) Waiver of 14 day stay. A request for a waiver of the stay imposed by Bankruptcy Rules 4001(a)(3), 6004(h), or 6006(d) must appear in the notice of motion.

2015 Comment

Subdivision (a) has been amended to specify the documents required for a motion. Each item specified in subdivisions (a)(1) – (5) must be a separate document. A motion or cross-motion must be served by non-electronic means under Local Bankruptcy Rule 5005-1(c)(1)(B).

Former Local Bankruptcy Rules 9013-2 and 9013-3 have been incorporated into this Rule.

The proposed order must comply with Local Bankruptcy Rules 9009-1 and 9013-4.

Certain former subdivisions of this Rule have been incorporated in Local Bankruptcy Rules 9013-2 through 9013-4.

2017 Comment

This Rule is amended to cross reference Local Bankruptcy Rule 7007-1.

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

(a) Filing and service.

(1) 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. 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*.

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 9013-3. Motions: Hearing

(a) Duty to confer on opposed motion. If opposition to a motion is filed, the parties must confer before the hearing to determine whether the issue can be resolved.

(b) Duty to report settlement or withdrawal of motion. If the parties settle a motion, or the movant withdraws a motion, the movant must immediately notify chambers and file Local Form *Status Change Form*.

(c) Telephonic appearance. Each judge's policy regarding appearance by telephone is available on the court's website.

(d) Oral argument. All motions will be decided on the papers unless opposition is filed. The court will permit oral argument from only the movant or a party that has filed opposition to a motion.

(e) Oral testimony. A party may not, without prior court authorization, present oral testimony at a hearing on a motion, except for a motion under § 363(b), (c), (f), or § 364 of the Code.

2015 Comment

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

An appearance is permitted, but not required, on an unopposed motion. On an opposed motion, a party may choose not to appear and rely on its papers, but the party must inform chambers.

Except as provided in subdivision (e), and consistent with Local Bankruptcy Rule 9013-1(a)(2), factual evidence in support of a motion must be presented through the certification of a person with personal knowledge.

Local Bankruptcy Rule 9021-1 addresses consent orders.

Local Bankruptcy Rule 5071-1 addresses a request for an adjournment.

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) Revised proposed order. If the court's ruling differs from a proposed order, the prevailing party must not later than 7 days after the court's ruling submit to the chambers's email address and serve on all interested parties a revised order reflecting the court's ruling. The email must identify the parties served and the manner of service.

(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.

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 the entry of the revised order.

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

Local Bankruptcy Rule 9021-1 addresses consent orders.

This Local Rule has been amended pending the Court's 2018 Local Rule Making Cycle. See: General Order Pending Amendment of D.N.J. LBR 9013-4. Motions: Proposed Order

D.N.J. LBR 9013-5. Motions: First Day Matters in a Chapter 11 Case

(a) Required forms. A chapter 11 debtor requesting expedited hearing of a motion or application filed at the beginning of a case must file with the motion or application the following documents:

(1) Local Form *Application for Expedited Consideration of First Day Matters*; and

(2) Local Form *Order Regarding Application for Expedited Consideration of First Day Matters*.

(b) Notice to court. The debtor must, immediately after filing the documents in subdivision (a), notify the court through the chambers's email address that the debtor has filed an *Application for Expedited Consideration*.

(c) Notice to parties. The debtor must, immediately after filing the documents in subdivision (a), and in no event less than 24 hours before the hearing date, send by email, fax, hand delivery, or overnight mail copies of the documents in subdivision (a) and copies of the motions or applications to the following parties:

(1) any secured creditors;

(2) the creditors that hold the 20 largest unsecured claims;

(3) the United States trustee; and

(4) any other necessary parties.

(d) Opposition. Any opposition to relief sought under this Rule may be made at the hearing.

(e) Proposed order. A proposed order under this Rule, other than an order under § 363 of the Code approving the use of cash collateral or an order under § 364 of the Code approving post-petition financing, must provide that any party may move for modification of the order.

(f) Service of order. If the court grants relief under this Rule, the debtor must, not later than 48 hours after entry of the order and in the manner directed by the court, serve the order on the parties in subdivision (c) and any other party identified by the court.

2015 Comment

This Rule is new. It is derived from Appendix A to former Local Bankruptcy Rule 6003-1. These "first day" procedures should be used only at the beginning of a chapter 11 case for a motion or application for which expedited consideration is necessary to preserve an estate asset or maintain an ongoing business operation.

Subdivision (c) does not relieve a debtor of the service requirements in Bankruptcy Rule 9014 as stated in Local Bankruptcy Rule 5005-1(c).

D.N.J. LBR 9016-1. Subpoena

(a) Date for compliance. A subpoena issued under Bankruptcy Rule 9016, other than a subpoena to testify at a hearing or trial, must set the date for compliance not earlier than 14 days after service of the subpoena.

(b) Effect of motion to quash or modify. A motion to quash or modify a subpoena filed before the date set for compliance stays the subpoena until the court rules on the motion.

2015 Comment

This Rule is new.

The production, inspection, or deposition must take place at the location set by the issuer of the subpoena if the location is within the geographical limits specified in Federal Rule 45(c).

Local Bankruptcy Rule 2004-1 addresses subpoenas issued under Bankruptcy Rule 2004.

D.N.J. LBR 9018-1. Motion to File a Document Under Seal

A party seeking to file a document under seal must file a motion consistent with the procedures in the court's *CM/ECF User's Guide*. The motion must include Local Form *Order Concerning Request to Seal Documents*.

2015 Comment

This Rule is new. A self-represented party should contact the clerk's office for guidance.

If the court grants the motion, the document will be kept under seal until the case or adversary proceeding is closed, at which time the clerk will follow the procedures for the treatment of sealed documents under the judiciary's record retention policy.

If the court denies the motion, the clerk will delete the proposed sealed document.

D.N.J. LBR 9019-1. Mediation: Mediator Qualifications and Compensation

(a) Register of mediators. The clerk must maintain a register of persons designated by the court to serve as mediators in the mediation program.

(b) Mediation program administrator. The chief bankruptcy judge will appoint a judge of this court to serve as the administrator of the program. The administrator will receive applications for designation to the register of mediators, maintain the register, track and compile reports on the program, and otherwise administer the program.

(c) Qualifications and training of mediators.

(1) An applicant to the mediation program must:

(A) have at least 10 years of professional experience in their field of expertise;

(B) certify that they are in good professional standing in their field of expertise;

(C) for applicants who have little or no mediation experience, participate in a mediation training program, either provided or approved by the court, and with the following components:

(i) a mediation skills course for a minimum of 20 hours, followed by

(ii) an advanced mediation skills course for a minimum of 20 hours; and

(iii) for a new mediator, observe mediations conducted by an experienced mediator, or conduct a mediation observed by an experienced mediator;

(D) for applicants who have extensive mediation experience, defined as having conducted a minimum of 100 mediations, but who have little or no experience in the bankruptcy field, participate in a training program covering basic bankruptcy principles;

(E) complete a minimum of 4 hours a year of continuing mediation training; and

(F) agree to accept at least one *pro bono* mediation appointment per year.

(2) An applicant may seek a waiver of the training or mediation experience requirements from the program administrator where an acceptable substitute for the required training or mediation experience is provided.

(d) Application. Each applicant must submit to the administrator a statement of professional qualifications, experience, training, and other information demonstrating the mediator's qualifications.

(e) Court certification. The court in its sole and absolute discretion may grant or deny an application submitted under this Rule. If the court grants the application, the applicant's name will be added to the register for a three-year term, subject to removal either voluntarily or for cause, as the court may determine. At the expiration of the term, the mediator may apply to renew the appointment for another three-year term, which the court, in its sole and absolute discretion, may grant or deny.

(f) Compensation. A mediator must be compensated at a reasonable hourly rate, as agreed to in writing by the parties prior to commencement of the mediation, and may be reimbursed for expenses, as agreed to by the parties. The register will include each mediator's customary hourly rate for mediation services. Court approval of a mediator's fees and expenses is not required. A party in interest objecting to compensation of a mediator must file an objection and request for hearing on notice to the mediator and parties to the mediation.

(g) Expenses. The parties must share equally in the fees and expenses of the mediation, unless otherwise agreed or ordered by the court.

(h) *Pro bono* mediator. If, before the mediation commences, the court determines that a party to a matter assigned to mediation cannot afford to pay the fees and expenses of the mediator, the court may appoint a mediator willing to serve *pro bono* as to that party.

2015 Comment

This Rule is new. It supersedes the court's General Order Adopting Mediation Procedures dated November 20, 2013.

2016 Comment

This Rule has been amended to eliminate the requirement of filing a fee application even if part of the fees and expenses sought are from the bankruptcy estate.

D.N.J. LBR 9019-2. Mediation: Procedures

(a) Referral to mediation.

(1) Every adversary proceeding will be referred to mediation after the filing of the initial answer to the adversary complaint, except as provided in subdivisions (a)(2) and (3). A contested matter under Bankruptcy Rule 9014 may also be referred to mediation either by joint request of the parties, or by the court at a status conference or hearing.

(2) An adversary proceeding will not be presumptively referred to mediation if:

(A) one or more parties is self-represented;

(B) a party seeks a temporary restraining order or preliminary injunction; or

(C) the action is initiated by the United States trustee.

An adversary proceeding identified in subdivisions (a)(2)(A), (B), or (C) may be referred to mediation only by the request of a party, on written notice to the other parties and the court, or by the court's own motion at a status conference or hearing.

(3) A party subject to presumptive mediation may file a motion requesting to be excused from mediation participation, or requesting a determination that the mediation should not proceed. If a party intends to raise an objection to mediation at the pretrial conference, then not later than 7 days before the pretrial conference the objector must notify the court and all parties to the adversary proceeding that an objection to mediation will be raised at the hearing.

(b) Selection of mediator.

(1) The parties must confer regarding the selection of a mediator. The parties may select, or the court may designate, an individual who is not on the court's register of mediators.

(2) When the parties agree to mediation they must submit to the chamber's e-mail Local Form *Mediation Order*. If the parties also agree on the selection of a mediator, the name of the chosen mediator must be included in the *Mediation Order*.

(3) If the court overrules a party's objection to mediation, the parties must submit a *Mediation Order* not later than 14 days after the pretrial conference.

(4) The plaintiff must immediately serve the mediator with the *Mediation Order*.

(c) Acceptance of appointment.

(1) Promptly after receiving the notification of appointment, the mediator must determine whether there is a basis for disqualification, or whether the mediator is unable to serve for any other reason. The determination should include a search for conflicts of interest in the

manner prescribed by the applicable Rules of Professional Conduct for attorneys, and by the applicable rules pertaining to the profession of the mediator.

(2) A party who believes that the mediator has a conflict of interest or other basis for disqualification must promptly advise the mediator, as applicable, and other parties. If the mediator does not withdraw, and the party is dissatisfied with the mediator's decision, the party can seek a determination of the issue from the court.

(d) Organizational conference. Upon entry of the Mediation Order, the parties must promptly contact the mediator to schedule an organizational telephone conference.

(e) Commencement of mediation. Mediation must commence not later than 60 days after the entry of the *Mediation Order*. Parties may seek an extension of time to conduct the mediation by consent order or by motion.

(f) Pretrial conference. The parties do not need to appear at the pretrial conference if, not later than 3 days before the first scheduled pretrial conference, they submit to the chamber's e-mail:

(1) Local Form *Mediation Order*; and

(2) Local Form *Joint Order Scheduling Pretrial Proceedings and Trial*.

(g) Effect of mediation on discovery. Unless otherwise ordered by the court, the assignment to mediation stays discovery, but does not stay the initial disclosures required under Federal Rule 26(a)(1). A party may file a motion requesting that discovery proceed during mediation or that Rule 26 disclosures be stayed.

(h) Mediation statement. The mediator will fix a date for the parties to submit to the mediator and serve on other parties a brief statement of facts, applicable law, and proposals for settlement. Mediation statements should not be filed with the court. The mediation statement should not exceed 15 pages. The mediation statement must contain:

(1) any legal or factual issues whose early resolution might reduce the scope of the dispute or contribute to settlement;

(2) the history of any prior settlement discussions, including disclosure of any previous or outstanding offers and demands; and

(3) an estimate of the cost and time to be expended for further discovery, pretrial motions, and trial. At the discretion of the parties, each party's mediation statement may be prepared and submitted to the mediator for review without service of the statement on other parties.

(i) Attendance. Unless excused by the mediator or the court on a showing of good cause or hardship, or if the mediator or the court determines that it is consistent with the goals of the mediation to excuse a particular person from attending, the following persons must attend the mediation session personally:

(1) each party that is a natural person;

(2) if a party, including a governmental entity, is not a natural person then a representative who is not the party's attorney of record and who either has full authority to negotiate and settle the matter on behalf of the party, or has authority to recommend a settlement and has prompt access to any board or governmental body whose approval is required to settle the matter;

(3) the attorney who has primary responsibility for a party's case; and

(4) other interested parties, such as insurers or indemnitors, whose presence is necessary or beneficial to reaching a full resolution of the matter.

(j) Failure to Attend. Willful failure to attend a mediation session may be reported to the court by the mediator or any other party, and may result in the court imposing sanctions.

(k) Confidentiality.

(1) Except as provided in subdivision (k)(2), unless the mediator and the participants agree otherwise in writing, or unless disclosure is permitted by this Rule or applicable law, a mediator, party, or other participant in the mediation may not disclose to an entity or person who was not a participant in the mediation any oral or written communication concerning the mediation, including any document, report or other writing presented or used solely in connection with the mediation.

(2) A mediator must disclose to a proper authority information obtained at a mediation session if required by law, or if the mediator or a party has a reasonable belief that the disclosure will prevent a participant from committing a criminal or illegal act likely to result in death or serious bodily harm.

(3) A mediator shall not testify in any judicial proceeding as to any statements, matters, occurrences or observations arising out of the mediation except by express written agreement of all parties to the mediation. This clause is not applicable to any litigation to enforce the terms of any written agreement reached by the parties in the course of the mediation wherein the meaning or content of such agreement is put in issue.

(4) No written record or transcript of any discussion had in the course of mediation is to be kept, absent express written agreement by the parties.

(l) Attorney conduct. A lawyer representing a client at a mediation session is subject to the Rules of Professional Conduct.

(m) Evidentiary privilege. A mediation communication, whether written or verbal, is not subject to discovery or admissible in evidence in any subsequent proceeding. A party may by independent evidence establish the substance of the mediation communication in the subsequent proceeding.

(n) Preservation of privileges. The disclosure by a party of privileged information to the mediator does not waive or otherwise adversely affect the privileged nature of the communication.

(o) Termination of mediation. The mediator has the right to terminate the mediation at any time, for any reason, by providing written notice to counsel for all parties.

(p) Procedure following mediation. The mediator must, not later than 7 days after the mediator determines that the mediation has concluded, submit to the court Local Form *Mediation Report*. If mediation occurred in an Adversary Proceeding, the mediator must indicate in the report if all outstanding issues have been resolved, and whether the case can be closed. A continuing failure to file a Mediation Report may result in removal from the Register of Mediators. If an agreement between the parties has been reached, the agreement must be set forth in a written document signed by all of the parties or their legal representatives. If the matter is not fully resolved, the parties should be guided by the dates in the *Joint Order Scheduling Pretrial Proceedings and Trial*. If a scheduling order was not entered, the parties should contact chambers.

2015 Comment

This Rule has been amended to reflect the court's adoption of a presumptive mediation program. The Rule supersedes the court's General Order Adopting Mediation Procedures dated November 20, 2013.

2016 Comment

This Rule has been amended to eliminate the requirement that the mediator file a statement accepting or declining appointment and to stress the importance of filing a Mediation Report.

D.N.J. LBR 9019-3. Compromise or Settlement of Controversy

A party seeking approval of a proposed compromise or settlement of a controversy, other than approval of an agreement under Bankruptcy Rule 4001(d), must file Local Form *Notice of Proposed Compromise or Settlement of Controversy*.

2015 Comment

This Rule is new. In addition to the motion required under Bankruptcy Rule 9019, it provides the procedure for a party seeking approval of a proposed compromise or settlement of controversy to supply information to the court to satisfy the clerk's responsibility to send notice under Bankruptcy Rule 2002(a)(3).

Local Bankruptcy Rule 6004-1 addresses the notice requirements under Bankruptcy Rule 2002(a)(2) for a motion to sell property.

D.N.J. LBR 9021-1. Consent Order

(a) Consent order resolving an adversary proceeding or contested matter. A proposed consent order resolving an adversary proceeding or contested matter must be submitted to the chambers's email address. The email must identify the parties served, their relationship to the proceeding or matter, and the manner of service. The email must include as an attachment a completed Local Form *Certification of Consent Regarding Consent Order*. The *Certification of Consent Regarding Consent Order* must be filed on the docket prior to submission of the consent order to chambers.

(b) Consent order in lieu of motion. A proposed consent order submitted in lieu of a motion may be presented by application. The application must include the facts and law supporting entry of the proposed consent order.

(c) Notice in a chapter 11 case. If a committee of unsecured creditors has not been appointed in a chapter 11 case, the court may enter a consent order in lieu of a motion without the written consent of the creditors holding the 20 largest unsecured claims, provided the application and proposed consent order were served on the creditors holding the 20 largest unsecured claims and on the United States trustee, and no objection was filed within 7 days of service of the application.

2015 Comment

This Rule is new. Subdivision (a) is derived from former Local Bankruptcy Rule 9072-1. Subdivisions (b) and (c) are derived from former subdivision (j) of Local Bankruptcy Rule 9013-1.

The proposed consent order is not to be filed on the docket.

D.N.J. LBR 9027-1. Removal

(a) Filing. A party seeking to remove a claim or cause of action from a state or federal court to the bankruptcy court must file a notice of removal with the clerk of the bankruptcy court.

(b) Service. A notice of removal must be served under Bankruptcy Rule 7004. Not later than 7 days after service, the party filing the notice must file Local Form *Certification of Service*.

(c) Procedure after removal. Not later than 14 days after the filing of the notice of removal, the party filing the notice must file with the clerk of the bankruptcy court a copy of the docket sheet and all pleadings from the original court.

2015 Comment

This Rule was amended to provide a deadline for filing a certification of service.

D.N.J. LBR 9037-1. Privacy Protection for Filings Made With the Court

(a) General requirements.

(1) An entity seeking to redact from a filed document information set forth in Bankruptcy Rule 9037(a) must file Local Form *Application Requesting Redaction of Personal Information*. Notice of the application is not required.

(2) Not later than 7 days after entry of Local Form *Order Directing Redaction of Personal Information*, the entity that filed the original document, or such other entity as the court directs, must file a redacted document.

(b) Transcript. 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.

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.