

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

**IMPORTANT NOTICE TO THE BAR AND PUBLIC
CONCERNING IMPLEMENTATION OF D.N.J. LBR 2016-5.
COMPENSATION OF DEBTOR'S ATTORNEY IN A CHAPTER 13 CASE**

Please be advised that, pursuant to the Court's annual rule making cycle, and as previously noted in the Court's *Notice to the Bar and Public Concerning 2018 Local Rule and Form Revisions*, the Board of Judges of the U.S. Bankruptcy Court for the District of New Jersey has approved the provisions of attached *D.N.J. LBR 2016-5. Compensation of Debtor's Attorney in a Chapter 13 Case*. The changes are effective **August 1, 2018**.

Upon the expiration of the public comment period concerning adoption and amendment of 2018 Local Bankruptcy Rules and Forms, several comments were submitted and considered in connection with *D.N.J. LBR 2016-5*. Considering the substantial revisions to *D.N.J. LBR 2016-5* and related forms, the Court wishes to emphasize the following provisions:

For cases filed or converted to Chapter 13 on or after August 1, 2018:

- The debtor's attorney must submit, either (i) with the petition or (ii) within 14 days of conversion to Chapter 13, new mandatory Local Form *Disclosure of Chapter 13 Debtor's Attorney Compensation* on which the attorney must indicate their method of compensation as follows:
 - Standard fee of \$4,750.00 (or less)
 - OR
 - Hourly billing
- Supplemental fee applications may not be filed in Chapter 13 cases filed or converted to Chapter 13 on or after August 1, 2018.
- When filing a fee application for \$10,000.00 or more, inclusive of expenses, a Chapter 13 debtor's attorney must include new mandatory local form *Chapter 13 Debtor's Attorney Fee Application Cover Sheet*.

Related Local Forms:

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

Dated: July 18, 2018

Jeanne A. Naughton, Clerk

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

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

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

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

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

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

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

2018 Comment

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

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

2015 Comment [Abrogated]

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

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

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

UNITED STATES BANKRUPTCY COURT
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Caption in Compliance with D.N.J. LBR 9004-1(b)

In Re:

Case No.: _____

Chapter: 13

Judge: _____

DISCLOSURE OF CHAPTER 13 DEBTOR'S ATTORNEY COMPENSATION

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

Under D.N.J. LBR 2016-5(b), I have agreed to accept for all legal services required to confirm a plan, subject to the exclusions listed below, including administrative services that may occur postconfirmation, a flat fee in the amount of \$ _____. I understand that I must demonstrate that additional services were unforeseeable at the time of the filing of this disclosure if I seek additional compensation and reimbursement of necessary expenses.

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

Representation of the debtor in:

- adversary proceedings,
- loss mitigation/loan modification efforts,
- post-confirmation filings and matters brought before the Court.

I have received: \$ _____

The balance due is: \$ _____

The balance will will not be paid through the plan.

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

I have received: \$ _____

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

Debtor(s) Other (specify below)

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

Debtor(s) Other (specify below)

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

Date: _____

Debtor's attorney

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

CHAPTER 13 DEBTOR'S ATTORNEY FEE APPLICATION COVER SHEET

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

**SECTION 1
FEE SUMMARY**

Interim Fee Application No. _____ or Final Fee Application

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

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

Fee Totals: _____
Expense Totals: _____
Total Fee Application _____

**SECTION II
SUMMARY OF SERVICES**

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

**SECTION III
SUMMARY OF EXPENSES**

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

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

Date: _____

Signature

new.8/1/18