

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

**NOTICE TO THE BAR AND PUBLIC
CONCERNING 2006 AMENDMENTS TO LOCAL RULES
AND FORMS**

Pursuant to the Court's Annual Local Rule Making Cycle, please be advised that the following Local Rules of the United States Bankruptcy Court for the District of New Jersey have been amended effective August 1, 2006, with the exception of the amendment of DNJ LBR 2016-1, which is effective October 1, 2006.

D.N.J. LBR 2016-1	<i>Compensation of Professionals</i>
D.N.J. LBR 2090-1	<i>Attorneys - Admission to Practice</i>
D.N.J. LBR 3003-2	<i>Filing Request for Payment of Administrative Expense Claim in Chapter 11 Reorganization or Chapter 7 Liquidation Cases</i>
D.N.J. LBR 3015-6	<i>Objections to Confirmation of Chapter 13 Plan</i>
D.N.J. LBR 4001-1	<i>Automatic Stay - Relief From</i>

In conjunction with the above amendments, the Local Forms set forth below have been modified and approved by the Court's Board of Judges. Unless otherwise noted, their use is mandatory effective August 1, 2006.

Local Form 3	<i>Fee Application Cover Sheet (Use is mandatory effective October 1, 2006)</i>
Local Form 13	<i>Certification of Debtor's Counsel Supporting Supplemental Chapter 13 Fee</i>
Local Form 15	<i>Certification Re Calculation of Amounts Due (Note and Mortgage)</i>
Local Form 16	<i>Certification Re Post-Petition Payment History (Note and Mortgage)</i>
Local Form 16A	<i>Certification of Secured Creditor Regarding Post-Petition Payment History (Vehicle Loan/Lease)</i>
Local Form 24	<i>Request For Payment of Administrative Expenses</i>

The full text of the amended Local Rules and a Guidance Document regarding the use of the local forms are attached and are also available at the Clerk's Office in each vicinage. The revised local forms are currently accessible on our web site, www.njb.uscourts.gov by clicking Forms > Miscellaneous Forms.

Dated: July 20, 2006

James J. Waldron, Clerk

D.N.J. LBR 2016-1 COMPENSATION OF PROFESSIONALS

- (a) This rule applies to any application for compensation and reimbursement of expenses from the bankruptcy estate by a professional person employed under 11 U.S.C. § 327.
- (b) The statement of services rendered and itemization of expenses in an application for compensation shall contain:
 - (1) A copy of the order of retention or authorization.
 - (2) A copy of any administrative order pertaining to interim compensation.
 - (3) The dates of services rendered.
 - (4) The services rendered on each date and the identity of the person rendering the service.
 - (5) The time spent in the rendering of each service. Computer time sheets showing the time units may be attached to the application.
 - (6) The normal billing rate for each person.
 - (7) At the end of the application, a total of the time spent by each individual performing services.
 - (8) A list of actual, not estimated, expenses, summarized by category, such as computer assisted research (which shall not be more than the actual cost), outgoing facsimile transmissions, (which shall not exceed \$1.00 per page, with no charge for incoming facsimiles), telephone charges, airfare, meals, lodging and photocopying (which shall not exceed \$.20 per page).
 - (9) A narrative explanation of the nature of the work performed and the results achieved. The narrative portion of the application shall inform the court of circumstances that are not apparent from the activity descriptions or that the applicant wishes to bring to the attention of the Court, including, but not limited to, special employment terms, billing policies, expense policies, voluntary reductions, reasons for the use of multiple professionals for a particular activity, or reasons for substantial time billed relating to a specific activity.
 - (10) **D.N.J. Local Form 3** shall be filed with each application for compensation in excess of \$10,000.
- (c) A copy of each application for allowances shall be served on the United States Trustee at the time of filing.
- (d) No Court appearance shall be required on applications for compensation unless an objection is filed and served.
- (e) *Professionals Retained on a Commission or Contingency Basis.* A professional retained on a commission or contingency basis is exempt from the requirements of subdivisions (b)(3), (4), (5), (6), (8) and (10).
- (f) *Appraisers.* Except where a flat fee is sought, the statement of services rendered and itemization of expenses in an application for fees or expenses for appraisers shall comply with subsection (b) of this rule. Appraisers shall include in the application the value of the appraised assets.
- (g) *Auctioneers.* An auctioneer shall be allowed those expenses approved by the Court and, in addition, commissions on net proceeds of sale, not to exceed: 10% of the first \$50,000; 7% of the next \$50,000; 5% of the next \$50,000; and 3% of all amounts above \$150,000.

- (h) *Interim Applications in Chapter 11 Cases.* Authorization for allowance of compensation at intervals more frequent than is permitted by 11 U.S.C. § 331, must be sought by a motion brought under the Court's *General Order Adapting Guidelines Governing Procedures for Payment of Interim Compensation and Reimbursement of Expenses to Professionals.*
- (i) *Final Applications in Chapter 11 Cases.* All applications for compensation shall be filed within 90 days after the order confirming the plan becomes a final order, or such compensation request shall be deemed waived.
- (j) *Special Requirements in Chapter 13 Cases.*
 - (1) *Debtor's Attorney, Generally.* If the fee of the attorney for the debtor disclosed pursuant to Fed. R. Bankr. P. 2016(b) exceeds \$3,500, the attorney for the debtor shall file and serve on the Chapter 13 trustee and the debtor an application for allowances not less than 7 days before the confirmation hearing.
 - (2) *Supplemental Fees.*
 - (A) For supplemental fee applications of up to \$2,000 per application, the attorney for the debtor may submit **D.N.J. Local Forms 13 and 14**. Such applications shall be served on the Chapter 13 trustee and the debtor. If the supplemental fee application is for an amount in excess of \$1,000, the clerk shall issue notice of hearing as required by Fed. R. Bankr. P. 2002(a)(6) for a date on which Chapter 13 cases are heard.
 - (B) Any other supplemental fee applications shall be filed in accordance with subsection (a) of this rule and shall be served on the Chapter 13 trustee and the debtor. If the supplemental fee application is for an amount in excess of \$1,000, the clerk shall issue notice of hearing as required by Fed. R. Bankr. P. 2002(a)(6) for a date on which Chapter 13 cases are heard.
 - (C) Supplemental fee applications shall be submitted not more than once every 90 days.

2006 Comment: This rule has been substantially amended with respect to information requirements relating to compensation requests in order to aid the court in determining whether the time spent in a case, or any portion thereof, was actual, reasonable and necessary. It emphasizes activity descriptions based upon general project categories. New subdivision (b)(10) requires professionals seeking allowance of fees in excess of \$10,000, except as provided in subsection (g), to submit a summary on D.N.J. Local Form 3, which has been amended to provide greater substantive detail regarding the types of services rendered by the professional and with respect to which fees are sought. New subdivision (b)(9) expands upon the nature of the narrative portion of the application to the extent that it is intended to serve a heightened informational purpose with respect to expenses incurred and for which reimbursement is sought. Subdivision (j)(1) is amended to increase the fee dollar amount above which the debtor must file an application for allowances in Chapter 13 cases, from \$2,500 to \$3,500. Subdivision (j)(2) is amended to permit the attorney for the debtor in Chapter 13 cases to submit D.N.J. Local Forms 13 and 14 for supplemental fee applications of up to \$2,000 per application. Subdivision (j)(2)(c) is further amended to permit the filing of supplemental fee applications in Chapter 13 cases not more than once every 90 days. With the exception of subdivision (j) regarding special requirements concerning fees in Chapter 13 cases that will become effective in cases filed on or after August 1, 2006, this rule as amended shall apply to applications for compensation and expenses in cases filed on or after October 1, 2006. For cases filed before October 1, 2006, applicants may submit D.N.J. Local Form 3 in accordance with this amendment at their option.

D.N.J. LBR 2090-1 ATTORNEYS - ADMISSION TO PRACTICE

- (a) The bar of this Court shall consist of any attorney admitted to practice before the United States District Court for the District of New Jersey.
- (b) Attorneys may seek admission *pro hac vice* by application on 5 days notice to the debtor, any committee, the United States Trustee, and any other party as the Court may direct. The application must be accompanied by this Court's form order for admission *pro hac vice* as found on the Court's website (www.njb.uscourts.gov).

2006 Comment: This rule is amended to supplement the Court's *General Order Respecting Amendment of D.N.J. L.Civ. R. 101.1(c)(3) Requiring Payment on Each Pro Hac Vice Admission to the Clerk of the District Court* (entered on December 14, 2005) which requires *inter alia*, use of the form order for Admission Pro Hac Vice.

D.N.J. LBR 3003-2 FILING REQUEST FOR PAYMENT OF ADMINISTRATIVE EXPENSE CLAIM IN CHAPTER 11 REORGANIZATION OR CHAPTER 7 LIQUIDATION CASES.

- (a) In a Chapter 11 case, absent an administrative expense claims bar date, or a provision in a confirmed plan or confirmation order directing the filing of administrative expense claims by a date certain, a request for payment of an administrative expense, permitted under §503(a) of the Code, may be filed at any time prior to confirmation of a plan. In a Chapter 7 case, a request for payment of an administrative expense may be filed at any time prior to any administrative expense claims bar date set by the Court.
- (b) A request for payment of an administrative expense shall be filed in accordance with D.N.J. Local Bankruptcy Form 24.
- (c) The filing of a request for payment of an administrative expense in accordance with D.N.J. Local Bankruptcy Form 24 shall not result in the scheduling of a hearing on the request, but shall result in the registry of the claim on the claims docket. In order to have a hearing scheduled to consider payment of any administrative expense claim, a claimant must file a motion to compel payment in accordance with D.N.J. LBR 9013-1.
- (d) This Rule shall not apply to any application or request by a professional retained pursuant to a Court order in a Chapter 11 case or a Chapter 7 case for payment of fees and expenses incurred post-petition. Any such application or request by a professional for payment of administrative fees and expenses must comply with D.N.J. LBR 2016-1.

2006 Comment: This rule is new. It sets forth the time and form within which requests for payment of administrative expense claims must be filed in a Chapter 11 case or a Chapter 7 case. This Rule does not apply to requests by a professional for compensation which are governed by D.N.J. LBR 2016-1.

D.N.J. LBR 3015-6 OBJECTIONS TO CONFIRMATION OF CHAPTER 13 PLAN

- (a) An objection to confirmation of the plan shall be filed with the court and served upon the debtor, debtor's attorney, the chapter 13 trustee, and any other party in interest at least seven (7) days prior to the confirmation hearing date set in the *Notice of Hearing on Confirmation of Plan* or *Notice of Modification of Chapter 13 Plan*, whichever occurs later.
- (b) Except as provided in subsection (c) of this rule, a proof of claim filed that asserts a claim that is greater than, either the scheduled amount of the claim or the amount of the claim as designated in the plan serves as an objection to confirmation as to the amount of the claim, without appearance by the creditor at the confirmation hearing. The proof of claim shall be served in accordance with subsection (a) of this rule. The creditor shall file a proof of service prior to the scheduled confirmation hearing. The plan may be confirmed using the amount asserted in the proof of claim. The right of the debtor to file an objection to the allowance of a claim pursuant to D.N.J. LBR 3007-1 is preserved, without the need for oral or written reservation at confirmation.
- (c) Where a motion to avoid liens or partially avoid liens has been filed in the plan, a proof of claim filed that asserts a secured claim that is greater than the amount to be paid in the plan serves as opposition to the motion and serves as an objection to confirmation. The proof of claim shall be served in accordance with subsection (a) of this rule. The creditor shall file a proof of service prior to the scheduled confirmation hearing. In order to prosecute the objection, the creditor must appear at the confirmation hearing, which shall be the hearing on the motion. Failure to appear to prosecute the objection may result in the motion being granted and the plan being confirmed pursuant to the terms as set forth in the plan.

2006 Comment: Subsection (b) is amended to clarify that where a proof of claim asserts a claim that is greater than either the scheduled amount of the claim or the amount of the claim as designated in the plan, the plan may be confirmed using the amount asserted in the proof of claim without the need for an appearance by the creditor at the confirmation hearing. By operation of the rule, the debtor's right to object to the claim is reserved for 60 days after confirmation. Subsection (c) is added to clarify and highlight that where a plan includes a motion to avoid liens or partially avoid liens, a proof of claim filed that asserts a secured claim that is greater than the amount to be paid in the plan serves as opposition to the motion and serves as an objection to confirmation. In order to prosecute the objection, the creditor must appear at the confirmation hearing, as the failure to do so may result in the plan being confirmed pursuant to the terms as set forth in the plan, including the relief sought by the motion.

D.N.J. LBR 4001-1 AUTOMATIC STAY - RELIEF FROM

- (a) No court appearances are required for uncontested motions relating to the automatic stay.
- (b) To contest a motion relating to the automatic stay in a Chapter 13 case, the Debtor shall file and serve upon the creditor and the Chapter 13 Standing Trustee, a Chapter 13 Debtor's Certification in Opposition to Creditor's Motion or Certification of Default on Local Form 23 at least seven (7) days before the return date if filed in opposition to a Motion for Relief from the Automatic Stay; and within 10 days of filing of a Creditor's Certification of Default under an Order Resolving Motion to Vacate Stay and/or Dismiss with Conditions.
- (c) In addition to the requirements of D.N.J. LBR 9013-1 through 9013-3, every motion for relief from the automatic stay shall be accompanied by a certification or affidavit and supporting exhibits which shall contain the following:
 - (1) Copies of all documents upon which the movant will rely at the time of the hearing including, where applicable, all notes, bonds, recorded mortgages with the stamped dates of recordation, security agreements, filed financing statements with the stamped dates of filing, and assignments.
 - (2) Where applicable, a statement of amount due, including a breakdown of the following categories:
 - (A) Unpaid principal.
 - (B) Accrued interest from a specific date.
 - (C) Late charges from a specific date to a specific date.
 - (D) Attorneys' fees.
 - (E) Advances for taxes, insurance and the like.
 - (F) Unearned interest.
 - (G) Per diem interest.
 - (H) Any other charges.
 - (I) Total post-petition arrearages.
 - (J) Date of last payment.
 - (3) In all cases in which the relief sought is dependent upon the secured creditor proving the amount secured by a mortgage on real estate owned by the debtor, the movant shall attach to the certification in support of its notice of motion Local Form No. 15 ("Calculation of Amounts Due"). In Chapter 13 cases in which the relief sought is based upon a secured creditor's claim that the debtor has failed to make all post-petition payments due under the terms of the mortgage, security agreement or lease in issue, the movant shall attach to its certification in support of its notice of motion Local Form No. 16 ("Post-Petition Payment History Note and Mortgage") or Local Form No. 16A ("Post-Petition Payment History Vehicle Loan/Lease"). Local Form Nos. 15, 16 and 16A shall be certified by the secured creditor.
- (d) Any appraisals shall be filed and served with the moving and answering papers.
- (e) Failure to oppose a request for adjournment of a hearing on a motion for relief from the automatic stay shall be deemed to be consent to continuation of the automatic stay until the new hearing date without a Court order under § 362(e) of the Code.
- (f) Notwithstanding D.N.J. LBR 9013-1(j)(1), a consent order in lieu of a motion under Code § 362(d) in a chapter 11 case can be filed without the written consent of the 20 largest unsecured creditors if no committee of unsecured creditors has been appointed. In such event, the 20 largest unsecured creditors shall be served with the application and consent order and shall have 5 days to file and

serve an objection. If a committee of unsecured creditors has been appointed, its written consent must be affixed to a consent order in lieu of a motion under Code § 362(d).

2006 Comment: Subpart (c)(3) is amended to maintain and clarify the current requirement that the information contained in [Local Forms 15](#) (“Calculation of Amounts Due”), [16](#) (“Post-Petition Payment History Note and Mortgage”) and [16A](#) (“Post-Petition Payment History Vehicle Loan/Lease”) be certified by the secured creditor with personal knowledge of the calculation or payment history set forth therein, or a custodian of the secured creditor’s records or other similarly qualified and authorized person having access to those records.

GUIDANCE RE MANDATORY FORMS

In conjunction with the 2006 amendments to the Local Rules, the local forms set forth below have been modified and approved by the Board of Judges of the United States Bankruptcy Court for the District of New Jersey. Unless otherwise noted their use is **mandatory effective August 1, 2006.**

LOCAL FORM 3 - Fee Application Cover Sheet

- This form has been substantially amended to conform to the requirements of D.N.J. 2016-1 as amended effective August 1, 2006, to provide greater substantive detail regarding the types of services rendered by a professional.
- It emphasizes activity descriptions based upon general project categories and, except as set forth in the Rule, applies to all fee applications over \$10,000,
- Use of this form is mandatory when applying for compensation in cases filed on or after October 1, 2006, but may be used in cases filed prior to that date, at the professional's option.
- Local Form 4 - *Accountant Fee Application Cover Sheet* will be redacted.

LOCAL FORM 13 - Certification of Debtor's Counsel Supporting Supplemental Chapter 13 Fee

This form has been amended to conform to the requirements of D.N.J. 2016-1(j)(2) as amended effective August 1, 2006.

Specifically, it includes the following modifications:

- Many of the fee amounts have been increased.
- It allows for the submission of standard and non standard supplemental fees in one application. Attorneys are advised not to combine standard and non-standard fees for the *same* motion or service. If an attorney believes the standard fee is inappropriate for services in a particular instance, the attorney must request only non-standard fees for that particular service.
- It may not be used to request fees in an amount exceeding \$2000.
- If the supplemental fee application is for an amount in excess of \$1,000, a hearing must be scheduled for a Chapter 13 calendar day and the Court will issue a Notice pursuant to Fed. R. Bankr. P. 2002(a)(6).
- A supplemental application may not be submitted more than once every 90 days.
- To request fees and expenses incurred prior to August 1, 2006, use the Court's form dated 6/17/05.

LOCAL FORM 15 - Certification of Calculations of Amounts Due (Note and Mortgage)

LOCAL FORM 16 - Certification Re Post-Petition Payment History (Note and Mortgage)

LOCAL FORM 16A - Certification Re Post-Petition Payment History (Vehicle Loan/Lease)

- These forms have been amended in conjunction with the August 1, 2006 amendment to D.N.J. LBR 4001-1 to require certification by an employee of the secured creditor with personal knowledge of the calculation or payment history set forth therein, or a custodian of the secured creditor's records or other similarly qualified and authorized person having access to those records.

LOCAL FORM 24 - Request for Payment of Administrative Expense

This form is new and complies with D.N.J. LBR 3003-2.

- The form shall be filed as a proof of claim and will appear on the claims register.
- Filing of Local Form 24 *Request for Payment of Administrative Expenses* will not result in the scheduling of a hearing. To schedule a hearing the claimant must file a Motion to Compel Payment, in accordance with D.N.J. LBR 9013-1.
- The *Administrative Expenses* event located in the Motion category should be used to efile a Motion to Compel Payment of Administrative Expenses.
- This form, and corresponding Local Rule do not apply to requests by a professional for compensation governed by D.N.J. LBR 2016-1.