



United States Bankruptcy Court District of New Jersey

Honorable Kathryn C. Ferguson, Chief Judge
Jeanne A. Naughton, Clerk

SPECIAL BENCH BAR EDITION

The purpose of this notice is to advise attorneys who regularly practice before the New Jersey Bankruptcy Court of new operational developments and to highlight issues that require immediate attention.

Office Locations

Newark

Martin Luther King, Jr. Federal Building
50 Walnut Street
Newark, NJ 07102
Phone (973) 645-4764

Trenton

Clarkson S. Fisher US Courthouse
402 East State Street
Trenton, NJ 08608
Phone (609) 858-9333

Camden

US Post Office and Courthouse
401 Market Street
Camden, NJ 08101
Phone (856) 361-2300

CONTENTS

- Proposed Changes to Local Rules - Comment Period
- Revision of Joint Order Scheduling Pretrial Proceedings and Trial
- Omnibus Objections to Claims
- Applications to Shorten Time and Motions for the Use, Sale or Lease of Property
- Chapter 11 Case Closing and Discharge
- Final Cure Payments
- Amendments to Schedules
- Payment of Filing Fees
- List of Creditors
- Court Holidays
- Help Desk Information

PROPOSED CHANGES TO LOCAL RULES - COMMENT PERIOD

Attorneys are advised that the Board of Judges of the United States Bankruptcy Court for the District of New Jersey has approved for publication for a thirty day public comment period, proposed 2017 amendments to the Court's Local Rules as highlighted below:

- D.N.J. LBR 3007-2. Omnibus Objections to Claims
- D.N.J. LBR 6004-5. Payment of a Professional Person for Services Relating to Use, Sale, or Lease of Property
- D.N.J. LBR 7007-1. Affidavits, Declarations, and Certifications
- D.N.J. LBR 7015-1. Amended Pleading
- D.N.J. LBR 7016-1. Pretrial Procedure
- D.N.J. LBR 7056-1. Summary Judgment; Statement of Material Facts Not in Dispute

By approving a publication draft, the Board of Judges solicits comments from bankruptcy professionals and members of the public. Comments will be accepted up to and including March 31, 2017, and may be submitted to the Court's email address: local_rules@njb.uscourts.gov.

The affected Local Rules are attached for ease of reference.

JOINT ORDER SCHEDULING PRETRIAL PROCEEDINGS AND TRIAL

Please be advised that the Court's mandatory Local Form, *Joint Order Scheduling Pretrial Proceedings and Trial* was revised effective January 17, 2017. Parties who do not submit the most recent form of this order will be asked to resubmit it. The revised form is attached for ease of reference.

OMNIBUS OBJECTIONS TO CLAIMS

Practitioners are advised that a ***General Order Pending Adoption of D.N.J. LBR 3007-2, Omnibus Objections to Claims*** was entered on November 9, 2016. Under the *General Order*, where more than one claim is joined in an omnibus objection, whether by Motion or Adversary Proceeding pursuant to D.N.J. LBR 3007-1, the new mandatory Local Form, *Notice of Objection to Your Claim* must be served on each claimant. In addition, a copy of each *Notice* served must be filed as support to the Motion or Complaint. The Local Form is attached for ease of reference.

APPLICATIONS TO SHORTEN TIME AND MOTIONS FOR THE USE, SALE, OR LEASE OF PROPERTY

Pursuant to the Court's *General Order Pending Amendment of D.N.J. LBR 6004-5, Payment of a Professional Person for Services Relating to Use, Sale, or Lease of Property*, 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 a commission or fee to a professional person at closing, must set forth in Local Form, *Application for Order Shortening Time* the separate cause why the time for notice and hearing concerning the request for payment should be shortened.

CHAPTER 11 INDIVIDUAL CASE CLOSING AND DISCHARGE

Under D.N.J. LBR 3022-1, the Clerk shall close a chapter 11 case 180 days after confirmation of the plan. The attached flow chart illustrates the Court's procedure for closing these cases. It also highlights an individual chapter 11 debtor's responsibilities prior to discharge, including the documents that must be filed.

NOTE: The Court's Local Form, *Chapter 11 Debtor's Certification of Completion of Plan Payments and Notice to Creditors* has been revised and is attached for ease of reference. The form now requires notice to creditors and includes an objection period. As a result, a hearing date that is more than 21 days from the date of the Certification must be entered on the form by the debtor's attorney. Objections must be filed no later than 7 days prior to the hearing date. The debtor's attorney must serve the form/notice on all creditors and parties in interest, and file a *Certification of Service*.

FINAL CURE PAYMENTS IN CHAPTER 13

Attorneys are reminded that debtors seeking to resolve discrepancies in the amount due to a mortgage creditor must file a Motion for Determination of Final Cure Payment.

AMENDED SCHEDULES

GENERALLY - Under D.N.J. LBR 1009-1, amendments to the debtor's schedules must be filed on the corresponding Official Form. Please be reminded that in addition to the Official Form, the debtor must also file as part of the amendment a:

Individual debtor

- Declaration About an Individual Debtor's Schedules [Bankruptcy Form 106Dec]
- A Summary of Your Assets and Liabilities and Certain Statistical Information [Bankruptcy Form 106Sum], if Schedule A/B, D, E/F, I or J are being amended.

Non-Individual Debtor

- Declaration Under Penalty of Perjury for Non-Individual Debtors [Bankruptcy Form 202]
- Summary of Assets and Liabilities for Non-Individuals [Bankruptcy Form 206Sum], if Schedule A/B, D, or E/F are being amended.

Failure to file the above forms with the debtor's amendment will result in the Clerk issuing a *Notice of Failure to File Supplemental Documents Concerning Schedules*.

ADDING CREDITORS - When amending a Schedule to add a creditor or party (D, E/F, G, or H), only the creditors or parties being added should be included on the Amended Schedule. Including all previously listed creditors makes it very difficult for Clerk's Office staff to determine what creditor is being added.

ADDING A PARTY TO SCHEDULE G OR H - Pursuant to Fed. R. Bankr. P. 1007-1, the debtor shall file a list containing the name and address of each entity included, or to be included, on Schedules D, E/F, G or H. Accordingly, when an Amendment to Schedule G or H is filed which adds a party not previously included on the List of Creditors, the party must be added to the List of Creditors (efilers may use the *Amended List of Creditors (Fee)* event) and the related fee must be paid.

PLEASE NOTE: When filing an Amended List of Creditors which adds a party, it is important to include on the List only the parties being added due to the Amendment.

PAYMENT OF FILING FEES

All petitions must be **accompanied** by either the full filing fee or an *Application for Individuals to Pay the Filing Fee in Installments* (including an initial payment equal to at least 25% of the full filing fee). In chapter 7 cases, an *Application to Have the Chapter 7 Filing Fee Waived* may also be filed. Failure to do so will result in the issuance of an *Order to Show Cause Why Case Should Not be Dismissed for Failure to Comply With D.N.J. LBR 1006-1, Payment of Filing Fees in Installments*.

Repeated failure of efilers to pay filing fees at the time of filing may result in the loss of efilings privileges.

LIST OF CREDITORS

Attorneys are reminded that all petitions must be accompanied by a complete list of creditors in PDF (included in the petition PDF) or hard copy format. In addition, when a petition is efiled the creditors must be uploaded into CM/ECF at the time of the filing of the petition. Failure to do so delays the processing of the case.

If a partial list of creditors is filed with the petition, and the missing documents contain additional creditors when filed, the debtor will be charged a fee for amending the List of Creditors pursuant to the Bankruptcy Court Miscellaneous Fee Schedule.

Repeated failure to include a list of creditors with a petition or to upload the list of creditors when a petition is efiled, may result in the imposition of sanctions.

COURT HOLIDAY SCHEDULE

Please be advised that the Court will be closed on the following days:

Friday, April 14, 2017

Monday, May 29, 2017

Tuesday, July 4, 2017

Monday, September 4, 2017

HELP DESK INFORMATION

CM/ECF Helpdesk:

NextGen Helpdesk:

By telephone:

973-645-3930

Camden: 856-361-2301

Newark: 973-645-3366

Trenton: 609-858-9401

By email:

cmecf_help_desk@njb.uscourts.gov

EMAIL ALERTS

NEVER MISS A COMMUNICATION FROM THE COURT !

- Do you know that you can follow the Court on Twitter or Facebook?
- Do you know that you AND your support staff can sign up to receive email alerts from the Court?

To follow us on either Twitter or Facebook, select the link for the appropriate social media platform on our home page. To sign up to receive email alerts, click the red envelope shown below.

The screenshot shows a navigation menu with the following items:

- Forms
- Local Rules & General Orders
- Quick Links
 - CM/ECF Attorney Online Training
 - CM/ECF Training Database
 - CM/ECF Helpdesk Information
 - Mediation Program
 - Loss Mitigation Program and Procedures
 - New Jersey Foreclosure Mediation
 - Reaffirmation Agreement Package
 - Follow @USBCNJ (with a red arrow pointing to the button)
 - Sign up for email alerts (with a red arrow pointing to the envelope icon)
 - Like (with a red arrow pointing to the button)

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

(a) 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 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 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 motion 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

~~(iii) deadlines for joining other parties and amending the pleadings.~~

(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 30 days of entry of the *Joint Order Scheduling Pretrial Proceedings and Trial* 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 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.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

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

In Re:

v.

Plaintiff(s)

Defendant(s)

Case No.: _____

Hearing Date: _____

Adv. No.: _____

Judge: _____

**JOINT ORDER SCHEDULING
PRETRIAL PROCEEDINGS AND TRIAL**

The relief set forth on the following pages, numbered two (2) and three (3) is hereby **ORDERED**.

A pretrial conference, having been scheduled pursuant to *Fed.R.Civ.P.* 16(b) and (e), made applicable to these proceedings by *Fed.R.Bankr.P.* 7016, it is

ORDERED that

1. All fact discovery is to be completed by _____ [enter a date more than 90 days from the date of the pretrial conference]. Any motions to compel discovery are to be made so that the Court can rule and the discovery can be obtained before that date. Late filed discovery motions will not constitute cause for an adjournment of the scheduled trial date. To the extent any party seeks to introduce expert testimony, an amended joint scheduling order must be filed no later than 30 days after the above date, providing for the delivery of expert reports and completion of expert discovery.

2. The parties to this Order consent to the Bankruptcy Court's adjudication and entry of final judgment on all claims and defenses raised in this proceeding, unless specifically contested in pleadings which comply with Fed. R. Bankr. P. 7008 and Fed. R. Bankr. P. 7012. To the extent any party does not so consent, that party must file a motion within 30 days of the entry of this Order seeking a determination as to whether this Court may adjudicate to final judgment any or all claims and defenses. The failure to timely file such a motion shall be deemed consent to the Bankruptcy Court's adjudication and entry of final judgment on all claims and defenses raised in this proceeding.

3. Any party seeking to amend pleadings or add additional parties, must do so by filing a motion no later than 30 days after the close of fact discovery.

4. All other motions must be filed no later than 30 days after the completion of all discovery. Late filed motions will not constitute cause for an adjournment of the trial date.

5. Each party must pre-mark the exhibits which may be used at trial.

6. 14 days before trial each party must:

(a) serve a copy of the pre-marked exhibits on each opposing party and provide one bound copy of the exhibits to the Court in Chambers (not to be docketed by the Clerk); and

(b) file, and serve on each opposing party a list of witnesses.

7. All exhibits will be admitted into evidence and witnesses permitted to testify at trial, unless a written objection has been filed 7 days before the trial date. Only parties identified on the witness list will be permitted to give testimony.

8. Any party intending to introduce deposition testimony at trial must serve on each opposing party and file copies of the transcript pages with excerpts highlighted.

9. Within 14 days from the conclusion of the trial, unless such time is extended by the Court, each party must file, and serve on each opposing party, separately numbered proposed findings of fact and conclusions of law with supporting citations.

10. Trial will begin on _____ at _____ or as soon as the matter may be heard, at:

UNITED STATES BANKRUPTCY COURT ADDRESS:

Courtroom no: _____

PARTIES MUST BE PREPARED TO PROCEED TO TRIAL ON THE SCHEDULED DATE. ADJOURNMENTS WILL BE GRANTED ONLY FOR COMPELLING REASONS BEYOND THE CONTROL OF THE PARTIES. UNDER D.N.J. LBR 5071-1, PARTIES REQUESTING AN ADJOURNMENT MUST SUBMIT LOCAL FORM, *ADJOURNMENT REQUEST*, VIA CHAMBERS EMAIL NOT LATER THAN 3 DAYS BEFORE THE TRIAL DATE.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

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

In Re:

Case No.: _____

Chapter: _____

Hearing Date: _____

Judge: _____

NOTICE OF OBJECTION TO YOUR CLAIM

To: _____ [Claim Holder and Counsel, if any]

The _____ [Objector] has filed the enclosed _____
_____ [Title of Objection] (Docket No. [____]) which seeks to alter your
rights by _____

[Describe effect of the Objection, i.e., disallowing, reducing, modifying, etc.]

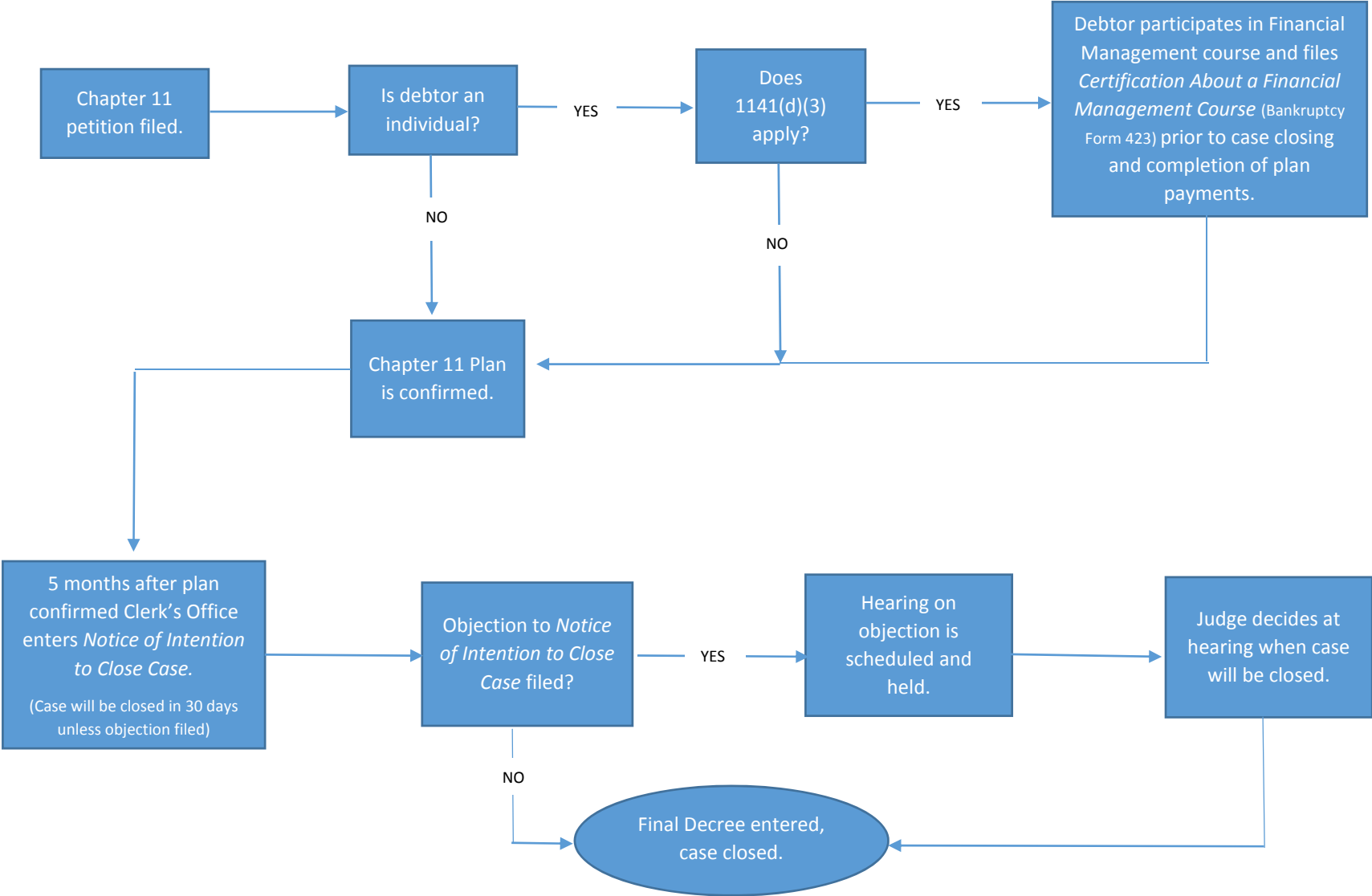
If you disagree with the objection, you must file a response to the Objection with the Clerk of the
Bankruptcy Court at the address below on or before _____.

At the same time, you must also serve a copy of the response upon the _____
[Objector's] attorney: [Address of objector's counsel]

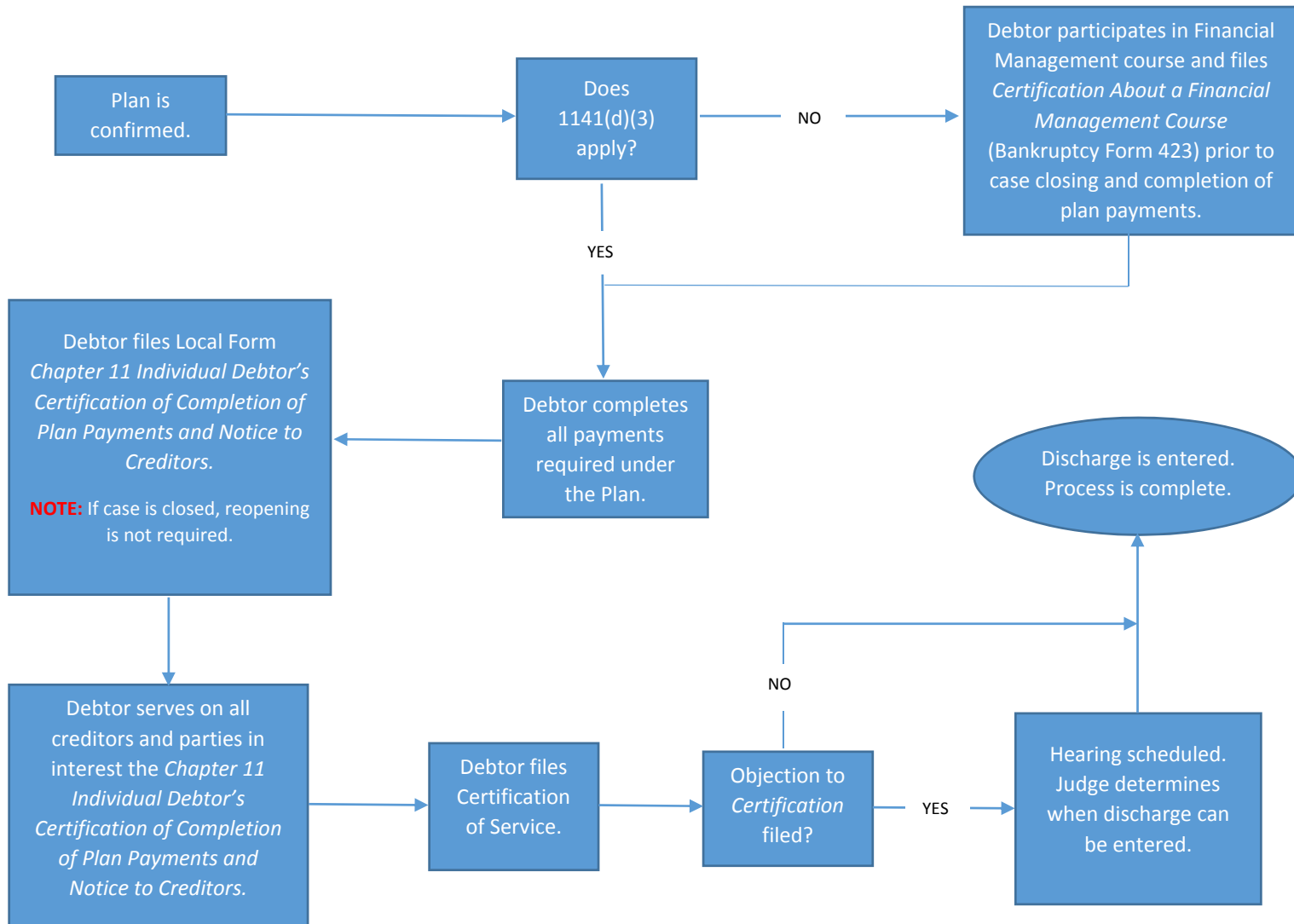
If you file a response, you or your attorney must appear at a hearing on the objection that will be
held before the honorable _____ on _____ at _____ a.m.
at the United States Bankruptcy Court, _____,
Courtroom no. _____.

**IF YOU DO NOT RESPOND TO THE OBJECTION, THE COURT MAY GRANT THE
RELIEF DEMANDED BY THE OBJECTION WITHOUT FURTHER NOTICE OR HEARING.**

CASE CLOSING



Individual Chapter 11 Debtor Discharge



UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

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

In Re:

Case No.: _____

Chapter: 11

Judge: _____

**CHAPTER 11 INDIVIDUAL DEBTOR'S CERTIFICATION
OF COMPLETION OF PLAN PAYMENTS AND NOTICE TO CREDITORS**

The undersigned, _____, debtor(s) in the above captioned case, certifies that I/we have completed all payments required by the plan confirmed in this case on _____.

I acknowledge that if U.S.C. 11 §1141(d)(3) applies in this case, to receive a discharge I must attend a debtor education course and file with the Clerk of the Bankruptcy Court a *Certification About a Financial Management Course*.

I certify under penalty of perjury that the forgoing is true and that I have served a copy of this Certification on all creditors in this case.

NOTICE TO CREDITORS

Creditors are hereby notified that if they do not believe all payments due under the plan have been made, they may file an objection to the issuance of the debtor's discharge based on the debtor's failure to complete plan payments. The objection must be filed with the Clerk and a copy served on the debtor and debtor's attorney 7 days prior to the hearing date set forth below.

If you file an objection, you or your attorney must appear at a hearing that will be held before the Honorable _____ on _____ at _____ a.m. at the United States Bankruptcy Court, _____, Courtroom number _____ *[hearing date must be set for at least 21 days from the date of this Certification].*

If an objection to the issuance of the debtor's discharge based on failure to complete plan payments is not received by the Clerk, the Court will enter the debtor's discharge on or after the hearing date set forth above.

Date: _____

Signature of Debtor

Date: _____

Signature of Joint Debtor