PRESENT RULE:

D.N.J. LBR 1002-1 PETITION – GENERAL

(a) *Content*. In addition to the requirements of the Code, Federal Rules of Bankruptcy Procedure and Official Forms, every voluntary and, to the extent possible, involuntary petition shall contain the following information:

(1) The correct name, complete street address, city, state, and zip code of the debtor. The address stated on the petition shall be the actual location of the debtor's residence or principal place of business.

(2) In an individual petition, the correct full first, middle, and last name and social security number of the debtor.

(3) In a business petition, the employer's identification number of the debtor.

(4) In a corporate petition, the signature of an officer or other authorized representative of the corporation.

(5) In a corporate petition, a copy of the corporate resolution authorizing the filing.

(6) In a partnership petition, a certification evidencing compliance with Fed. R. Bankr. P. 1004(a).

(7) In a joint petition, the signature of both debtors.

(b) *Involuntary Petitions*. In involuntary petitions, the above subdivisions (a) (1) through (3) apply.

PROPOSED CHANGE:

LBR 1002-1: FRBP 1008 requires "all petitions...shall be verified or contain an unsworn declaration as provided in 28 U.S.C. §1746". Paragraph (a)(7) should be deleted since FRBP 1008 requires the signatures.

PRESENT RULE:

D.N.J. LBR 1007-1 LISTS, SCHEDULES & STATEMENTS
In addition to the requirements of D.N.J. LBR 1002-1(a) in a joint petition, the assets and liabilities of each debtor shall be separately listed and tabulated on the schedules and statements under appropriately identified columns or entries. Joint assets and liabilities of the debtors shall be listed and tabulated as such, under appropriately identified columns or entries.

PROPOSED CHANGES:

1007-1: This Rule can be deleted as being duplicative of the information required on official forms.

D.N.J. LBR 1007-2 MAILING~ LIST OR MATRIX

(a) A matrix, which shall be verified by the debtor, shall be filed with the petition. The matrix shall consist of an alphabetized mailing list of creditors (last name first, first name last), equity security holders, partners and other parties in interest with complete names and addresses, including zip codes. ~~The matrix shall be filed with the petition., schedules and statement of affairs~~. Whenever a creditor schedule or list is amended, the matrix shall be supplemented, to the extent required, by the filing of amended verified matrices containing *only* those additions in the amended schedules.

(b) The matrix shall be arranged in a single column on each page with margins of at least 1 inch using one of the following standard typefaces or print styles:

(1) Courier 10 pitch.
(2) Prestige Elite.
(3) Letter Gothic.

(c) Each name and address block shall consist of no more than 5 lines with at least one blank line between each block. Each line shall be no more than 40 characters in length.

(d) A matrix containing 50 or more parties shall be submitted in the form of a computer diskette accompanied by a paper copy. The diskette shall be prepared in accordance with instructions provided by the clerk.

Comment: Formerly Local Rule 2(c) (1) - (4)

Reference: Fed. R. Bankr. P. 1009 Amendments of Voluntary Petitions, Lists, Schedules and Statements; D.N.J. LBR 1009-1.

Proposed Changes:

The phrase "A matrix shall be filed with the petition" is moved to the beginning of the local rule to emphasis this requirement at the initial filing of the petition; the phrase "with the schedules and statement of affairs" has been deleted to avoid any impression that the matrix is to be filed with (or can be delayed until the filing of) the schedules and statement of affairs - particularly if schedules/statements are not filed for 15 days. The word "verified" is added and placed before "matrix" in the new opening sentence to comply with the requirement under FRBP 1008 that lists be verified (matrix is defined in the local rule as a mailing *list* of creditors). The dash in the title of the local rule is deleted.

Note: Strike-outs represent deleted material; new material is underlined.

D.N.J. LBR 1009-1 AMENDMENTS TO LISTS & SCHEDULES AND STATEMENT OF AFFAIRS

~~When a petition is filed with a list of creditors without complete schedules, the schedules, when filed, must be accompanied by a separate verified statement of changes in the list of creditors originally filed, indicating deletions and additions. The amendment must also be in compliance with D.N.J. LBR 1007-2.~~

Whenever an amendment to the list of creditors, schedules, or statement of affairs is filed, the amended list of creditors, schedules and statement of affairs must be verified by the debtor. The amendment shall include *only* the changes and shall indicate if the changes are additions or deletions. **The amendment must also be in compliance with D.N.J. LBR 1007-2.**

Comment: Formerly Local Rule 2(d)

Proposed Change:

Text of rule reworded. The intent is to clarify that all amendments need to be verified under FRBP 1008 and to further direct that *only* the changes are to be included in the amendment.

12/5/00 - additional revision in bold and underline (added last sentence in existing rule).

DRAFT

Note: Strike-outs represent deleted material; new material is underlined.

PRESENT RULE:

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

(a) Except as provided in subdivisions (f) and (g), the statement of services rendered and itemization of expenses in an application for fees or expenses shall contain:

(1) A copy of the order of retention or authorization.

(2) The dates of services rendered.

(3) The services rendered on each date and the identity of the person rendering the service.

(4) The time spent in the rendering of each service. Computer time sheets showing the time units used may be attached to the application.

(5) The normal billing rate for each person.

(6) At the end of the application, a total of the time spent by each individual performing services.

(7) A list of actual, not estimated, expenses.

(8) For attorneys and accountants seeking allowance of fees in excess of $10,000, except as provided in subdivision (g), a summary on Local Form No. 3 or 4.

(9) A narrative explanation of the nature of the work performed and the results achieved.

(b) Appraisers shall include in the application the value of the appraised assets.

(c) 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.

(d) No Court appearances shall be required on applications by trustees, examiners and professional persons for commissions, fees and expenses, unless an objection is filed and served.

(e) A copy of each application for allowances shall be served on the United States Trustee at the time of filing.

(f) A trustee seeking commissions in excess of $10,000 shall comply with all requirements of subdivision (a) of this Rule, except subdivision (a)(8). A trustee seeking commissions in an amount less than $10,000 is exempt from the requirements of subdivisions (a)(2), (3), (4), (5), (6) and (8).

(g) A professional retained on a contingency basis is exempt from the requirements of subdivisions (a)(2), (3), (4), (5), (6) and (8).

(h) Objections to applications for allowance shall be filed and served no less than 7 days prior to the scheduled hearing date.

(i) *Chapter 11.* All applications for allowance of fees and expenses shall be filed within 90 days after entry of a final order confirming a plan, or such fees and expenses shall be deemed to be waived.

(j) *Chapter 13.*

(1) If the fee of the attorney for the debtor disclosed pursuant to Fed. R. Bankr. P. 2016(b) exceeds $2,000.00, 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) For supplemental fee applications of up to $1,000.00 per application, for the services listed in D.N.J. Local Form 13, 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.

(3) Any other supplemental applications shall be filed in accordance with section (a) of this rule and shall be served on the Chapter 13 trustee and the debtor. If the supplemental application is for an amount in excess of $1,000.00, 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.

(4) Supplemental fee applications shall be submitted not more than once every 120 days.

PROPOSED CHANGES:

2016-1(a): The phase "except as provided in subdivisions (f) and (g)" is superfluous since these subsections specifically provide for exemptions from various requirements.. Subsection (j) has been amended separately.

D.N.J. LBR 3016-1 CHAPTER 11 PLAN

(a) A plan proponent shall review all claims prior to filing a plan.

(a~~b~~) *Effective Date*. Unless a plan provides otherwise, its effective date shall be the date on which the order of confirmation becomes final.

(~~b~~c) *Format of Plan*. In addition to t he requirements of § 1123 of the Code, a plan shall contain:

(1) A title indicating whether the plan is one of reorganization or liquidation.

(2) A table of contents.

(3) Definitions.

(4) Clearly numbered articles or sections.

(5) A signature of the proponent and the date thereof.

(d) Modification of Plan. If a chapter 11 plan is modified, the entire modified plan shall be refiled and shall indicate in its title its relationship to the original plan and any previous modification, such as "First Modified Plan of Reorganization."

Comment: Formerly Local Rule 20.

Reference: 11 U.S.C. § 1128 Confirmation hearing; D.N.J. LBR 3016-2, 3018-2.

Proposed change: Addition of subsections (a) and (d) (heretofore included in LBR 3016-2 re Disclosure Statement), so that all *plan* requirements fall under the rule on the Chapter 11 Plan.

DRAFT

Note: Strike-outs represent deleted material; new material is underlined.

D.N.J. LBR 3016-2 DISCLOSURE STATEMENT - GENERAL

(a) A plan proponent shall review all claims prior to filing a disclosure statement ~~and plan~~.

(b) A disclosure statement shall state the number and amount of claims of each class to which the proponent intends to object.

(c) If a chapter 11 disclosure statement ~~or plan~~ is modified, the entire modified disclosure statement ~~or plan~~ shall be refiled and shall indicate in its title its relationship to the original disclosure statement ~~or plan~~ and any previous modification, such as "First Modified ~~Plan of Reorganization~~ Disclosure Statement."

Comment: Subparts (a) and (b) formerly Local Rule 24(a) and (b). Subpart (c) formerly Local Rule 21. Former Local Rule 24(c) has been renumbered under D.N.J. LBR 3007-1.

Reference: 11 U.S.C. § 1125 Postpetition disclosure and solicitation; Fed.R.Bankr.P. 3019 Modification of Accepted Plan Before Confirmation in a Chapter 9 Municipality or a Chapter 11 Reorganization Case; D.N.J. LBR 3016-1.

Proposed change: remove references to the *plan* since this section deals with "Disclosure Statement." Language on modifications to the Plan is moved to D.N.J. LBR 3016-1.

Draft

Note: Strike-outs represent deleted material; new material is underlined.

D.N.J. LBR 1019-1 CONVERSION - PROCEDURE FOLLOWING

(a) Upon conversion of a chapter 13 case to a case under chapter 7, the chapter 13 trustee shall distribute any funds on hand to the chapter 7 trustee by check made payable to the debtor.

(b) Upon conversion of a chapter 13 case to a case under chapter 11, the chapter 13 trustee shall distribute any funds on hand to the debtor in possession or the chapter 11 trustee.

PROPOSED CHANGES:

(a) Upon conversion of a chapter 13 case to a case under chapter 7, the chapter 13 trustee shall distribute any funds on hand to the **debtor unless otherwise ordered by the Court**.

Comment: This Rule is inconsistent with 11 U.S. § 348(f)(1)(a) in that payments made to the standing trustee after the petition date would not constitute property of the estate and should be payable to the debtor. Since the 1994 Amendments to § 348 of the Bankruptcy Code, Trustees no longer follow the procedure outlined in our local rule after conversion of a Chapter 13 case to a Chapter 7. The funds are now refunded directly to the debtor by the Chapter 13 Trustee's office. In light of the applicable Code provision, this Rule should be amended.

PROPOSED RULE 9013-1(m)

Any motion seeking relief from the automatic stay, the use, sale or lease of property or the assumption, rejection or assignment of executory contracts and unexpired leases shall specifically state in the caption of the motion whether the movant seeks a waiver of the 10 day stay of the effectiveness of any proposed order for the relief sought under Federal Rules of Bankruptcy Procedure 4001(a)(3), 6004(g) or 6006(d). The movant shall bear the burden of establishing cause for the waiver of the 10 day stay provisions and shall detail the cause in its moving papers.

PROPOSED RULE 9072-1(b)

Any proposed order seeking relief from the automatic stay, the use, sale or lease of property or the assumption, rejection or assignment of executory contracts and unexpired leases shall not include a waive of the 10 day stay provisions provided in Federal Rules of Bankruptcy Procedure 4001(a)(3), 6004(g) or 6006(d) unless cause for relief from the stay is specifically plead in the moving papers. The caption of the proposed order must state the order waives the 10 day stay provisions contained in the applicable Federal Rule.

COMMENT TO PROPOSED RULES 9013-1(m) & 9072-1(b): Rules 4001(a)(3), 6004(g) and 6006(d) of the Federal Rules of Bankruptcy Procedure have been modified to add a ten (10) day automatic stay provision with respect to any order granting relief under those sections. The stay period can be waived for cause. By including the two provisions above, the waiver could only occur if specifically requested in the underlying motion and cause is plead in the moving papers. The addition of this information in the caption of the motion and proposed order would be helpful to the Court and other parties.