

Local Rules of the United States Bankruptcy Court for the Western District of Missouri

Rule 2016-1. Compensation For Services Rendered and Reimbursement of Expenses

A. Prepetition Retainers and Other Payments. 11 USC §§ 329 and 330 and Fed. R. Bankr. P. 2016 and 2017 require or authorize the court to review and approve the compensation and expenses of attorneys in bankruptcy proceedings. Therefore, certain disclosures and applications are required. Pursuant to § 329 and Fed. R. Bankr. P. 2016(b), the attorney for the debtor shall file with the petition a disclosure of the amount and source of all retainers received by the attorney. The disclosure shall be served on the United States Trustee and any case trustee. Unless excused pursuant to the provisions of subpart D of this Rule, all professionals shall: (1) deposit all retainers (with the exception of earned on receipt retainers), whether received from the debtor or any other source, in the attorney's trust account pending an order of the court; and (2) with respect to all retainers and other payments made or fees sought, file an application seeking approval of such retainers, payments, and fees pursuant to § 330 and Fed. R. Bankr. P. 2016(a) (in the case of Chapter 11, 12, and 13 proceedings), or file an application to facilitate the court's review of the reasonableness of such retainers, payments, and fees pursuant to § 329 and Fed. R. Bankr. P. 2017 (in the case of Chapter 7 proceedings). Until the case is closed by final decree, debtor's attorney is under a duty to disclose all subsequent payments by filing a supplemental statement as required by Fed. R. Bankr. P. 2016(b).

B. Service of Application. An application for professional fees and expenses and the required notice shall be served on debtor's attorney, the case trustee, the United States Trustee, the attorneys for all committees, and all parties who have requested service of notices. A detailed, itemized statement of the kind required by Fed. R. Bankr. P. 2016(a) shall be filed with the application. All such applications shall be based upon contemporaneous time records and shall include: a detailed description of the services performed; the date on which services were performed; the attorney or other employee performing such services; the amount of time expended on the enumerated services; and the applicable hourly rate. Each description of services rendered shall include a detailed description of the tasks performed (including, for example, the subject and purpose of correspondence, telephone conversations, conferences, and legal research). Failure to include this information may result in disallowance of fees. The applicant is responsible to ensure that the itemized statement is made PDF compatible for filing under the ECF system. The notice shall advise the noticed parties of the filing of the application and of the opportunity to file objections within 21 days of the date the notice is given and that, absent any objections, the court may approve the application without further notice or hearing.

C. When Application Over \$1,000. Additional Notices. When an application is necessary and if such application is for compensation exceeding \$1,000, in addition to service in Paragraph B, applicant shall serve on all creditors a notice (**See Local Form - MOW 2016-1.1**) stating: the amount of fees and expenses sought; period covered; number of previous applications filed; amounts of compensation previously sought and allowed; original retainer and balance; that parties have 21 days to object, if no objections are filed the Court may enter an order, and if objections are filed the Court may set a hearing.

D. When Application Unnecessary. If debtor's attorney's total fee in a below median family income case is \$3,000 or less, or if the total fee in an above median family income case is \$3,500 or less, and if the attorney and the debtor(s) have signed the applicable Rights and Responsibilities Agreement (**See Local Forms MOW 2016-1.3 or 2016-1.4**), the disclosure of fees in initial filings is sufficient and it is unnecessary to file an application under subpart C of this rule.

E. Adversary Proceedings. The fee amount set forth in Paragraph D does not include the filing of any adversary proceeding necessary to obtain confirmation of a Chapter 13 plan. If it is necessary to file an adversary proceeding to obtain confirmation of a plan, and if the attorney and the debtor(s) have signed the applicable Rights and Responsibilities Agreement (**See Local Form MOW 2016-1.4**), the attorney's fee will be allowed in an amount not to exceed \$1000 per adversary proceeding without an itemized application. For fee amounts in excess of \$1000, the attorney shall comply with the requirements of Paragraph B of this rule. Fees pursuant to this paragraph must be approved by the Court upon submission of an application at the close of the adversary proceeding.

F. Post-Confirmation Attorney Fees in Chapter 13 Cases. Additional attorney fees, if any, for post-confirmation services may be allowed according to the flat fee schedule set out in this rule. Any deviation from this schedule shall be by motion made to the Court, supported by detailed time and expense records.

- Amendments to Schedules - \$150
- Amendments to Schedules I & J with Business Attachments - \$200
- Appearance at Hearing Due to Trustee's Request for Hearing Based on Debtor's Failure to Cooperate - \$125
- Certificate of Service Regarding State Tax Returns - \$100
- Defense of Motions for Relief from the Automatic Stay - \$350
- Defense of Motions to Dismiss - \$200
- Filing Proofs of Claim on behalf of creditors - \$125
- Motions for Emergency Hearing - \$100
- Motions for Payoff of Chapter 13 Plan - \$75
- Motions for Relief from Stay (divorce) - \$200
- Motions to Approve Permanent Home Mortgage Modification (no hearing) - \$250
- Motions to Approve Permanent Home Mortgage Modification (with hearing) - \$350
- Motions to Approve Settlement/Allow Use of Settlement - \$175
- Motions to Approve Trial Home Mortgage Modification (no hearing) - \$250
- Motions to Approve Trial Home Mortgage Modification (with hearing) - \$350
- Motions to Avoid Lien or Avoid Judgment - \$200
- Motions to Distribute Insurance Proceeds - \$125
- Motions to Employ Counsel/Professional - \$175
- Motions to Incur Additional Debt - \$150
- Motions to Retain Tax Refund Greater than \$2,500 - \$150
- Motions to Suspend or Abate Payments - \$200
- Motions to Sell Property - \$200

Motions to Vacate or Set Aside Order - \$125
Objections to a Notice of Payment Change or a Notice of Fees, Expenses, and Charges (Local Rule 3094-1.C.3.) (no hearing) - \$250
Objections to a Notice of Payment Change or a Notice of Fees, Expenses, and Charges (Local Rule 3094-1.C.3.) (with hearing) - \$350
Objections to Proofs of Claim (no hearing) - \$125
Objections to Proofs of Claim (with hearing) - \$225
Obtaining Confirmation of Amended Plan - \$250
Review of a Notice of Payment Change or a Notice of Fees, Expenses, and Charges (Local Rule 3094-1.C.3. (without filing an objection) - \$50

Debtor's attorney may also request reimbursement for expenses, in addition to the above fee schedule, at the rate of up to \$0.25 per copy and any postage costs that debtor's attorney incurs. Debtor's attorney must include the number of copies, the postage rate, and the number of items mailed in the request for post-confirmation fees.

Debtor's attorney seeking payment of flat fees pursuant to this rule shall file with the court a motion (**See Local Form - MOW 2016-1.2**) identifying the services provided, and stating that the services are for post-confirmation work. Such motion shall be served on the debtor, the trustee, the United States Trustee, and parties who requested notice, with 21 days after service to object. Motions for post-confirmation fees in excess of \$1,000 must be noticed to all creditors pursuant to Local Rule 2016-1. If no objections are filed, the court may enter an order as to such fees without further hearing.

G. Payment of Attorney Fees Through Chapter 13 Plan

1. Payment Calculation. If attorney for the debtor in Chapter 13 elects to receive his or her attorney fees, or any portion thereof, through the Chapter 13 plan, the plan must provide for an equal monthly amount for those attorney fees in a sum which does not cause the plan to violate § 1322(a)(1).

a. The Chapter 13 trustee shall pay the equal monthly amount for debtor's attorney fees contemporaneously with claimants paid an equal monthly amount.

b. In the event that the proposed plan payment is not sufficient to cover the equal monthly amount proposed for the payment of attorney fees and the Chapter 13 trustee's statutory maximum fee, the filing of the plan on behalf of the debtor shall be deemed a waiver of the right to receive that equal monthly amount and the Chapter 13 trustee shall set an equal monthly amount which will resolve any §1322(a)(1) issues. If the debtor makes plan payments weekly or bi-weekly, the trustee may adjust the equal monthly amount paid to the debtor's attorney based on the amount projected to be received eight (8) months of each year in the instance of weekly payments and ten (10) months of each year in the instance of bi-weekly payments.

c. If the Chapter 13 plan does not provide for an equal monthly amount for the payment of attorney fees and the attorney is authorized/ordered to receive his or her

fees, or a portion thereof, from the Chapter 13 plan payments, the Chapter 13 trustee shall set those fees to be paid in an equal monthly amount not less than \$1.00 and not more than \$150.00.

2. Dismissed Cases. If the Chapter 13 case is dismissed and the debtor's attorney is owed fees:

a. Pre-confirmation:

i. The attorney is not entitled to payment of attorney fees from the trustee other than from funds received on or before the date of the entry of the order of dismissal which otherwise would be refunded to the debtor; and

ii. In order to obtain those funds, less the trustee's fee, the Court must enter an order upon a timely filed motion.

b. Post-confirmation: The trustee shall distribute funds to creditors, including debtor's attorney, pursuant to the terms of the confirmed plan as funds are available.