

# LOCAL RULES 2016-1 and 2016-2

## Rule 2016-1. Debtor's Attorney's Fee Agreements in Chapter 7 Cases.

**A. Disclosure & Service; Rights and Responsibilities Agreement.** All attorneys representing debtors in Chapter 7 cases shall comply with the disclosure and service requirements of 11 U.S.C. § 329 and Fed. R. Bankr. P. 2016(b) and shall certify that the Rights & Responsibilities Agreement (Local Form MOW 2016-1.3) has been executed, unless such certification is excused pursuant to court order.

**B. "No Look" Fee; Application to Approve Not Required.** If the debtor's attorney's total attorney fee for a Chapter 7 case is a flat fee of \$3,600 or less in a below median family income case or of \$4,100 or less in an above median income case, it is unnecessary for the attorney to file a separate application to approve the fee agreement.

**C. Fees Exceeding the No Look Fee or Other Fee Agreements.** In all other situations, including when the attorney represents the debtor for other than the filing of the Chapter 7 case, the attorney shall (subject to Missouri Rule Prof. Conduct 4-1.15) deposit any retainer whether received from the debtor or any other source in the trust account pending further court order and shall promptly file an application to approve the terms of the agreement. The application shall include sufficient information to allow the Court's review of the reasonableness of any retainers, payments, fees, or fee agreements pursuant to § 329 and Fed. R. Bankr. P. 2017. The Court presumes that the services required under the Rights and Responsibilities Agreement are necessary for the representation of the debtor in a Chapter 7 case and presumes that the "No Look Fee" is a reasonable fee to compensate the attorney for those services, and agreements to exclude services or to charge fees in excess of the "No Look" amounts will ordinarily not be approved absent extraordinary circumstances.

**D. Continuing Duty to Disclose.** Until the case is closed by final decree, debtor's attorney is under a duty to disclose all subsequent changes in the employment agreement or subsequent payments by filing a supplement statement as required by Fed. R. Bankr. P. 2016(b).

## Rule 2016-2. Debtor's Attorney's Fee Agreements and Allowance of Compensation for Services Rendered and Reimbursement of Expenses in Chapter 13 Cases.

**A. Disclosure & Service; Rights and Responsibilities Agreement.** All attorneys representing debtors in Chapter 13 cases shall comply with the disclosure and service requirements of 11 U.S.C. § 329 and Fed. R. Bankr. P. 2016(b) and shall certify that the Rights & Responsibilities Agreement (Local Form MOW 2016-1.4) has been executed, unless such certification is excused pursuant to court order.

**B. "No Look" Fee for Pre-Confirmation Services; Application to Approve Not**

**Required.** If the debtor's attorney's total attorney fee for preconfirmation services is a flat fee of \$3,600 or less in a below median family income case or of \$4,100 or less in an above median income case, it is unnecessary for the attorney to file a separate application to approve the fee agreement.

**C. Pre-Confirmation Adversary Proceedings.** The fee amount set forth in Paragraph B 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, 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 E.4 of this rule. To receive fees pursuant to this paragraph, an attorney must file an application with the court at the close of the adversary proceeding.

**D. Fees Exceeding the "No Look" Fee for Pre-Confirmation Services or Other Fee Agreements.**

1. In all other situations, including when the attorney represents the debtor for other than the filing of the Chapter 13 case, the attorney shall (subject to Missouri Rule Prof. Conduct 4-1.15) deposit any retainer whether received from the debtor or any other source in the trust account pending further court order and shall promptly file an application to approve the terms of the agreement. The application shall include sufficient information to allow the court's review of the reasonableness of any retainers, payments, fees, or fee agreements pursuant to § 330 and Fed. R. Bankr. P. 2016. The Court presumes that the services required under the Rights and Responsibilities Agreement are necessary for the representation of the debtor in a Chapter 13 case and presumes that the "No Look Fee" is a reasonable fee to compensate the attorney for the services required under the Rights & Responsibilities Agreement to obtain confirmation of a Chapter 13 plan. Agreements to exclude services or to charge fees in excess of the "No Look" amounts will ordinarily not be approved absent extraordinary circumstances.

**2. Hourly fee agreements specifically.** When the attorney and client have agreed that the attorney shall charge fees on an hourly basis for either pre or post confirmation services, the attorney shall not be required to file a motion to approve the fee agreement if the agreement to charge on an hourly basis is (1) disclosed in the Rule 2016(b) disclosure; and (2) disclosed in the Chapter 13 plan. All fees charged on an hourly basis, whether for pre or post confirmation services, are subject to court approval, and the attorney shall file applications for interim approval of hourly fees and the related expenses pursuant to § 330 and 331. All orders approving awards of interim hourly compensation are not final until a final fee application has been filed and approved by the court, and the attorney shall file the final fee application no later than the deadline for the trustee's final report.

## **E. Post-Confirmation Attorney Fees and Expenses in Chapter 13 Cases.**

**1. Post-Confirmation Allowed “No Look” Fees.** Additional attorney fees, if any, for post-confirmation services may be allowed according to the flat fee schedule set out in this rule without the need for itemization. Any deviation from this schedule shall be by motion made to the Court, supported by detailed time and expense records pursuant to Paragraph D.2.

Amendments to Schedules - \$200  
Amendments to Schedules I & J with Business Attachments - \$250  
Case closing fees and expenses - \$250  
Defense of Motions for Relief from the Automatic Stay - \$350  
Defense of Motions to Dismiss - \$250  
Filing Proofs of Claim on behalf of creditors - \$200  
Motions for Emergency Hearing/Shorten Time/Expedite - \$150  
Motion for Order requesting substantial relief - \$250  
Motions for Payoff of Chapter 13 Plan - \$150  
Motions for Relief from Stay (divorce) - \$250  
Motions to Approve Permanent Home Mortgage Modification - \$250  
Motions to Approve Settlement/Allow Use of Settlement - \$250  
Motions to Approve Trial Home Mortgage Modification - \$250  
Motions to Avoid Lien or Avoid Judgment - \$250  
Motions for Personal Property Tax Waiver - \$150  
Motions to Distribute Insurance Proceeds - \$250  
Motions to Employ Counsel/Professional - \$250  
Motions to Incur Additional Debt - \$350  
Motions to Retain Tax Refund Greater than \$3,500 - \$250  
Motions to Suspend or Abate Payments - \$250  
Motions to Sell Property - \$350  
Motions to Vacate or Set Aside Order - \$250  
Notice of additional creditors - \$250  
Objections to a Notice of Payment Change or a Notice of Fees, Expenses, and Charges (Local Rule 3094-1.C.3.) - \$250  
Objections to Proofs of Claim - \$250  
Obtaining Confirmation of Amended Plan - \$350  
Obtaining and Providing Proof of Direct Payments - \$150  
Response to Trustee’s Motion (not listed above) - \$150  
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  
Review of and providing income tax returns to the trustee when a motion to retain is not required - \$150  
With hearing (when any of the authorized menu items require a hearing) – additional \$200

**2. Case Closing Fees and Expenses.** At any time after the plan is confirmed but before the case is closed, the debtor's attorney may apply for \$250 in case closing fees and expenses pursuant to L.R. 2016-2(E). The \$250 is meant to cover all fees and expenses associated with the closing of a Chapter 13 case. If the case is converted or dismissed, debtor's attorney must either (1) promptly refund the \$250 to the debtor(s) and certify to the Court that the funds have been returned; provided that if there is the possibility that the case will be reinstated, the attorney may hold the \$250 for up to 30 days pending reinstatement; (2) in a case converted to a Chapter 7, if the attorney is owed unpaid fees, and the debtor(s) has agreed, the attorney is to certify that the \$250 has been applied to the outstanding balance and file an amended Disclosure of Compensation of Attorney for Debtor(s) to show the \$250 has been applied; or (3) in a case that is dismissed, if the attorney is owed unpaid fees, and the debtor(s) has agreed, apply to the Court for approval of the \$250 to be applied to the outstanding balance.

**3. Post Confirmation Expenses.** 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.

**4. Service and Notice of Post Confirmation Fees and Expenses.** 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 L.R. 2016-3. If no objections are filed, the court may enter an order as to such fees without further hearing.

## **F. 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. After confirmation, 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.
- 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 \$350.00.

**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 fees, the attorney must obtain an order on a motion filed within 14 days of the date of dismissal.
- 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.

**G. Continuing Duty to Disclose.** Until the case is closed by final decree, debtor's attorney is under a duty to disclose all subsequent changes in the employment agreement or subsequent payments, except those payments approved by the Court, by filing a supplement statement as required by Fed.R. Bankr. P. 2016(b).