

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA**

PUBLIC NOTICE

TO: Members of the Bankruptcy Bar, Eastern District of Virginia

FROM: William C. Redden, Clerk of Court

DATE: February 12, 2003

SUBJECT: Posting of Recompilation of Local Bankruptcy Rules Incorporating Revision to Local Bankruptcy Rule 2016-1(C), United States Bankruptcy Court for the Eastern District of Virginia, Effective February 12, 2003

After further consideration of Standing Order No. 02-5, which adopted a revision to Local Bankruptcy Rule (LBR) 2016-1(C), the accompanying Local Bankruptcy Rule, as further revised, has been adopted by the Court effective February 12, 2003, which shall govern procedures in all cases and proceedings filed on or after January 1, 2003.

A complete recompilation of the Court's Local Bankruptcy Rules has been placed at the Court's Internet web site and can be accessed at www.vaeb.uscourts.gov by clicking the "Local Rules" button located at the bottom of the Court's home page. This public notice, along with the revision to LBR 2016-1(C), also has been placed at the Local Rules page to the Court's Internet web site.

The following is a summary of the Court-approved revision to LBR 2016-1(C), effective February 12, 2003:

1. LBR 2016-1(C)(5) treats the LBR 2016-1 disclosure of compensation as an application for compensation where such compensation does not exceed \$1,500.
2. LBR 2016-1(C)(5)(a) provides that if the standing trustee or debtor intends to file an objection, in part or in whole, to the fees requested by the debtor's attorney in the Rule 2016-1 disclosure of compensation, the objection must be filed within ten (10) business days from the meeting of creditors. Neither the debtor nor the standing trustee need notify the debtor's attorney that they have no objection to the fees set forth in the Rule 2016-1 disclosure of compensation.
3. LBR 2016-1(C)(5)(b) treats the Rule 2016-1 disclosure of compensation as an application for compensation where such compensation does not exceed \$1,500.

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

In Re:

Revision of Local Rules

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Standing Order No. 03-2

ORDER ADOPTING REVISION OF LOCAL RULES

After further consideration of Standing Order No. 02-5, which adopted a revision to Local Bankruptcy Rule 2016-1(C), and pursuant to delegation of authority from the United States District Court, the accompanying Local Rule, as further revised, is hereby adopted.

This Rule shall take effect on the date of entry of this order, and shall govern procedures in all cases and proceedings filed on or after January 1, 2003.

Dated: February 12, 2003

/s/ Douglas O. Tice, Jr.
DOUGLAS O. TICE, JR.
CHIEF JUDGE

/s/ David H. Adams
DAVID H. ADAMS
JUDGE

/s/ Stephen S. Mitchell
STEPHEN S. MITCHELL
JUDGE

/s/ Stephen C. St. John
STEPHEN C. ST. JOHN
JUDGE

/s/ Robert G. Mayer
ROBERT G. MAYER
JUDGE

Revision
to the
Local Bankruptcy Rules

United States Bankruptcy Court
For the
Eastern District of Virginia



Effective February 12, 2003
(Ver. 1/31/03)

Rule 2016-1 COMPENSATION OF PROFESSIONALS

(C) *For Debtor's Attorney in Chapter 13 Case:*

(1) **Generally:** The Court may award fees to the attorney for a debtor in a chapter 13 case with or without a hearing, at the Court's discretion. Any application for compensation filed under this provision must include the applicant's statement that the chapter 13 plan provides sufficient reserves or may be extended in time so that the payment(s) requested may be made without prejudice to any creditor, or that any prejudice to any creditor as the result of an award of additional attorney's fees shall be completely, fully and adequately disclosed to all creditors and parties in interest in the case, allowing ten days to object and request a hearing.

(2) **Fees Requested Not in Excess of \$1,250 [For All Cases and Proceedings Pending Prior to 1/1/03]:** Where the application for compensation does not exceed \$1,250, the Court may award compensation in such amount or less, plus reimbursement of actual and necessary expenses, with or without a hearing, upon the following notice:

(a) **Notice:** The debtor's attorney shall serve a copy of the application on the debtor and the standing trustee, along with notice that they have ten days in which to file any objection

(b) **Proof of Service:** With the application for compensation, the debtor's attorney shall file a proof of service evidencing proper service under subparagraph (C)(2)(a) of this Local Bankruptcy Rule.

(3) **Fees Requested in Excess of \$1,250 [For All Cases and Proceedings Pending Prior to 1/1/03]:** Where the application for compensation does exceed \$1,250, the Court may award compensation in such amount or less, plus reimbursement of actual and necessary expenses, with or without a hearing, upon the following notice:

(a) **Notice:** The debtor's attorney shall serve a copy of the application on the debtor, the standing trustee and all creditors, along with notice that they have ten days in which to file an objection.

(b) **Proof of Service:** With the application for compensation, the debtor's attorney shall file proof of service evidencing proper service under subparagraph (C)(3)(a) of this Local Bankruptcy Rule.

(4) **Fees and Expenses Requested After the Filing of the Petition [For All Cases and Proceedings Pending Prior to 1/1/03]:** Any fee in excess of the maximum established in the rule will require an application for allowance of compensation and reimbursement of expenses by separate and distinct pleading. Any such application shall comply with 11 U.S.C. §330, FRBP 2016 and the other provisions of this Local Bankruptcy Rule. The attorney shall not send a bill directly to the debtor. Should the debtor receive a bill from that person's attorney, the debtor should send a copy of such bill to the standing trustee. Service and notice of the application shall be given in accordance with subparagraph (C)(2) or (3) of this Local Bankruptcy Rule.

(5) Fees Requested Not in Excess of \$1,500 [For All Cases and Proceedings Filed on or After 1/1/03]: Where the application for Rule 2016-1 disclosure of compensation does not exceed \$1,500, the Court may award compensation in such amount or less, plus reimbursement of actual and necessary expenses, with or without a hearing, upon the following:

- (a) **Notice:** The debtor's attorney shall serve a copy of the Rule 2016-1 disclosure of compensation and Chapter 13 Plan and Related Motions on the debtor and the standing trustee, along with notice that they have ten (10) business days from the meeting of creditors in which to ~~notify counsel for the debtor that (i) they have no objection to the fees requested or; (ii) they have an objection to the fees requested;~~ file an objection to the fees requested in the Rule 2016-1 disclosure of compensation and will oppose said fees in their entirety, or in a specific amount. ~~In either instance,~~ eCounsel for the debtor may file a request for hearing with the Court and notice of same shall be served upon the debtor(s), the standing trustee, and the United States Trustee. At any such hearing, each of the parties shall have the burden of proof established in 11 U.S.C. §§328, 329 and 330. In the absence of notification of objection by the debtor or the standing trustee, the fees will be allowed as disclosed.
- (b) **Proof of Service:** With the application for Rule 2016-1 disclosure of compensation, the debtor's attorney shall file a proof of service evidencing proper service under subparagraph (C)(5)(a) of this Local Bankruptcy Rule.

(6) Fees and Expenses Requested After the Filing of the Petition [For All Cases and Proceedings Filed on or After 1/1/03]: Any fee in excess of the maximum established in the rule will require an application for allowance of compensation and reimbursement of expenses by separate and distinct pleading. Any such application shall comply with 11 U.S.C. §330, FRBP 2016 and the other provisions of this Local Bankruptcy Rule. The attorney shall not send a bill directly to the debtor. Should the debtor receive a bill from that person's attorney, the debtor should send a copy of such bill to the standing trustee. Service and notice of the application shall be given in accordance with paragraph (C)(5) of this Local Bankruptcy Rule.

Comments

2016-1(C)(5)-(6) These changes are to clarify the fee structure in Chapter 13 cases, and to afford maximum flexibility in the establishment of fees to counsel for the debtors. It is also designed to afford a review function by the standing trustee and to provide access to the Court in the event of a dispute over the propriety of a fee in any specific case. [Changes effective 2/12/03.]