

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

PUBLIC NOTICE

**COURT ADOPTION OF STANDING ORDER NO. 08-1 –
ORDER ON FEES FOR DEBTOR’S COUNSEL IN CHAPTER 13 CASES;
ADOPTION OF GUIDELINES FOR FEE APPLICATIONS IN CHAPTER 13
CASES FILED ON OR AFTER OCTOBER 17, 2005; AND ADOPTION OF
PROCEDURES GOVERNING FEES FOR DEBTOR’S COUNSEL IN CHAPTER
13 CASES FILED BEFORE OCTOBER 17, 2005**

In connection with the proposed repeal of Local Bankruptcy Rule 2016-1(C), as set forth in the Public Notice dated February 4, 2008, and the repeal of Interim Procedure 2016-1(C)(7)-(8), both effective March 17, 2008, the Court intends to adopt proposed Standing Order No. 08-1. The Court has determined that adoption of the procedures and guidelines specified in Standing Order No. 08-1 will facilitate and provide for uniformity in the consideration of compensation for debtor’s counsel in Chapter 13 cases. The Standing Order takes effect March 17, 2008, subject to amendment based on comments received as provided for below, and shall govern all Chapter 13 cases in the United States Bankruptcy Court for the Eastern District of Virginia except those assigned to the Honorable Robert G. Mayer.

Proposed Standing Order No. 08-1 is available at the Alexandria, Norfolk, Richmond and Newport News divisions of the Court and may be accessed at the Court’s Internet web site:

<http://www.vaeb.uscourts.gov/> under “Local Rules” > “Public Notice.”

Comments may be submitted, by mail, to:

Local Rule Change
c/o William C. Redden
U.S. Bankruptcy Court
1100 East Main Street, Room 310
Richmond, VA 23219-3515

or, by e-mail, at:

Localrules@vaeb.uscourts.gov

Comments will be received by mail or at the Court’s web site until 5:00 p.m., Tuesday, March 4, 2008.

William C. Redden
Clerk of Court

Date: February 11, 2008

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA

In re:

Compensation of Debtor's)
Counsel in Chapter 13 Cases;) Standing Order No. 08-1
Guidelines and Procedures for)
Chapter 13 Fee Applications)

ORDER ON FEES FOR DEBTOR'S COUNSEL IN CHAPTER 13 CASES; ADOPTION OF
GUIDELINES FOR FEE APPLICATIONS IN CHAPTER 13 CASES FILED ON OR
AFTER OCTOBER 17, 2005; AND PROCEDURES GOVERNING FEES FOR DEBTOR'S
COUNSEL IN CHAPTER 13 CASES FILED BEFORE OCTOBER 17, 2005

The Court has determined that adoption of the procedures and guidelines specified in this order will facilitate and provide for uniformity in the consideration of compensation for debtor's counsel in Chapter 13 cases.

NOW, IT IS THEREFORE ORDERED that:

1. Local Bankruptcy Rule 2016-1(C) and Interim Procedure 2016-1(C) are hereby repealed.
2. The Guidelines for Fee Applications in Chapter 13 Cases Filed on or After October 17, 2005, ("Guidelines"), attached as Exhibit 1 to this Order, are hereby adopted by the Court.
3. If the initial fee charged to a debtor for routine, expected services in a Chapter 13 case filed on or after October 17, 2005, does not exceed \$3,000 plus actual and necessary expenses that do not exceed \$300 (other than the filing fee, and charge for credit counseling, and personal financial management, if advanced by the attorney) a formal application for approval and payment of the unpaid amount through the Chapter 13 plan will not be required if (a) the total fee and the unpaid portion is clearly set forth in the Chapter 13 plan, and (b) the fee is consistent with the disclosure of compensation filed under Federal Rule of Bankruptcy Procedure 2016. The Chapter 13 plan and Rule 2016 statement will be treated as the application required by Rule 2016(b), and the order confirming the plan will be treated as an order approving compensation. Any objection to allowance and payment of compensation in the amount stated in the Chapter 13 plan must be filed no later than the last day for filing objections to confirmation of the plan. If no objection is filed, the Court may approve the fee and confirm the plan without holding a hearing.
4. A. The Court expects the initial fee charged in the case to cover, at a minimum, all services that would reasonably be expected in order to obtain confirmation of a plan, and, ultimately, a discharge, including:
 - (1) conferences to review the debtor's financial circumstances;

- (2) preparation and filing of the petition and all required schedules, lists, and statements;
 - (3) preparation and filing of a plan;
 - (4) routine telephone calls and correspondence with the debtor, Chapter 13 trustee, and creditors;
 - (5) representation at the meeting of creditors;
 - (6) appearance, if required, at the confirmation hearing;
 - (7) review of the claims register; and
 - (8) assistance to the debtor in filing any certifications required to obtain a discharge after plan payments are completed.
- B. The Court expects the initial fee to normally cover routine motions to vacate a pre-confirmation dismissal of the case and routine pre-confirmation plan modifications needed to address such issues as classification of claims, valuations of collateral, interest rates to be paid on secured claims, arrearage amounts, or amounts to be paid by the debtor.
- C. The Court expects the expenses for which reimbursement is requested must be actual and necessary and supported by documentation as appropriate. A detailed itemization of all such expenses identified by type and the month incurred must be presented to the Chapter 13 trustee and disclosed pursuant to Federal Rule of Bankruptcy Procedure 2016.
5. Any application for an initial fee in excess of \$3,000 or for supplemental fees, regardless of the amount, must conform to Rule 2016(b) and the Guidelines adopted by the Court. The Guidelines include both procedural requirements as well as policy statements.
 6. 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.
 7. Requests for fees and reimbursement of expenses in Chapter 13 cases filed before October 17, 2005, shall be governed by the procedural requirements set forth in Procedures Governing Fees for Debtor's Counsel in Chapter 13 Cases Filed Before October 17, 2005, ("Procedures"), attached as Exhibit 2 to this Order, which are hereby adopted by the Court.
 8. This order shall take effect on March 17, 2008, and shall govern all Chapter 13 cases in this district except those assigned to the Honorable Robert G. Mayer.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIAGUIDELINES FOR FEE APPLICATIONS IN CHAPTER 13 CASES FILED ON OR AFTER
OCTOBER 17, 20051. Purpose

The Guidelines for Fee Applications in Chapter 13 Cases Filed on or After October 17, 2005, (“Guidelines”) have been adopted by the Court to specify the format and procedures for submission of fee applications by attorneys representing the debtor in a Chapter 13 case and to set forth the policies and standards that will normally be followed by the Court in evaluating such applications. Compliance by applicants with the procedural requirements is mandatory, but applicants are free to apply for a fee at variance with the policy statements provided the application clearly identifies any such variance.

2. Procedural Requirements

- a. Initial fee applications for amounts in excess of \$3,000.00, and all supplemental fee applications, must be supported by detailed, contemporaneous time and expense records from the beginning of the case showing, for each discrete activity, the date, time expended, identity of the attorney or paralegal providing the service, and amount requested. If a prior fee application has included time records and from the beginning of the case, a subsequent application need include only time and expense records covering the period subsequent to the earlier application provided the current application identifies (by date and docket entry number) the earlier application.
- b. For the purpose of these Guidelines, a “contemporaneous” time or expense record is one made at or near the time of the activity being recorded or the expense being incurred, but in any event no later than the next business day. Any time entry that has been reconstructed because contemporaneous records were not made, or, if made, are not available, must be clearly identified, and an explanation provided for the absence of a contemporaneous record.
- c. Every application for compensation, whether initial or supplemental, shall state the period covered by the application. Time entries should be shown to the nearest tenth of an hour (*i.e.*, the nearest 6 minutes), and travel time should be shown separately from any court appearance or other out-of-office activity to which it relates. Expenses such as postage, long-distance, PACER charges, and on-line research costs must be billed at actual cost and without markup. Copying performed using a commercial copy service must be billed at actual cost and without markup. The Court will accept a maximum \$0.15 per page as the actual cost (paper and consumables such as toner, etc.) for in-house copying and incoming facsimile transmissions unless the applicant can demonstrate that the actual cost is higher; no charge will normally be allowed for outgoing facsimile transmissions except for associated long-distance charges billed at actual cost.

- d. An exception to the requirement for contemporaneous time and expense records is allowed where the requested application is solely for one or more of the following services, and the amount requested does not exceed the amount shown:

<u>Description</u>	<u>Amount</u>
Defense of motion for relief from automatic stay (settled)	\$250
Defense of motion for relief from automatic stay (contested hearing)	\$575
Defense of motion to dismiss (settled)	\$150
defense of motion to dismiss (contested hearing)	\$500
Post-confirmation plan modifications (uncontested)	\$250
Post-confirmation plan modification (contested hearing)	\$500
Motion to approve sale or refinance of real property	\$500
Application to incur debt	\$300
Motion to vacate dismissal	\$250
Objection to claim (uncontested)	\$100
Objection to claim (contested hearing)	\$500

- e. For each attorney or paralegal providing services, the application shall state the person's name, status (attorney or paralegal), years admitted to practice (if an attorney), hourly rate, total hours, and requested compensation.
- f. The application shall affirmatively state the amount, if any, of posted time and charges written off in the exercise of billing discretion.
- g. The application shall state whether approval will reduce the dividend being paid on unsecured claims, and, if so, whether the debtor consents to an extension of the plan term or an increase in plan payments, or both, to allow payment of the fees without reducing the dividend.
- h. An attorney requesting compensation by application in accordance with these Guidelines shall file with the Clerk a properly completed form substantially in compliance with the Application for Supplemental Compensation of Attorney for Debtor(s) appended to these Guidelines. The Clerk shall provide the form to an attorney upon request. The form is accessible in .PDF-fillable format on the Court's Internet web site <http://www.vaeb.uscourts.gov/> and can be accessed by clicking the "Bankruptcy Forms" button on the Court's Internet home page.

3. Policy Statements

The Court will not approve charges for time expended for work that is secretarial or administrative in nature (*e.g.*, sending facsimile transmissions, making copies, taking telephone messages, and the like) even if performed by an attorney or paralegal.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
_____ Division

In re:

Case No. _____
Chapter 13

Debtor(s)

**APPLICATION FOR SUPPLEMENTAL COMPENSATION
OF ATTORNEY FOR DEBTOR(S)**

_____ applies for approval and payment of supplemental compensation (including reimbursement of expenses) as attorney for the debtor in the amount of \$_____.

1. The period covered by this application is from _____ through _____.
2. Fees in the amount of \$_____ having previously been paid by the debtor(s) or approved for payment through the plan.
3. The attorneys and paralegals who provided services for which compensation is requested are as follows:

Name of Attorney or Paralegal	Attorney ? (y/n)	Years in Practice	Hourly Rate	Hours	Total Fees

4. A summary of the services for which compensation is requested is as follows:

Description of Services Rendered	Attorney hours	Paralegal hours	Total fees

5. Fees and costs in the amount of \$_____ have been written off in the exercise of billing discretion

6. Charges _____ (have/have not) been included for preparation and noticing of the fee application and any court appearances related to the application. (If included, the amount requested is \$_____.)

7. The requested fee _____ (can/cannot) be paid without reducing the dividend on unsecured claims. If applicable, the debtor _____ (does/does not) consent to an increase of the plan term to _____ months or an increase in the plan payment to _____ to allow for payment of the compensation without reducing the dividend.

8. Detailed time and expense records are attached as Exhibit A.

Signature of applicant

Name, address, and telephone number:

Certificate of Service

I certify that I have this ____ day of _____, 20__, transmitted a true copy of the foregoing application electronically through the Court's CM/ECF system or by mail to the Debtor(s), Chapter 13 trustee, the United States trustee if other than by the electronic means provided for at Local Bankruptcy Rule 2002-1(d)(3), and to all creditors and parties in interest on the mailing matrix maintained by the clerk of court, a copy of which is attached.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA

PROCEDURES GOVERNING FEES FOR DEBTOR'S COUNSEL IN CHAPTER 13
CASES FILED BEFORE OCTOBER 17, 2005

1. Generally
 - a. The Procedures Governing Fees for Debtor's Counsel in Chapter 13 Cases Filed before October 17, 2005, ("Procedures"), adapted from former Local Bankruptcy Rule 2016-1(C)(1)-(6), inclusive, have been adopted by the Court.
 - b. For Chapter 13 cases filed before October 17, 2005, 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.
2. For All Chapter 13 Cases Filed Before January 1, 2003
 - a. 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:
 - (1) 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 (10) days in which to file any objection.
 - (2) Proof of Service: With the application for compensation, the debtor's attorney shall file a proof of service evidencing proper service under Subparagraph 2a(1) these Procedures.
 - b. 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:
 - (1) 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 (10) days in which to file any objection.

- (2) Proof of Service: With the application for compensation, the debtor's attorney shall file proof of service evidencing proper service under Subparagraph 2b(1) of these Procedures.
 - c. Any fee in excess of the maximum established in these Procedures 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 these Procedures. Service and notice of the application shall be given in accordance with Subparagraph 2a or 2b of these Procedures.
3. For All Chapter 13 Cases Filed January 1, 2003, to October 16, 2005, Inclusive
- a. Where the 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:
 - (1) 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 file an objection to the fees requested in the Rule 2016-1 disclosure of compensation opposing said fees in their entirety, or in a specific amount. Counsel 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.
 - (2) Proof of Service: With the Rule 2016-1 disclosure of compensation, the debtor's attorney shall file a proof of service evidencing proper service under Subparagraph 3a(1) of these Procedures.
 - b. 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 these Procedures. Service and notice of the application shall be given in accordance with Paragraph 3a(1)-(2) of these Procedures.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA

Interim Procedures Governing Practice and Procedure Under
The Bankruptcy Abuse Prevention and Consumer Protection Act
of 2005

12. ~~INTERIM PROCEDURE 2016-1 COMPENSATION OF PROFESSIONALS~~

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

(7) Fees Requested Not in Excess of \$3,000 [For All Cases and Proceedings Filed on or After 10/17/05]: Where the Rule 2016-1 disclosure of compensation does not exceed \$3,000, 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 file an objection to the fees requested in the LBR 2016-1 disclosure of compensation opposing said fees in their entirety, or in a specific amount. Counsel 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 LBR 2016-1 disclosure of compensation, the debtor's attorney shall file a proof of service evidencing proper service under subparagraph (C)(7)(a) of this Interim Procedure.

(8) Fees and Expenses Requested After the Filing of the Petition [For All Cases and Proceedings Filed on or After 10/17/05]: 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, the United States Trustee Program "Guidelines for Reviewing Applications for Compensation & Reimbursement of Expenses Filed under 11 U.S.C. §330" and the other provisions of this Interim Procedure. 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)(7) of this Interim Procedure.