

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA

In Re:

LOCAL RULES

ORDER AMENDING LOCAL RULE 2016-1 AND ADMINISTRATIVE GUIDE TO PRACTICE AND PROCEDURE

The Local Rules Committee for the Eastern District of North Carolina has recommended that the Local Rules and Administrative Guide to Practice and Procedure be amended. The bar was given notice through court's electronic listserv of a meeting on compensation under Local Rule 2016-1 held on Friday, February 20, 2006, at which the bar had the opportunity to comment. The bankruptcy judges considered all of the comments to the rule and administrative guide amendments, and pursuant to Rule 9029 of the Federal Rules of Bankruptcy Procedure, Local Rule 2016-1 and the Administrative Guide to Practice and Procedure for the Eastern District of North Carolina are amended as attached.

The Local Rules shall be read in conjunction with the Administrative Guide for Practice and Procedure which is available from the Office of the Clerk of the United States Bankruptcy Court for the Eastern District of North Carolina and is maintained on the court's web site at: www.nceb.uscourts.gov. In the event of a conflict between the Local Rules and the Administrative Guide for Practice and Procedure, the Local Rules shall control.

The amended Local Rule 2016-1 shall be effective in cases filed on or after April 1, 2006.

SO ORDERED.

March 30, 2006

s/ J. Rich Leonard
J. Rich Leonard
Chief Judge

s/ A. Thomas Small
A. Thomas Small
Judge

AMENDMENTS TO LOCAL RULES AND ADMINISTRATIVE GUIDE TO PRACTICE AND
PROCEDURE EFFECTIVE April 1, 2006

LOCAL RULES
Rule 2016-1
COMPENSATION OF PROFESSIONALS

(a) COMPENSATION OF ATTORNEY FOR DEBTOR IN CHAPTER 13 CASES:

(1) AMOUNT OF STANDARD BASE FEE: The standard base fee in a chapter 13 ~~consumer case and a chapter 13 business~~ case is as provided in the statement of approved compensation published annually by the clerk and included in the Administrative Guide to Practice and Procedure. ~~Though the standard base fee will typically be approved by the court without hearing, the trustee may recommend, in appropriate cases, that a lower fee be allowed. In recommending a standard base fee in converted cases, the trustee shall take into consideration the compensation already received.~~

(2) SERVICES INCLUDED IN THE BASE FEE: The standard base fee includes the basic services reasonably necessary to properly represent the debtor before the bankruptcy court during the first 12 months after filing the case.

(3) APPLYING FOR A HIGHER BASE FEE: Applications for approval of a base fee higher than the standard base fee must be filed by the debtor's attorney within 60 days after the conclusion of the creditor's meeting under § 341 of the Bankruptcy Code.

(4) NON-BASE FEE SERVICES DEFINED: The following services are not covered by the standard base fee, and additional compensation for these services may be awarded by the court:

(A) motion for authority to sell real property;

(B) application to incur debt;

(C) ~~motion to extend or impose the automatic stay for repeat filers;~~

~~(D)~~ prosecution or defense of adversary proceedings;

~~(E)~~ filing of formal motions or responses pertaining to ~~four~~ ~~three~~ or more matters arising during the first year of the case, including but not limited to the services listed below in subsection (6); and

~~(F)~~ any other service that, in the discretion of the court, reasonably warrants additional compensation.

(5) APPROVAL OF NON-BASE FEES: Except as specified in subsection (6), applications for fees for any non-base fee services provided to a chapter 13 debtor must be approved by the court. Notice of each application for fees and expenses in any amount under \$1,000 must be sent to each debtor, the trustee, and the bankruptcy administrator. Notice of each application for fees and expenses of \$1,000 and above must be given to all parties in interest.

(6) PRESUMPTIVE NON-BASE FEES/APPROVAL/ NOTICE: The list of presumptively reasonable non-base fee services are contained in the statement of approved compensation published by the clerk and included in the Administrative Guide to Practice and Procedure. Applications for the presumptive non-base fee must be filed with a notice verifying completion of the service and a certificate of service evidencing service of the notice on each debtor, the trustee and the bankruptcy

administrator. The applications for presumptive non-base fees will automatically be approved by the court. Alternatively, the debtor's attorney may apply to the court for approval of non-base fees on a "time and expense" basis pursuant to Rule 2016 of the Federal Rules of Bankruptcy Procedure and 11 U.S.C. § 330.

(7) DISCLOSURE OF FEE PROCEDURES: Every attorney for a chapter 13 debtor must disclose to the debtor the procedures applicable in this district to awards of attorneys' fees in chapter 13 cases.

(8) INTERIM APPROVAL OF PARTIAL BASE FEE: An attorney fee as specified in the Administrative Guide to Practice and Procedure for services provided to the debtor up to and including the petition date is authorized and shall be considered part of the base fee. Any amount in excess of the base fee collected by the attorney prior to filing the chapter 13 petition must be held in the attorney's client trust account pending further order of the court or approval of the fees in accordance with this rule.

(9) PAYMENT OF ATTORNEY FEES/MODIFICATION OF PLAN: The following will be treated and paid as administrative expenses of the chapter 13 case:

(A) the standard base fee, less any partial base fee paid prior to filing the chapter 13 petition; and

(B) any additional amounts awarded in excess of the standard base fee or for non-base fee services.

These fees shall be paid by the trustee at the rate set in the Administrative Guide to Practice and Procedure unless the court directs otherwise. The trustee may, without application to the court, modify the chapter 13 plan to extend the duration of the plan and/or increase the monthly amount of the plan payment in order to provide the funds necessary to pay attorney fees. The trustee must notify the debtor and the debtor's attorney of the plan modification.

ADMINISTRATIVE GUIDE
Rule 2016-1
COMPENSATION OF PROFESSIONALS

(a)(1) Amount of Standard Base Fee:

Effective in cases filed on and after ~~July 1, 2004~~ April 1, 2006, the standard base fee in a ~~consumer~~ chapter 13 case is ~~\$1,600.00; 3000.00.~~ ~~and the standard base fee in a business chapter 13 case is \$2,200.00~~

(a)(6) Presumptive Non-base Fees:

Motion to extend or impose the automatic stay for repeat filers	\$350.00
Motion to use interrogatories, and interrogatories	\$150.00
Motion for turnover	\$250.00
Adversary proceeding for turnover	\$500.00

Uncontested lien avoidance	\$500.00
Motion to avoid judicial lien	\$200.00
Motion to modify plan post-confirmation	\$250.00
Motion to substitute collateral	\$350.00
Motion for authority to sell property	\$250.00
Application to incur debt	\$200.00
Defense of motion for relief from stay and/or co-debtor stay	\$350.00
Handling of an insurance inquiry received more than twelve (12) months after the Chapter 13 case is filed	\$50.00
Defense of motion to dismiss	\$200.00
Motion for hardship discharge	\$350.00
Objection to claims	\$200.00
Notice to abandon property	\$100.00

(a)(9)(B) Payment of Attorney Fees/modification of Plan

These fees shall be paid by the Trustee [at the rate of \\$200.00 per month](#) during the first year of the plan unless the Court directs otherwise. **In a case where this rate will not pay the entire amount of the Standard Base Fee authorized to be paid in the Chapter 13 plan during the first 12 months of the plan, the trustee may adjust the monthly rate upward to pay the entire fee during this period.**