

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 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 represent properly the debtor before the bankruptcy court through the earlier of confirmation or the first 12 months after filing the case. Those basic services should include, but not be limited to, the following:
 - (A) interview with the debtor;
 - (B) analysis and recommendation of appropriate chapter of Title 11;
 - (C) reasonable inquiry into the debtor's assets, including efforts to confirm or verify ownership through search of a tax office, register of deeds office, other public records search, or document review;
 - (D) obtaining credit report, pay advices (if no wages or self-employed during the applicable period, an appropriate affidavit), and tax returns;
 - (E) preparation of all documents required under § 521 of the Bankruptcy Code, including, but not limited to, the schedules, Statement of Financial Affairs for Individuals Filing for Bankruptcy, Forms 122C-1 and 122C-2 (if applicable), and chapter 13 plan;
 - (F) representation at the creditors' meeting under § 341 of the Bankruptcy Code;
 - (G) preparation of any amendments to schedules or plan modifications prior to confirmation;
 - (H) attendance at plan confirmation hearings;
 - (I) preparation of motion to extend or impose automatic stay for repeat filers, if appropriate; and
 - (J) preparation of motions to dismiss.
 - (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) prosecution or defense of adversary proceedings;
 - (D) motion or adversary proceeding to value collateral and avoid mortgage;

- (E) motion to avoid lien;
 - (F) services other than those included in the base fee as described in subsection(a)(2); and
 - (G) any other service that, in the discretion of the court, reasonably warrants additional compensation.
- (5) **APPROVAL OF NON-BASE FEES.** 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 the amount of \$1,000 or below must be sent to each debtor and the trustee. Notice of each application for fees and expenses in excess 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 services for which compensation is sought and a certificate of service evidencing service of the notice on each debtor and the trustee. After notice pursuant to subsection (5) above, the application for presumptive non-base fees will be deemed approved by the court but is subject to modification by the court upon a timely objection.
 - (7) **TIME AND EXPENSE ALTERNATIVE.** Alternatively, the debtor's attorney may apply to the court for approval of fees on a "time and expense" basis pursuant to Rule 2016 of the Federal Rules of Bankruptcy Procedure and 11 U.S.C. § 330.
 - (9) **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.
 - (10) **INTERIM APPROVAL OF PARTIAL BASE FEE.** An attorney fee incurred for services provided to the debtor in connection with the bankruptcy filing prior to 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.
 - (11) **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.

- (b) **COMPENSATION OF PROFESSIONALS IN CHAPTER 7, 11, AND 12 CASES.** The bankruptcy administrator's Procedures for Preparing and Submitting Applications for Compensation by Professionals shall serve as a guide for applications for compensation to professionals. Absent an order to the contrary, professionals may apply for compensation

once every sixty (60) days. The Procedures for Preparing and Submitting Applications for Compensation by Professionals outline is available from the office of the bankruptcy administrator.

- (c) **REIMBURSEMENT OF FEES PAID TO THE COURT.** Unless otherwise ordered, an attorney for the debtor shall be allowed, without application, to receive payment or reimbursement from or on behalf of the debtor for court fees paid by the attorney to the court on behalf of the debtor.

Rule 5005-4(6)
SEALED DOCUMENTS

- (a) ~~In connection with~~ Prior to the filing of any document in an action assigned to the ECF system, any person may apply by motion for an order allowing the filing of such document under seal, or limiting the electronic access to, any specifically-identified document, as provided by 11 U.S.C. § 107 or as authorized by law.
- (b) A motion to file a document under seal or subject to restricted access may be filed electronically ~~unless prohibited by law~~. Contemporaneously with the filing of such a motion, ~~A a court~~ proposed order authorizing the filing of a document under seal or subject to restricted access ~~may~~ shall also be uploaded ~~filed~~ electronically ~~unless prohibited by law~~. A copy of the document requested to be filed under seal or subject to restricted access shall be attached to the uploaded order.
- ~~(c) Any document ordered to be placed under seal must be filed in paper form, and not electronically, unless specifically authorized by the court. A paper copy of the order authorizing the filing of documents under seal must be attached to the documents and delivered to the clerk, who will place the order and the sealed documents in the safe located in the clerk's office under restricted access until further order of the court.~~
- (~~d~~c) After entry of an order authorizing the filing of the document under seal or subject to restricted access, ~~For any document ordered to be filed but not made available for public viewing, the Filing User shall contact~~ the clerk's office ~~by telephone to advise that the document in question is ready to be electronically filed, and~~ shall then proceed to electronically file the document in question such that the clerk's office may immediately remove it from public access.

Rule 3070-1
CHAPTER 13 - PAYMENTS

- (a) RETURN OF PLAN PAYMENTS TO DEBTOR. Subject to subsections (b) and (d) below, Upon conversion or dismissal of a chapter 13 case prior to confirmation, and unless the court orders otherwise, the standing trustee shall return to the debtor any payments made by the debtor under the proposed plan, ~~less any claim under 11 U.S.C. § 503(b)~~.
- (b) ATTORNEYS FEES IN A DISMISSED UNCONFIRMED CHAPTER 13 CASE.
- (1) Upon the entry of an order of dismissal in a chapter 13 case prior to a plan being confirmed, and unless other arrangements are made with the debtor for compensation, counsel for the debtor shall have 14 days from the entry of the order of dismissal within which to file an application for attorney fees (“Application”). The Application shall be served upon the debtor and the chapter 13 trustee, and those parties-in-interest shall have 14 days, including any days for mailing, to respond.
 - (2) The chapter 13 trustee shall not make any disbursement until the 14 day period for filing the Application has expired. If an Application is timely filed, the trustee shall continue to hold the funds in trust and shall not make final disbursement until the court rules on the Application.
- (c) ADEQUATE PROTECTION PAYMENTS TO SECURED CREDITORS AND DIRECT PAYMENTS TO LESSORS.
- (1) The debtor shall pay directly to the lessor all payments scheduled in a lease of personal property for that portion of the obligation that becomes due after the order for relief.
 - (2) Unless the chapter 13 plan provides that the entire secured claim is to be paid directly by the debtor to the creditor, the debtor shall pay to a creditor, who holds an allowed claim secured by personal property to the extent that the claim is attributable to the purchase of the property by the debtor, pre-confirmation adequate protection payments through the chapter 13 trustee; however, the court may order payments to be made by any other method.
 - (3) The presumptive adequate protection payment to be paid pursuant to Section 1326(a)(1) shall be at least one percent (1%) of the value of the subject collateral at the discretion of the chapter 13 trustee as of the petition date. The valuation of the collateral shall be made solely by the chapter 13 trustee, subject to further court consideration.
 - (4) All adequate protection payments paid through the chapter 13 trustee shall be subject to an administrative fee in favor of the trustee equal to the trustee’s statutory percentage commission then in effect, and the trustee shall collect the fee at the time of the distribution of the adequate protection payment to the claimant.
 - (5) The chapter 13 trustee shall make adequate protection payments to the creditor at the address duly noted on the proof of claim. The use of the address shall be deemed proper notice of the creditors for purpose of the adequate protection payments.
 - (6) The chapter 13 trustee shall not be required to make pre-confirmation adequate protection payments on account of any claim for which the secured value of the claim is less than \$2,000.00.
 - (7) All adequate protection payments made through the chapter 13 trustee shall be disbursed in the ordinary course of the trustee’s business, according to the trustee’s

standard monthly distribution schedule, from funds in the case as they become available for distribution to claimants prior to or after entry of the Order Confirming Plan.

~~(8) Upon the dismissal or conversion of the chapter 13 case to another chapter prior to confirmation, the chapter 13 trustee shall make the pre-confirmation adequate protection payments, or portion thereof, from any funds available for that purpose received on or before the date of the entry of the order of dismissal or conversion, to creditors that have filed proofs of claim that have been deemed allowed pursuant to Section 502(a), prior to the date of the dismissal or conversion.~~

(98) Subsections (bc)(2) and (bc)(3) of this rule shall not apply if the adequate protection is provided by means other than by direct payments to the holder of the secured claim.

(cd) CHAPTER 13 TRUSTEE'S ADMINISTRATIVE FEE IN CHAPTER 13 CASES DISMISSED PRIOR TO CONFIRMATION.

(1) An administrative fee is authorized for the chapter 13 trustee in cases dismissed prior to confirmation in the amount set forth in the Administrative Guide.

(2) The fee shall be payable from payments made by the debtor(s) and held by the trustee at the time of case dismissal.

(3) The trustee who has incurred actual costs and expenses in excess of the standard administrative fee may apply under 11 U.S.C. § 503(a) for reimbursement of these additional costs and expenses from funds paid by the debtor to the trustee.

Rule 7016-2
TRIALS

- (a) **OPENING STATEMENTS.** At the beginning of the trial, each party (beginning with the party having the burden of proof on the first issue) may, without argument and in such reasonable time as the court allows, state to the court the following:
- (1) the substance of the claim, counterclaim, cross claim or defense; and
 - (2) what counsel contends the evidence will show.
- Parties not having the burden of proof on the first issue may elect to make an opening statement immediately prior to presenting evidence, rather than at the beginning of the trial.
- (b) **WITNESSES.** Counsel may not release a person from a subpoena without notice to opposing counsel and leave of court. A party objecting to the release of a person shall bear all costs incident to the person that arise subsequent to the request for release. The court, in its discretion and in the interest of justice, may permit a party to call and examine a witness not listed in the final pretrial order.
- (c) **EXHIBITS.**
- (1) All exhibits shall be pre-marked with stickers with sequential numbers as listed in the pretrial order.
 - (2) Copies of all exhibits, properly bound, shall be provided to the court at the beginning of the trial.
 - (3) The original exhibit shall bear a sticker. After receipt into evidence, it shall remain in the custody of the courtroom deputy except when being used by a witness.
 - (4) Copies of all exhibits shall bear the photocopy of the sticker or a typed or printed reproduction thereof.
 - (5) Upon presentation of an exhibit to a witness, counsel shall announce to the court the exhibit number.
- (d) **CLOSING ARGUMENT.** The court will set the times for closing argument after consultation with parties. Unless otherwise ordered by the court, the party with the burden of proof shall open and close the arguments. ~~The opening argument may not be waived.~~

Rule 2090-1
ATTORNEYS - ADMISSION TO PRACTICE

- (a) LOCAL CIVIL RULE 83.1(f), EDNC APPLICABLE. Except as otherwise provided in this rule, Local Civil Rule 83.1 of the Local Rules of Practice and Procedure for the United States District Court, Eastern District of North Carolina, entitled, “Attorneys,” is applicable in this court with the following exceptions:
- (1) An individual may represent himself;
 - (2) A corporate entity may be represented at a meeting of creditors by its officers and agents;
 - (3) The following documents may be filed by a corporate entity or an attorney not admitted to practice before this court on behalf of a client: (i) a proof of claim, (ii) a reaffirmation agreement; (iii) an assignment/transfer of claim, **and** (iv) a notice of appearance and request for notices, ~~and (v) a motion for release of unclaimed funds.~~ Corporate entities not represented by an attorney and attorneys not admitted to practice before this court may obtain a limited password for access to the court’s CM/ECF system for the purpose of filing the above documents.