

**RULE 2016-5: Compensation for Debtor's Counsel in Chapter 13 Cases.**

- A. Presumptively Reasonable Fee. Debtor's counsel in a chapter 13 case is relieved from filing a detailed application for compensation as required by 11 U.S.C. § 330 and Bankruptcy Rule 2016 if the attorney complies with all of the conditions and requirements set forth herein.
1. Rule 2016 Disclosure. Debtor's counsel shall file a Bankruptcy Rule 2016(b) Disclosure of Compensation reflecting that the attorney will perform all required and necessary services for the debtor as set forth subsection (A)(2). If the attorney's Rule 2016(b) Disclosure of Compensation clearly states the specific exceptions, Counsel may except from representation under this Rule the following: adversary proceedings, appeals, and United States Trustee audits. Counsel may make separate arrangements for such representation with a debtor.
  2.
    - i. Amount. Total compensation for Debtor's counsel of \$5,500.00 or less per case, whether individual or joint, will be presumed reasonable under 11 U.S.C. § 329 and allowable under 11 U.S.C. § 330. If the chapter 13 trustee requires the debtor to file a business report, or if the debtor holds a controlling interest in a corporation or LLC operating a business, total compensation for Debtor's counsel of \$6,500.00 or less per case, whether individual or joint, will be presumed reasonable under 11 U.S.C. § 329 and allowable under 11 U.S.C. § 330. Debtor's counsel may also receive expenses, including the filing fee and up to \$150.00 in other estimated expenses. The presumptive fee amounts shall be periodically reviewed and adjusted by the Court by General Order, at least bi-annually in the first quarter of the calendar year. Notwithstanding the amounts set forth herein, the compensation charged must be commensurate with the nature and complexity of the case, be based upon the reasonably anticipated amount of time to be expended on the case, and shall be presumed to compensate debtor's attorney for a level of service to debtor that includes the services set forth in subsection (ii).
    - ii. Services Included. Services included in the presumptively reasonable fee set forth in (A)(2)(i), at a minimum, shall include:
      - a. Counseling with and explaining to the debtor all of the debtor's responsibilities, including, but not limited to payments and attendance at the meeting of creditors, confirmation hearing(s), and other required hearings;
      - b. Verifying the debtor's identity, social security number, and eligibility for Chapter 13;
      - c. Timely preparation and filing of the petition, schedules, statement of financial affairs, chapter 13 plan, all amendments and all required documents pursuant to the Bankruptcy Code, the Bankruptcy Rules, and these Local Rules;
      - d. Serving copies of all filed plans on creditors and interested parties as required by the Code, the Bankruptcy Rules, and these Local Rules;

- e. Preparing for and attending the meeting of creditors, confirmation hearing(s), and all other required hearings;
  - f. Preparing pleadings and attending hearings for all necessary pre-confirmation motions brought on behalf of the debtor;
  - g. Timely reviewing, objecting to, and filing claims, as necessary;
  - h. Filing amendments, motions, or any other required pleadings;
  - i. Attending all hearings when required;
  - j. Assisting the debtor in petitioning the Court to employ special counsel, to seek approval of settlements or compromises, and to request approval of compensation for special counsel as appropriate;
  - k. Attending hearings and defending motions against the debtor as appropriate, including motions for relief from the automatic stay, until discharge, conversion, or dismissal of the case;
  - l. Preparing, filing, and serving of motions for voluntary dismissals;
  - m. Preparing, filing, and serving of motions to deem mortgage current, where appropriate;
  - n. Advising the debtor regarding the requirements for obtaining a discharge, including eligibility for discharge; the need to complete a course in personal financial management provided by an approved agency; the need to satisfy requirements regarding domestic support obligations; and filing all required § 1328 certifications with the bankruptcy court;
  - o. Filing a statement regarding the completion of a course in personal financial management if required by Federal Rule of Bankruptcy Procedure 1007(b)(7) (or subsequent rules) and a motion for entry of discharge (if applicable);
  - p. Consulting with the debtor from time-to-time after confirmation regarding the status of the case and steps needed for plan completion, including without limitation, changes of address, changes in employer/employee withholding, review of summary notices of claims, review of annual/semi-annual reports, and review or preparation of miscellaneous correspondence regarding the case;
  - q. In a business case, filing business reports or providing any business documentation as required by the chapter 13 trustee; and
  - r. In all cases, assisting the debtor with compliance with all requirements of the Bankruptcy Code, Federal Rules of Bankruptcy Procedure, General Orders, Local Rules, and procedures.
- iii. Approval. Approval of the allowance of a presumptively reasonable fee will be considered by the Court at confirmation and be granted by entry of the confirmation order. The fees sought in the plan must be consistent in amount and description with counsel's Bankruptcy Rule 2016(b) disclosure.
- iv. Duration of Representation. A debtor's attorney must assist the debtor in all matters in the bankruptcy case, unless properly excluded as provided for in section (A)(1) above, unless the Court has granted the attorney's motion to

withdraw as counsel. Debtor's counsel shall not withhold legal advice or service in the bankruptcy case from the debtor because of lack of payment and may not demand payment from the debtor or any person on behalf of the debtor as a condition of providing such legal advice or service.

3. Review of Presumptively Reasonable Fees. Inasmuch as the reasonableness of fees established in subdivision (A)(2) is presumptive only, the Court may, in its discretion, or upon request of the debtor, the chapter 13 trustee, the U.S. Trustee, a creditor, Debtor's counsel, or a party in interest, conduct a hearing to consider the reasonableness of such fee under all the facts and circumstances of the case. The Court may, as a result of such hearing, reduce, increase, or otherwise modify such fee. Attorneys are prohibited from advising clients or the public that this Court requires any minimum or maximum compensation for a chapter 13 case. This Rule does not seek to set any compensation in any chapter 13 case, and it does not and is not intended to set any minimum or maximum compensation in any chapter 13 case filed in this Court.
  4. Effect of Flat Fee Election.
    - i. Unless ordered otherwise, Debtor's counsel's election to accept a presumptive fee is irrevocable. However, the Court may allow compensation different from the compensation provided under subdivision (A)(2) any time prior to entry of a final decree, if such compensation proves to have been improvident in light of developments not capable of being anticipated at the time the plan is confirmed or denied confirmation.
    - ii. If a debtor's attorney is awarded compensation pursuant to subdivision (A)(2) of this Rule and thereafter seeks additional compensation pursuant to subsection (A)(4)(i), the attorney must file a detailed application for compensation for all such additional compensation in the case as described in this Rule and pursuant to Bankruptcy Rule 2016(a), 11 U.S.C. § 330, the Compensation Guidelines maintained by the Office of the United States Trustee, and other applicable law. The attorney seeking additional compensation must be prepared at the hearing to provide evidence as to the improvident developments, including all extraordinary tasks required in the case, and the reason additional compensation is sought and due.
- B. Electing to File Applications for Compensation in Chapter 13 Cases. A chapter 13 debtor's attorney may elect not to seek compensation under subdivision (A) of this Rule. In that event, the attorney must file a detailed application for all compensation in the case pursuant to Bankruptcy Rule 2016(a), 11 U.S.C. § 330, the Compensation Guidelines maintained by the Office of the United States Trustee, and other applicable law. Attorneys electing this procedure shall estimate fees in the chapter 13 plan for confirmation purposes. Unless otherwise ordered by the Court, an attorney seeking compensation under this subpart shall file an initial fee application no later than 60 days after entry of the first order confirming a plan in the case.

- C. Nonstandard Case Related Representation. Attorneys employed by a debtor during the case to assist with work not contemplated under the expedited fee process or addressed in the supplemental fee provision in the written fee agreement, such as representation of the debtor in an adversary proceeding, or an action in connection with the case in a nonbankruptcy court, shall comply with the filing requirements of 11 U.S.C. § 329.
- D. Retention of Jurisdiction. Upon the dismissal of a Chapter 13 case wherein a Chapter 13 plan has not been confirmed, the court will retain jurisdiction for a period of twenty one (21) days after the dismissal order becomes final, to determine if any professional fees are an administrative expense under 11 U.S.C. §503(b). *See* 11 U.S.C. § 1326 (a)(2). The debtor's attorney, and or any duly authorized professional, shall move the court within the twenty-one (21) days period for such a determination.