

## **Rule 2016-1 PROFESSIONAL FEES AND EXPENSES\***

(a) Fee applications are required in all cases, except those originally filed Chapter 7 cases where counsel for the debtor is compensated via a lump sum payment prior to filing, and in those Chapter 13 cases when counsel opts for compensation pursuant to the “no-look fee” provisions of this Local Bankruptcy Rule.

(b) No compensation or expenses will be allowed, or paid by the estate or any third-party source, to any professional for services rendered in any case unless:

- (1) a motion to approve employment has been filed; and
- (2) an order granting the motion has been entered, except that counsel for debtors in Chapter 13 cases are not required to file such a motion or obtain such an order.

(c) An application for fees and expenses filed pursuant to W.PA.LBR 2016-1(b) shall include the following:

- (1) the date of the order appointing the professional, with a copy thereof attached as an exhibit;
- (2) a statement indicating whether the application is for final or interim compensation and expenses, the total amounts thereof, and the period covered by the application;
- (3) the dates and amounts of previous compensation requested and the amounts approved, if any, including any retainers paid, with copies of the orders approving the prior payments, the retention agreement, an itemization of fees and expenses paid from any source other than the debtor’s estate, a copy of the attorney disclosure statement previously filed pursuant to Fed. R. Bankr. P. 2016, attached as exhibits;
- (4) a list of all timekeepers included in the application, including, but not limited to: the attorneys, paraprofessionals, or other professionals contributing services, number of years in practice, their billing rates, total hours, total dollars, and the blended hourly rate;
- (5) a chronological listing of time and services performed (“Chronological Listing”) or a listing of time and services by category of service arranged chronologically (“Category Listing”), attached to the Application. Regardless of the approach utilized, both a Chronological Listing and a Category Listing shall include the date, the professional or other timekeeper, a description of the service, and the time involved;
  - (A) If a Category Listing is provided, each category shall be preceded by a heading generally describing the services within that category and a brief statement detailing the result to the estate. A separate category shall be included for preparation of the fee application and another for all administrative services such as file

maintenance, docket review, typing, filing and service of documents, etc.

(B) If a Chronological Listing is provided, a separate summary of time and service by category shall be attached, and each category shall be given an identifying number. This identifying number shall be placed beside each chronological entry to identify the category number into which it falls. A separate category shall be included in the summary for preparation of the fee application and another for all administrative services such as file maintenance, docket review, typing, filing and service of documents, etc.

(C) In Chapter 13 cases, if the professional or other timekeeper has performed services in connection with the debtor's participation in the Loss Mitigation Program, described in W.PA.LBR 9020-1, the application for fees and expenses shall:

(i) separately itemize any fees for services rendered and expenses incurred in connection with the debtor's participation in the Loss Mitigation Program; and,

(ii) otherwise comply with the requirements of W.PA.LBR 9020-7(c).

(6) an itemization of the expenses for which reimbursement is requested:

(A) Expenses shall be billed and allowed only at actual cost without overhead or add-ons; and

(B) If compensation for travel time is requested, unless appropriate, special circumstances are set forth, typically only fifty percent (50%) of the applicable hourly rate of the professional will be allowed for travel;

(7) a statement that the professional or other timekeeper is a disinterested person and does not represent or hold an interest adverse to the interest of the estate on the matter on which he was employed;

(8) a history of the case in narrative form;

(9) a summary cover sheet substantially conforming to Local Bankruptcy Form 9 (Summary Cover Sheet). A fee application filed without a completed cover sheet shall be dismissed without prejudice to refile;

(10) a proposed order of Court;

(11) in complex Chapter 11 cases, a spreadsheet which reflects all fees that are requested pursuant to the application and a cumulative total for professional by category; and

(12) if the Court enters an administrative fee order in a particular case, the terms of the order shall govern;

(d) All entries in a fee application shall:

(1) list each service or task separately and state in increments not exceeding one-tenth (1/10) of an hour the amount of time expended in its performance;

(2) identify the subject matter of any correspondence or phone call and the party with whom the professional or other timekeeper has communicated if the service involves telephone and/or written correspondence;

(3) identify where appropriate, and in the interest of clarity, the subject matter of any hearing or trial with specificity, including the case or adversary number, if the service involved attendance at a hearing or trial;

(4) identify any document with specificity if the service involves preparation of that document; and

(5) include all other information necessary to a full understanding of the services performed and the person and time involved.

(e) Unless leave to seek interim compensation has been allowed by order of the Court, all fee applications filed in Chapter 7 cases will be considered only after:

(1) the trustee in the case has filed a final account;

(2) there has been a proposed order of final distribution submitted for the Court's consideration in which the allowed fees are included; and

(3) notice has been given to all parties in interest of:

(A) the last date to file objections thereto; and

(B) the hearing date and time, if any.

(f) The Chapter 13 "no look attorney fee" shall be limited to a maximum of \$5,000.00 and the Chapter 13 "no-look expense charge" shall be limited to a maximum in the amount of \$500 (allowable expenses charged include the petition filing fee, postage, copying, certifications and other costs incurred in the administration of the case.) When the fee and expenses charged by counsel is less than or equal to either or both of the no-look fee and expense charge, no fee application is required. The no-look attorney fee and expense charge:

(1) shall include any retainer received;

(2) shall be reduced on a dollar-for-dollar basis for anything paid directly by the client, for instance if the client pays the petition filing fee

directly, the no-look expense charge shall be equal to \$500 less the filing fee; and,

(3) does not preclude the award of additional fees and/or expenses by the Court upon the filing of a fee application consistent with these Local Bankruptcy Rules requiring in such case a detailed statement and accounting of fees and expenses charged; *provided however*, in order to "opt out" of the no-look fee provisions of this Local Bankruptcy Rule:

(A) counsel shall have entered into a written fee agreement at the commencement of the representation providing the alternative of opting out of the no-look fee compensation option and for payment of additional fees in the event of unforeseen, future case complications; and

(B) to the extent counsel seeks such additional compensation, counsel is required to file a cumulative fee application subject to the other provisions of this Local Bankruptcy Rule.

(g) If counsel opts to be paid via the no-look fee, counsel shall nevertheless advise and represent the debtor(s) in a manner consistent with applicable professional standards and be required to perform all matters necessary to properly and timely complete the bankruptcy case, including the following services:

- (1) the debtor(s) will be interviewed by counsel and appropriately briefed on the Chapter 13 process;
- (2) accurate and complete schedules, statements of financial affairs, and related documents will be prepared by counsel;
- (3) all documents will be explained;
- (4) counsel will file a Chapter 13 plan that meets with the requirements of Local Bankruptcy Form 10 (Chapter 13 Plan) and is capable of confirmation;
- (5) in addition to the first meeting of creditors, counsel will attend all hearings and will remain counsel of record until the case is either completed or dismissed, unless the Court has issued an order discharging the attorney as counsel of record;
- (6) counsel will file all motions and objections contemplated in the confirmed plan in a timely fashion; and
- (7) counsel will complete representation without additional charge to the debtor(s) for the duration of the Chapter 13 case.

(h) Counsel fees paid through the Chapter 13 plan shall be at the monthly rate and level set forth in the plan.

- (i) Additional fees may be paid through the Chapter 13 plan if either:
  - (1) the confirmed Chapter 13 plan contemplated such fees without decreasing the percentage or amount originally to be paid to other creditors through the plan, and proper application for allowance and payment is filed and approved; or
  - (2) in instances where the additional fees are not contemplated in the plan, assuming the plan is amended within fourteen (14) days after the application for fees is allowed and such fees are paid from plan resources without decreasing the percentage or amount to be paid to other creditors through the plan.

(j) Notwithstanding W.PA.LBR 2016-1(i), the Court recognizes that additional services provided by debtor's counsel may provide a benefit to the estate. Upon counsel's request, the Court may determine that the benefit to the estate warrants a diminution in the dividend paid to unsecured creditors and an amendment to the plan is not necessary. In such cases, any fee application filed shall specify:

- (1) in detail, the benefit received by the estate; and
- (2) whether and to what extent the unsecured creditors would receive a lower dividend under the existing plan if the fee application were granted and the fees were paid by the trustee from debtor's plan payments.