

Rule 2016-1

COMPENSATION OF PROFESSIONALS

(a) **General.** Requests for compensation for professional services and reimbursement of expenses are governed by Fed. R. Bankr. P. 2016 and this rule.

(b) **Retainers.** Professionals may apply prepetition and approved postpetition retainers in the ordinary course towards compensation for professional services and reimbursement of expenses without a separate order; however, professionals must fully disclose and account for all retainers in their Rule 2016 Disclosure Statement and in all subsequent applications for compensation. This rule does not relieve professionals from the obligation to file interim and/or final fee applications. The Court may order disgorgement of applied fees and costs at any time. This rule does not preclude any challenge to the entitlement or the reasonableness of any retainer.

(c) **Applications for Compensation for Professional Services and Reimbursement of Expenses.** Applications, whether interim or final, may be filed by negative notice in accordance with Local Rule 2002-4, except that the fee application does not need to be served with the notice, and the negative notice legend must be in the following form:

NOTICE OF APPLICATION FOR COMPENSATION
AND REIMBURSEMENT OF EXPENSES AND
OPPORTUNITY TO OBJECT AND REQUEST FOR HEARING

[*Applicant*], [*role in case, e.g., counsel, accountant, broker*] for [*client, e.g., debtor, trustee, Official Committee of Unsecured Creditors*] (“Applicant”) has filed an application for compensation in the amount of \$_____ and reimbursement of expenses in the amount of \$_____ (the “Application”). A copy of the Application may be viewed on the case docket or may be obtained by request to Applicant at [telephone number] or [email address].

If you object to the Application, you must file an objection with the Clerk of Court at [address] within 21 days from the date of the proof of service below, plus an additional three days if this notice was served on any party by U.S. Mail.

If you file and serve an objection within the time permitted, the Court will either (1) notify you of a hearing date, or (2) consider the Application and objection and approve or disapprove the Application without a hearing. If you do not file an objection within the time permitted, the Court will consider that you do not oppose the Application, and the Court will consider the Application without further notice or hearing.

(1) ***Chapter 7 Cases.***

(A) Except as provided for in Local Rule 2015-1, professionals employed by a Chapter 7 trustee must file final applications for fees and expenses incurred during a Chapter 7 case upon completion of services or upon notification by the trustee that the case is ready to close.

(B) In cases that have been converted to Chapter 7, all final applications of professionals for fees and expenses incurred in the case prior to conversion must be filed within 90 days after the order converting the case.

(C) All applications, whether interim or final, must contain the amounts requested and a detailed itemization of the work performed including:

- (i) the name of the individual performing the work;
- (ii) the amount of time expended for each item of work;
- (iii) the hourly rate requested;
- (iv) the date of employment;
- (v) a discussion of the criteria that are relevant in determining the compensation to be awarded;
- (vi) a detail of reimbursable costs; and
- (vii) a verification stating that the fees and costs for which reimbursement is sought are reasonable for the work performed, and that the application is true and accurate.

(2) ***Chapter 11 Cases.***

(A) ***General Information Requirements.*** Applications for interim or final compensation of less than \$5,000 must conform to the requirements of section (c)(1)(C) of this rule. Applications for compensation that exceed \$5,000 in the aggregate must also contain the information set forth below unless ordered otherwise.

(i) The first page of the application must be the Chapter 11 Fee Application Summary available on the Court's website. However, if the application is served using the negative notice procedures of Local Rule 2002-4, the negative notice legend and the title of the application must be located on the first page of the application and the Summary must be the second page of the application.

(ii) Time must be itemized by project category. Examples of project categories include General Case Administration, Asset Sales, Claims Administration and Objections, Fee Applications and Objections, Cash Collateral, Relief from Stay Proceedings, Avoidance Actions, Plan and Disclosure Statement, and Valuation.

(iii) The narrative portion of the application must provide information by project category as to the types of services performed, the necessity for performing the services, the results obtained, the benefit to the estate, and other information that is not apparent from the activity descriptions or that the applicant wishes to bring to the attention of the Court. In addition, the narrative portion of the application may describe special employment terms, billing policies, expense policies, voluntary reductions, reasons for the use of multiple professionals for a particular activity, or reasons for substantial time billed relating to a specific activity.

(iv) All applications must include complete and detailed activity descriptions billed in tenths of an hour (six minutes). Each activity description must include the type of activity (*e.g.*, phone call, research) and the subject matter (*e.g.*, cash collateral motion, § 341 meeting, etc.). Activity descriptions may not be lumped – each activity must have a separate description and time allotment.

(B) ***Applications to Permit Monthly Payment of Interim Fee Applications.*** In Chapter 11 cases, upon motion and after notice and hearing, the Court may consider the approval of procedures for monthly payment of interim fee applications for professionals based on the needs of the case.

(C) ***Final Applications.*** To be considered at the confirmation hearing, a professional fee application must be filed 14 days prior to the confirmation hearing unless ordered otherwise. The Court will not consider any application for compensation unless all creditors receive at least seven days' notice of the hearing. The notice of hearing must, at a minimum, identify the applicant and the amounts requested. A final application may include an estimate of the amount of additional fees and costs to be incurred through confirmation. If the actual fees for services rendered and costs incurred during the estimated period exceed the estimate, the application may be supplemented up to 14 days after entry of the confirmation order. If the actual fees for services rendered and costs incurred during this estimated period are less than the estimated amount, approval of such application authorizes payment of the actual fees and costs not to exceed the estimated amounts.

(D) ***Post-Confirmation Professional Fees.*** Unless otherwise ordered by the Court, professional fees and costs incurred after confirmation in connection with actions against third parties are subject to Court approval.

(3) ***Chapter 13 Cases.*** Compensation for professional services or reimbursement of expenses by attorneys for Chapter 13 debtors will be governed by the prevailing practice in the Division in which the case is pending.

(d) ***Creditors' Attorney's Fees.*** Applications for attorney's fees made on behalf of a creditor, other than requests under 11 U.S.C. § 503(b)(2), (3), and (4), are not governed by this rule. Nevertheless, any party in interest may seek a judicial determination of such fees.

(e) ***Expense Reimbursement Guidelines.*** The Court may establish expense reimbursement guidelines to address expenses such as photocopying, facsimile transmissions, computerized research, and meals and travel. Such guidelines will be posted on the Court's website.

(f) ***Waiver Procedure.*** An application to employ a professional within the scope of this rule may include a request that the Court waive, for cause, one or more of the information requirements of this rule. Such waivers may be appropriate for ordinary course professionals and professionals seeking *de minimus* payments and may be granted at the Court's discretion.

Notes of Advisory Committee

2023 Amendment

This amendment to section (c)(2)(B) provides that the Court may consider approval of monthly payment of interim fee applications for professionals in Chapter 11 cases based on the needs of the case. Other changes are stylistic. This amendment to the rule is effective August 1, 2023.

2022 Amendment

This amendment modifies the rule to clarify that all fee applications may be served on negative notice in accordance with Local Rule 2002-4. Section (c)(2)(C) is also amended to clarify the procedure for final fee applications to be approved at confirmation in Chapter 11 cases. This amendment to the rule is effective July 1, 2022.

2021 Amendment

This amendment modifies the deadline for filing final fee applications to be considered at the confirmation hearing in Chapter 11 cases. This amendment to the rule is effective August 1, 2021.

2015 Amendment

This amendment provides that when fee applications are served using the negative notice procedures of Local Rule 2002-4, the negative notice legend and the title of the application shall be located on the first page of the application and the Chapter 11 Fee Application Summary [previously titled the Chapter 11 Fee Application Cover Page] shall be the second page of the application. This amendment to the rule is effective July 1, 2015.

2014 Amendment

This amendment adds section (c)(2)(iv), requiring Court approval for post-confirmation professional fees and costs, unless otherwise ordered by the Court. This amendment to the rule is effective July 1, 2014.

2012 Amendment

This amendment establishes the procedures to be used by professionals in seeking compensation in Chapter 7, 11, and 13 cases. Local Rule 2015-1 authorizes Chapter 7 trustees to incur and pay expenses, including payments to professionals, not to exceed \$500 in the aggregate without order of the Court. This amendment to the rule is effective March 15, 2012.

1997 Amendment

This amendment conforms the existing Local Rules to the uniform numbering system prescribed by the Judicial Conference of the United States and to the model system suggested and approved by the Advisory Committee on Bankruptcy Rules of the Judicial Conference's Committee on Rules of Practice and Procedure. In renumbering the Local Rules to conform to the uniform numbering system, no change in substance is intended. This amendment to the rule was effective on April 15, 1997.

This rule was formerly Local Rule 3.04. The Advisory Committee Notes to the superseded rules may be helpful in interpreting and applying the current rules.

1995 Amendment

This amendment to Local Rule 3.04 requires that applications of professionals for compensation also be served on the debtor, debtor's attorney, and any trustee appointed under 11 U.S.C. §§ 1104, 1202, or 1302.

These amendments to the rule were effective on February 15, 1995.