

Application to Employ or Retain

Docketing Event

Bankruptcy > Motions/Applications/Objections > Application to Employ/Retain

Negative Notice: Yes, for Chapter 11 (14-day notice required); under Fed. R. Bankr. P. 6003, orders may be submitted after expiration of 21 days from the filing of the petition.

Accompanying Orders: Yes, for Chapters 7, 12 and 13. Applicant/Attorney to prepare order.

Code and Rule References:

[28 U.S.C. § 1746](#)

[11 U.S.C. § 327](#)

[11 U.S.C. § 1103](#)

[11 U.S.C. § 1114](#)

[Fed. R. Bankr. P. 2014](#)

[Fed. R. Bankr. P. 6003](#)

[Fed. R. Bankr. P. 6005](#)

[Fed. R. Bankr. P. 9011\(e\)](#)

[Rule 2016\(b\) Disclosure Form](#)

[Local Rule 2016-1](#)

Fee: N/A

Applicable Chapters: 7, 11, 12, 13

Implemented: 1/24/18

Last Revision: 1/5/2023 9:23:57 AM

Description

An order approving the employment of attorneys, accountants, appraisers, auctioneers, agents, or other professionals under §§ 327, 1103, or 1114 of the Bankruptcy Code shall be made only by application of the trustee or committee. Fed. R. Bankr. P. 2014 includes a number of requirements for applications to employ.

“The application shall state the specific facts showing the necessity for the employment, the name of the person to be employed, the reasons for the selection, the professional services to be rendered, any proposed arrangement for compensation, and, to the best of the applicant’s knowledge, all of the person’s connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee. The application shall be accompanied by a verified statement of the person to be employed setting forth the person’s connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee.” Fed. R. Bankr. P. 2014(a).

Note for debtor attorneys: Debtor attorneys must file a Disclosure of Compensation under Bankruptcy Rule 2016(b) using the official form posted on the uscourts.gov website ([Form](#)). Debtor attorneys must file the disclosure as a separate stand-alone document and report all compensation received “within one year before the filing of the petition in bankruptcy” and any additional compensation after a bankruptcy is filed. **Debtor attorneys promptly must file supplemental disclosures if any payments are received after the initial disclosure is made.**

Filing Checklist: Application to Employ or Retain

Review the application to determine if it:

- ☐ Is signed;
- ☐ Has the attorney's or applicant's name and address complete and consistent with the filing attorney's or applicant's name and address in CM/ECF;
- ☐ Is properly served and includes a proper certificate of service;
- ☐ Provides the name of the professional to be employed;
- ☐ Provides the reason for the selection of the professional to be employed;
- ☐ Provides the service to be rendered by the professional to be employed;
- ☐ Provides the proposed arrangement for compensation to the professional to be employed;
- ☐ Includes a signed a verified statement, declaration, or affidavit of **the person being employed** indicating that he/she is a disinterested party and describing the person's connection with the debtor, creditors, any other party in interest, and their respective attorneys and accountants (including the United States Trustee or persons employed by the United States Trustee).
 - ❖ **Note:** Verification language should comply with 28 U.S.C. § 1746, e.g., "I declare (or certify, verify, or state) under penalty of perjury [if executed outside the U.S., include 'under the laws of the United States of America'] that the foregoing is true and correct. Executed on (date).
- ☐ Is in a Chapter 11 case, if so, negative should be used (14-day notice required); order may not be submitted earlier than 21 days after the case is filed.

Review the proposed order to determine if it:

- ☐ Follows the Court's Style Guide and format for submission of proposed orders;
- ☐ Includes the following **required** language: "Compensation will be determined later in accordance with 11 U.S.C. § 330" and "The hourly rate is not guaranteed and is subject to review."

Forms

[Application to Employ Professional](#)
[Application to Employ Professional – Chapter 11](#)
[Order Approving Application to Employ Professional](#)