

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND**

In Re:

* **ADMINISTRATIVE**
* **ORDER NO. 15-02**

**REVISING LOCAL
BANKRUPTCY RULES**

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**ORDER AMENDING LOCAL BANKRUPTCY RULE 7012-1
AND APPENDIX F**

WHEREAS, the Court has determined that it is necessary to amend Local Bankruptcy Rule 7012-1(b) and Appendix F as reflected in the attached.

NOW, THEREFORE, IT IS ORDERED that:

Pursuant to 28 U.S.C. § 2071, Rule 83 of the Federal Rules of Civil Procedure and Rule 9029 of the Federal Rules of Bankruptcy Procedure, the attached revisions are adopted by the Judges of this Court to be effective September 10, 2015. The amendments shall be effective as to all proceedings pending in this Court on that date insofar as is just and practicable, and shall govern all proceedings in bankruptcy cases thereafter commenced in this Court.



Nancy V. Alquist, Chief Judge

Dated: September 10, 2015

RULE 7012-1 CORE OR NON-CORE MATTERS

(a) Prior to trial a party may move for a ruling that an adversary proceeding is core or non-core. The court will ordinarily allow adverse parties fourteen (14) days from service of the motion to file responses. Such a motion does not postpone any time periods unless ordered by the court.

(b) In addition to the provisions of Federal ~~Rules of Bankruptcy Procedure~~ [Rules](#) 7008(a) and 7012(b), all parties in an adversary proceeding shall include in their initial ~~pleading~~ [filing](#) a statement as to whether the party consents to entry of final orders or judgments by the Bankruptcy Judge.

**CHAPTER 13 DEBTOR'S COUNSEL
RESPONSIBILITIES AND FEES**

1. A copy of paragraphs 2- and 3- of this document, Chapter 13 Debtor's Counsel Responsibilities and Fees, must be delivered to the debtor(s) by counsel at the time counsel is employed, in addition to the retainer agreement by and between the debtor(s) and debtor's counsel.
2. With the exception of adversary proceedings, appeals, and United States Trustee audits, for which separate arrangements may be made, counsel must represent their client in all matters in the bankruptcy case as long as counsel is counsel of record. This includes defending motions, including motions for relief from stay, and bringing objections to claims and prosecuting motions on behalf of the debtor. After the initial engagement, counsel may not demand payments from the debtor as a precondition to doing the work. Notwithstanding the foregoing, the Ccourt may, upon prior application, allow counsel to enter a limited appearance, including, but not limited to, representation on a pro bono or reduced fee basis.
3. Counsel must remain as counsel of record until the entry of a court order allowing the withdrawal of appearance, or until the case is dismissed or closed. The failure to receive payment for services rendered or to be rendered may serve as the basis for counsel filing a motion to withdraw.
4. The following fee arrangements are presumed reasonable under ~~Section-11~~ 11 U.S.C. § 329 and allowable under ~~Section-11~~ 11 U.S.C. § 330 and require no application or approval, except as stated below. This presumption is rebuttable and the fee can be the subject of an order to justify the fee.

If no objection or order to justify fee is filed or entered, the presumptively reasonable fee is deemed allowed under 11 U.S.C. § 330 without the entry of an Order. However, if an objection or order to justify fee is filed or entered, the burden shall be upon debtor's counsel to prove that the fee should be allowed under 11 U.S.C. § 330 under the facts and circumstances of the case for which the fee is sought. The foregoing notwithstanding, any objection filed by a trustee or other party in interest shall describe the asserted factual basis for rebutting the presumption.

A. A flat fee, not to exceed \$3,500.00 for representation of the debtor for all matters in the main case. However, Ccounsel may by application request approval of additional fees for work done upon matters that were both not reasonably expected and that are extraordinary, or for work done after 90 days following the entry of the order confirming plan until representation ends. Such application may be made on Local Form E with notice (Local Form E-1).

B. A flat fee, not to exceed \$4,500.00 for representation for all matters in the main case. Except as stated in the following sentence, Ccounsel waives all opportunity to apply for additional ~~work-fees~~ in the main case. Counsel may by application request approval of additional fees for work done upon matters that were not reasonable expected and that are extraordinary. Such application may be made on Local Form E with notice (Local Form E-1).

C. A flat fee, not to exceed \$2,000.00 for representation of the debtor on all matters relating to plan confirmation. Counsel may by application request approval of ~~apply for additional compensation for~~ additional fees for prosecuting or defending motions not relating to the plan confirmation, including, without limitation, motions for relief from stay, or for claims objections. Such application may be made on Local Form E with notice (Local Form E-1). The requirement for representation in all matters in the bankruptcy case, stated in paragraph 2- above, applies without regard to the more limited coverage of the \$2,000.00 fee arrangements set forth in this subparagraph.

D. In any fee arrangement described in subparagraphs A, B and C above, the plan may provide that the Trustee will disburse any unpaid fees to counsel and other claimants whose claims are described in 11 U.S.C. § 507(a)(2), before any disbursement by the trustee to other creditors except claimants whose claims are described in 11 U.S.C. § 507(a)(1). Unless otherwise provided by the confirmed ~~Plan~~ plan, if, after payment to claimants whose claims are described in 11 U.S.C. § 507(a)(1), the remaining unpaid balance of the attorney's fee, the trustee's commission and other claims described in 11 U.S.C. § 507(a)(2) cannot be disbursed in full from the ~~Plan~~ plan payments due during the first 12 months of the ~~Plan~~ plan term, then the remaining unpaid balance of such fee shall be disbursed on a pro rata basis with any other priority and/or secured claims.¹

E. On April 1, 2016, and at each 3-year interval ending on April 1 thereafter, each dollar amount in effect in paragraphs 4A, B and C of this Appendix immediately before such April 1 shall be adjusted –

(1) to reflect the change in the Consumer Price Index for All Urban Consumers, published by the Department of Labor, for the most recent 3-year period ending immediately before January 1 preceding such April 1, and

(2) to round to the nearest \$25 the dollar number that represents such change.

Adjustments made in accordance with this paragraph shall not apply to cases commenced before such adjustments.

5. All fees are subject to subsequent disgorgement upon an order of the court. No plan or confirmation order shall bar by res judicata or otherwise the subsequent review and potential disgorgement of the fee, upon objection or order to justify fee and notice thereof.

6. Full compliance with Federal ~~Rule of Bankruptcy Procedure~~ Rule 2016(b) is required, including the filing of a Supplemental Disclosure on Local Form E-2 of additional funds received from any person, other than distributions from the trustee under a confirmed plan. Counsel shall state in the Disclosure of Compensation filed pursuant to Federal ~~Rule of Bankruptcy Procedure~~ Rule 2016(b) whether the fee arrangement is one of the flat fees described in subparagraphs A, B or C of paragraph 4 above, and, if so, which such fee arrangement applies.

7. Nothing in this Appendix F shall preclude, restrict, or prohibit counsel from entering into fee arrangements different from those arrangements described in ~~Paragraph~~ paragraph 4 above. Counsel must file an application for compensation in accordance with the Bankruptcy Code, Bankruptcy Rules, and the Rules of this Court for any fee arrangement that is different from the fee arrangements described in ~~Paragraph~~ paragraph 4 above.

¹ Nothing in subparagraph 4.D is intended to alter or amend any obligation counsel may have under nonbankruptcy law concerning escrowing, administering, or accounting for any funds disbursed to counsel pursuant to these procedures.