

FILED

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

2020 AUG 27 P 12: 56

U.S. BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

SC LBR 2016-1 and 9013-4
AMENDMENTS,

**OPERATING
ORDER 20-11**

Pursuant to SC LBR 9029-1, and upon agreement of the Judges of this Court, amendments to the local rules of this Court are adopted as follows:

1. SC LBR 2016-1(b) is amended to facilitate uniformity in requests for fees by attorneys representing debtors in Chapter 13 case;
2. SC LBR 2016-1(b)(2) is amended to allow attorneys to utilize the “Statement of Supplemental Chapter 13 Attorney Fees” event in CM/ECF and to no longer differentiate between supplemental fees above and below the amount provided in the Judge’s Chambers Guidelines;
3. SC LBR 2016-1(b)(2)(B) is amended to reduce the objection period to fourteen (14) days for requests for supplemental fees incurred after confirmation; and
4. Footnote 20 of Exhibit A to SC LBR 9013-4 is amended to conform as follows: The procedure in this rule does not apply to requests for fees under SC LBR 2016-1(b) (1) or (2).

A copy of the amended SC LBR 2016-1 is attached and incorporated herein.

AND IT IS SO ORDERED this 25th day of August, 2020.

/s/ Helen Elizabeth Burris

Chief Judge

LOCAL RULE 2016-1: COMPENSATION OF PROFESSIONAL PERSONS

a. **Chapter 11 Cases.** In a chapter 11 case, a professional paid a retainer shall maintain the retainer in a trust account and shall not draw on the retainer post-petition without approval of the Court. A trustee, examiner, attorney for the debtor, or any professional person employed under 11 U.S.C. §§ 327, 328, or 1103 may apply for allowance of compensation and reimbursement of expenses on or after thirty (30) days after the date of the order for relief. A second application may be made on or after sixty (60) days after the first application, and a third application may be made on or after ninety (90) days after the second application. After one hundred eighty (180) days following the date of the order for relief, applications may not be made more than once every one hundred twenty (120) days, unless the Court orders otherwise.

b. **Chapter 13 Cases.**

1. **Expedited Fee Approval Procedure.** An attorney representing a debtor in a chapter 13 case may obtain approval of attorney's fees without the filing of a formal fee application and a hearing when the attorney and the debtor(s) agree in writing that the fee for representation will be equal to or less than the amount set forth in Chambers Guidelines at the time of the filing of the case (collectively, the "Expedited Fee Amount").¹ Unless the Court orders otherwise, the Expedited Fee Amount is deemed approved for disbursement upon confirmation of the plan as a result of the attorney's filing of the Attorney Fee Disclosure Statement pursuant to Fed. R. Bankr. P. 2016(b) (Director's Bankruptcy Form B2030). The B2030 Form shall clearly indicate the fee agreed upon, the amount paid to date, and the amount to be paid through the chapter 13 plan, and shall define any charges or potential charges for supplemental fees described in paragraph (b)(2). Counsel must include as an attachment to the B2030 Form, a copy of counsel's signed representation agreement with the debtor(s).

2. **Statement of Supplemental Fees.** If expressly authorized by a conspicuous provision of a written fee agreement filed with the B2030 Form, the debtor(s) and attorney may agree to the attorney's supplemental compensation for additional work necessary as a result of any matters involving the default under or variance from the terms of the confirmed plan, adversary proceedings, appeals, or other complicating factors not present in the typical chapter 13 case. A supplemental fee may be asserted by utilizing the "Statement of Supplemental Chapter 13 Attorney Fees" event in CM/ECF ("Statement"). The description of services provided in the Statement associated with the request shall contain sufficient information to determine whether the supplemental fee charged is fair and reasonable. The filing of a Statement may be used in lieu of filing an additional or amended B2030 Form.

A. **Before Confirmation.** The Statement must be filed within a reasonable time after completion of the additional services and notice of the supplemental fee must be provided to the debtor(s) and the chapter 13 trustee. The supplemental fee set forth in the Statement is deemed approved for disbursement upon plan confirmation.

¹ This amount includes all typical costs and expenses other than filing fees and costs paid to non-attorney third parties for services necessary for the case, such as credit reports, credit counseling, and financial management course fees.

B. After Confirmation. The Statement must be filed within a reasonable time after completion of the additional services and notice of the supplemental fee must be provided to the debtor(s) and the chapter 13 trustee. Unless an objection to the Statement is filed within fourteen (14) days of service or unless the Court orders otherwise, the supplemental fee shall be approved for disbursement subject to the terms of the confirmed plan and these Rules.

All supplemental fees approved for disbursement remain subject to the Court's consideration of the fee under 11 U.S.C. § 329(b) at any time prior to the closing of the case.

3. Formal Application for Compensation. In lieu of paragraph (b)(1) and (b)(2), the attorney may apply for compensation pursuant to Fed. R. Bankr. P. 2002(a)(6) and 2016(a) for actual services rendered and expenses incurred. The application and proposed order shall clearly indicate all compensation for the attorney that has been approved in the case prior to the application and report any pending applications. Attorneys electing this procedure shall estimate fees in the chapter 13 plan for confirmation purposes.