FILED

DEC 30 2019

STEPHANIE J. BUTLER, CLERK
U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF NC

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA

IN RE:

COMPENSATION OF PROFESSIONALS **GENERAL ORDER**

Local Rule 2016-1(a) of the Local Rules of the United States Bankruptcy Court for the Eastern District of North Carolina states the following:

Rule 2016-1
COMPENSATION OF PROFESSIONALS

(a) COMPENSATION OF ATTORNEY FOR DEBTOR IN CHAPTER 13 CASES.

(1) AMOUNT OF STANDARD BASE FEE. The standard base fee in a chapter 13 case is as provided in the statement of approved compensation published annually by the clerk and included in the Administrative Guide to Practice and Procedure. Though the standard base fee will typically be approved by the court without hearing, the trustee may recommend, in appropriate cases, that a lower fee be allowed. In recommending a standard base fee in converted cases, the trustee shall take into consideration the compensation already received.

(2) SERVICES INCLUDED IN THE BASE FEE. The standard base fee includes the basic services reasonably necessary to represent properly the debtor before the bankruptcy court through the earlier of confirmation or the first 12 months after filing the case. Those basic services should include, but not be limited to, the following:

(A) interview with the debtor;

(B) analysis and recommendation of appropriate chapter of Title 11;

(C) reasonable inquiry into the debtor's assets, including efforts to confirm or verify ownership through search of a tax office, register of deeds office, other public records search, or document review;

(D) obtaining credit report, pay advices (if no wages or self-employed during the applicable period, an appropriate affidavit), and tax returns;

(E) preparation of all documents required under § 521 of the Bankruptcy Code, including, but not limited to, the schedules, Statement of Financial Affairs for Individuals Filing for Bankruptcy, Forms 122C-1 and 122C-2 (if applicable), and chapter 13 plan;

(F) representation at the creditors' meeting under § 341 of the Bankruptcy Code;

(G) preparation of any amendments to schedules or plan modifications prior to confirmation;

(H) attendance at plan confirmation hearings;

(I) preparation of motion to extend or impose automatic stay for repeat filers, if appropriate; and

(J) preparation of motions to dismiss.

(16)

(3) APPLYING FOR A HIGHER BASE FEE. Applications for approval of a base fee higher than the standard base fee must be filed by the debtor's attorney within 60 days after the conclusion of the creditors' meeting under § 341 of the Bankruptcy Code.

(4) NON-BASE FEE SERVICES DEFINED. The following services are not covered by the standard base fee, and additional compensation for these services may be awarded by the court:

(A) motion for authority to sell real property;
(B) application to incur debt;
(C) prosecution or defense of adversary proceedings;
(D) motion or adversary proceeding to value collateral and avoid mortgage;
(E) motion to avoid lien;
(F) services other than those included in the base fee as described in subsection(a)(2); and
(G) any other service that, in the discretion of the court, reasonably warrants additional compensation.

(5) APPROVAL OF NON-BASE FEES. Applications for fees for any non-base fee services provided to a chapter 13 debtor must be approved by the court. Notice of each application for fees and expenses in the amount of $1,000 or below must be sent to each debtor and the trustee. Notice of each application for fees and expenses in excess of $1,000 and above must be given to all parties in interest.

(6) PRESUMPTIVE NON-BASE FEES/APPROVAL/ NOTICE. The list of presumptively reasonable non-base fee services is contained in the statement of approved compensation published by the clerk and included in the Administrative Guide to Practice and Procedure. Applications for the presumptive non-base fee must be filed with a notice verifying completion of the services for which compensation is sought and a certificate of service evidencing service of the notice on each debtor and the trustee. After notice pursuant to subsection (5) above, the applications for presumptive non-base fees will be deemed approved by the court but is subject to modification by the court upon a timely objection.

(7) TIME AND EXPENSE ALTERNATIVE. Alternatively, the debtor's attorney may apply to the court for approval of fees on a "time and expense" basis pursuant to Rule 2016 of the Federal Rules of Bankruptcy Procedure and 11 U.S.C. § 330.

(8) DISCLOSURE OF FEE PROCEDURES. Every attorney for a chapter 13 debtor must disclose to the debtor the procedures applicable in this district to awards of attorneys' fees in chapter 13 cases.

(9) INTERIM APPROVAL OF PARTIAL BASE FEE. An attorney fee incurred for services provided to the debtor in connection with the bankruptcy filing prior to the petition date is authorized and shall be considered part of the base fee. Any amount in excess of the base fee collected by the attorney prior to filing the chapter 13 petition must be held in the attorney's client trust account pending further order of the court or approval of the fees in accordance with this rule.

(10) PAYMENT OF ATTORNEY FEES/MODIFICATION OF PLAN. The following will be treated and paid as administrative expenses of the chapter 13 case:

(A) the standard base fee, less any partial base fee paid prior to filing the chapter 13 petition; and

(B) any additional amounts awarded in excess of the standard base fee or for non-base fee services.

These fees shall be paid by the trustee at the rate set in the Administrative Guide to Practice and Procedure unless the court directs otherwise. The trustee may, without application to the court, modify the chapter 13 plan to extend the duration of the plan and/or increase the monthly amount of the plan payment in order to provide the funds necessary to pay attorney fees. The trustee must notify the debtor and the debtor's attorney of the plan modification.

Effective January 1, 2020, Local Rule 2016-1(a) is hereby amended as follows:

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COMPENSATION OF PROFESSIONALS

(a) COMPENSATION OF ATTORNEY FOR DEBTOR IN CHAPTER 13 CASES.

(1) AMOUNT OF STANDARD BASE FEE. The standard base fee in a chapter 13 case is as provided in the statement of approved compensation published annually by the clerk and included in the Administrative Guide to Practice and Procedure. Though the standard base fee will typically be approved by the court without hearing, the trustee may recommend, in appropriate cases, that a lower fee be allowed. In recommending a standard base fee in converted cases, the trustee shall take into consideration the compensation already received.

(2) SERVICES INCLUDED IN THE BASE FEE. The standard base fee includes the basic services reasonably necessary to represent properly the debtor before the bankruptcy court. Those basic services should include, but not be limited to, the following:

(A) interview with the debtor;

(B) analysis and recommendation of appropriate chapter of Title 11;

(C) reasonable inquiry into the debtor's assets, including efforts to confirm or verify ownership through search of a tax office, register of deeds office, other public records search, or document review;

(D) obtaining credit report, pay advices (if no wages or self-employed during the applicable period, an appropriate affidavit), and tax returns;

(E) preparation of all documents required under § 521 of the Bankruptcy Code, including, but not limited to, the schedules, Statement of Financial Affairs for Individuals Filing for Bankruptcy, Forms 122C-1 and 122C-2 (if applicable), and chapter 13 plan;

(F) representation at the creditors' meeting under § 341 of the Bankruptcy Code, or filing a motion to use interrogatories and the subsequent filing of interrogatories ;

(G) preparation of any amendments to schedules or statement of financial affairs or plan modifications;

(H) attendance at plan confirmation hearings;

(I) preparation of motion to extend or impose automatic stay for repeat filers, if appropriate;
(J) motion to substitute collateral;
(K) application to incur debt;
(L) handling of insurance inquiries;
(M) defense of motion to dismiss or motion to set aside dismissal;
(N) objection to claim;
(O) notice to abandon property;
(P) filing of proof of claim;
(Q) motion to deem mortgage current;
(R) motion to surrender; and
(S) preparation of motions to dismiss.

(3) APPLYING FOR A HIGHER BASE FEE. Applications for approval of a base fee higher than the standard base fee must be filed by the debtor's attorney within 60 days after the conclusion of the creditors' meeting under § 341 of the Bankruptcy Code.

(4) NON-BASE FEE SERVICES DEFINED. The following services are not covered by the standard base fee, and additional compensation for these services may be awarded by the court:

(A) motion for authority to sell real property;
(B) motion for turnover;
(C) prosecution or defense of adversary proceedings;
(D) motion or adversary proceeding to value collateral and avoid mortgage;
(E) motion to avoid lien with compensation limited to one motion to avoid lien per case;
(F) motion for hardship discharge;
(G) any other service that, in the discretion of the court, reasonably warrants additional compensation.

(5) APPROVAL OF NON-BASE FEES. Applications for fees for any non-base fee services provided to a chapter 13 debtor must be approved by the court. Notice of each application for fees and expenses in the amount of $1,000 or below must be sent to each debtor and the trustee. Notice of each application for fees and expenses in excess of $1,000 and above must be given to all parties in interest.

(6) PRESUMPTIVE NON-BASE FEES/APPROVAL/ NOTICE. The list of presumptively reasonable non-base fee services is contained in the statement of approved compensation published by the clerk and included in the Administrative Guide to Practice and Procedure. Applications for the presumptive non-base fee must be filed with a notice verifying completion of the services for which compensation is sought and a certificate of service evidencing service of the notice on each debtor and the trustee. After notice pursuant to subsection (5) above, the applications for presumptive non-base fees will be deemed approved by the court but is subject to modification by the court upon a timely objection.

(7) TIME AND EXPENSE ALTERNATIVE. Alternatively, the debtor's attorney may apply to the court for approval of fees on a "time and expense" basis pursuant to Rule

2016 of the Federal Rules of Bankruptcy Procedure and 11 U.S.C. § 330.

(8) DISCLOSURE OF FEE PROCEDURES. Every attorney for a chapter 13 debtor must disclose to the debtor the procedures applicable in this district to awards of attorneys' fees in chapter 13 cases.

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(10) PAYMENT OF ATTORNEY FEES/MODIFICATION OF PLAN. The following will be treated and paid as administrative expenses of the chapter 13 case:

(A) the standard base fee, less any partial base fee paid prior to filing the chapter 13 petition; and

(B) any additional amounts awarded in excess of the standard base fee or for non-base fee services.

These fees shall be paid by the trustee at the rate set in the Administrative Guide to Practice and Procedure unless the court directs otherwise. The trustee may, without application to the court, modify the chapter 13 plan to extend the duration of the plan and/or increase the monthly amount of the plan payment in order to provide the funds necessary to pay attorney fees. The trustee must notify the debtor and the debtor's attorney of the plan modification.

A red-lined copy of the amendments is attached hereto as Exhibit A.

Entered this 30th day of December, 2019.

Stephani W. Humrickhouse
Chief Bankruptcy Judge

David M. Warren
Bankruptcy Judge

Joseph N. Callaway
Bankruptcy Judge

Exhibit A

Rule 2016-1
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(G) preparation of any amendments to schedules or statement of financial affairs or plan modifications ~~prior to confirmation~~;

(H) attendance at plan confirmation hearings;

(I) preparation of motion to extend or impose automatic stay for repeat filers, if appropriate;

(J) motion to substitute collateral;

(K) application to incur debt;

(L) handling of insurance inquiries;

(M) defense of motion to dismiss or motion to set aside dismissal;

(N) objection to claim;

(O) notice to abandon property;

(P) filing of proof of claim;

(Q) motion to deem mortgage current;

(R) motion to surrender; and

(~~I~~S) preparation of motions to dismiss.

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