

## MEMORANDUM

**DATE:** November 22, 2010

**TO:** Debtor-Creditor Bar Members and Practitioners  
Eastern and Western Districts of Arkansas

**FROM:** Joyce Bradley Babin  
Jack W. Gooding  
Mark T. McCarty  
Chapter 13 Standing Trustees

**RE:** **Revised Guidelines for Compensation for Services Rendered  
And Reimbursement of Expenses in Chapter 13 Cases**

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The Chapter 13 Standing Trustees published proposed revisions to the Guidelines for Compensation for Services Rendered and Reimbursement of Expenses in Chapter 13 Cases (“Guidelines”) in February 2010. The Chapter 13 Trustees received comments and feedback from many attorneys, all of which were appreciated. After review and discussion, the Trustees have outlined revisions to the Guidelines. It is the Trustees’ intent that the use of the Guidelines will allow for consistent compensation administration for parties working with Chapter 13 cases.

The Chapter 13 Standing Trustees will implement the attached revised Guidelines effective December 1, 2010. Pursuant to the Guidelines and conditioned on satisfaction of the requirements outlined in the Guidelines, the Trustees will recommend compensation awards to the Court for Chapter 13 cases. Some highlights of the revisions include:

- An adjustment to the summary compensation award for above median income debtors. This adjustment was made after feedback from attorneys regarding the additional work encountered for such debtors. *See* ¶ 3(ii).
- Adjustments to certain amounts for compensation for additional services.
- Clarification of when the Trustees will recommend Bankruptcy Court approval for additional services (either pre-confirmation or post-confirmation or both). *See* ¶ 8.
- Clarification that for additional fees not listed on the Guidelines, a “long form” fee application should be submitted. *See* ¶ 8(g).
- Clarification that the fee for initial/pre-confirmation services includes pre-confirmation and certain post-confirmation consultation related to the bankruptcy proceeding. *See* ¶ 5(a).

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- Clarification regarding how the Trustees will handle summary fee awards for services pursuant to Paragraphs 3, 4 and 5 where substitutions of counsel and pre-confirmation case dismissals occur. See ¶¶ 6 and 7. For dismissed unconfirmed cases, the Trustees are not concluding that funds on hand are payable to an attorney as a § 503(b) award without an order from the Bankruptcy Court allowing an administrative expense. The Trustees will object to fee amounts requested for preparing the administrative expense application, however.

Thank you for your assistance and the opportunity to work with you.

**GUIDELINES FOR COMPENSATION FOR SERVICES RENDERED AND  
REIMBURSEMENT OF EXPENSES IN CHAPTER 13 CASES**

The Chapter 13 Standing Trustees for the Eastern and Western Districts of Arkansas will consider the following guidelines when reviewing awards of compensation and reimbursement of expenses for attorneys representing debtors in Chapter 13 cases and recommending approval by the Bankruptcy Court:

1. An attorney seeking interim or final compensation for services or reimbursement of necessary expenses from an estate in a Chapter 13 case shall file an application as set forth in Federal Rule of Bankruptcy Procedure 2016.
2. As an alternative to the application procedures outlined in Federal Rule of Bankruptcy Procedure 2016, an attorney may file a “short form” application for a summary compensation award of fees and costs in a Chapter 13 case for the services through confirmation of the plan.
3. The Chapter 13 Trustee shall calculate and recommend to the court for approval a maximum summary compensation award as follows:
  - i. For a non-business case (below median income) - \$3,000;
  - ii. For a non-business case (above median income) - \$3,500; and
  - iii. For a business case - \$4,000.
4. Upon confirmation, the Chapter 13 Trustee shall pay the summary compensation award from funds paid by the debtor(s):
  - i. As follows:
    - a. An initial portion of the summary compensation award in an amount not to exceed \$800, after first paying administrative costs, including applicable Trustee’s fees and administrative fees; and
    - b. Thereafter, the remaining summary compensation award shall be paid at the rate of ten percent (10%) from the total amount disbursed to creditors each month; or
  - ii. As otherwise provided in the application, plan and order confirming plan.

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5. The summary compensation awarded pursuant to these guidelines is based upon the attorney providing adequate legal services to the debtor. The summary compensation award shall be deemed fully earned at the date of the confirmation of the Chapter 13 plan. These legal services shall include, but not be limited to,;
  - a. The preparation and filing of complete and accurate petition, schedules, statement of financial affairs, disclosure of compensation, Form B22C, fee application and related documents based upon information obtained from the debtor and following reasonable inquiry; advising and assisting regarding the requirements for credit counseling and tax returns/transcripts; obtaining extensions or imposition of automatic stay; responding to debtor audit requests;
  - b. The filing of a confirmable plan;
  - c. Consultation with the debtor in person and prior to the filing of the bankruptcy case and as necessary to obtain confirmation of the debtor's plan;
  - d. The appearance and representation of the debtor at all scheduled § 341(a) meetings of creditors;
  - e. Advising the debtor regarding the requirements for obtaining a discharge, including eligibility for discharge; the need to complete a course in personal financial management provided by an approved agency; and the need to satisfy requirements regarding domestic support obligations and filing required domestic support obligation documents with the bankruptcy court;
  - f. Filing with bankruptcy court, on behalf of the debtor, a statement regarding the completion of a course in personal financial management required by Interim Bankruptcy Rule 1007(b)(7) (or subsequent rules) and any required statements regarding the status of domestic support obligations;
  - g. Consultation with the debtor from time-to-time after confirmation regarding the status of the case and steps needed for plan completion, including without limitation, changes of address, changes in employer/employer withholding, review of summary notices of claims, review of annual/semi-annual reports, and review or preparation of miscellaneous correspondence regarding the case; and
  - h. Compliance with all requirements of the Bankruptcy Code, Federal Rules of Bankruptcy Procedure, General Orders, Local Rules and procedures.

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6. Only one “summary compensation award” for services pursuant to Paragraphs 3, 4 and 5 above will be recommended by the Chapter 13 Trustee for approval by the Bankruptcy Court. For substitutions of counsel that occur prior to confirmation of the plan or prior to the payment of the summary compensation award, the compensation will continue to be paid according to the order awarding the summary compensation award (usually the first attorney providing services) unless the Bankruptcy Court orders an amended or different allocation of the compensation. The substituting attorney may file a “long form” application, however, for actual services rendered.
7. Because the “summary compensation award” pursuant to Paragraphs 3, 4 and 5 above is awarded “summarily” and without notice, the Chapter 13 Trustee will not conclude that funds on hand upon dismissal of a case with an unconfirmed plan are an award pursuant to 11 U.S.C. § 503(b) without further order of the Bankruptcy Court.
8. As an alternative to the application process outlined in Federal Rule of Bankruptcy Procedure 2016, an attorney also may file a “short form” application for a summary compensation award of fees and costs for additional services primarily rendered post-confirmation or as specified below pursuant to the following guidelines:
  - a. The Chapter 13 Trustee shall be authorized to calculate and recommend to the court for approval amounts for summary compensation awards for pre- or post-confirmation services as described in Subparagraph 8(b). All services are subject to an actual, reasonable and necessary standard and review by the Court upon motion or objection by the Trustee or other parties.
  - b. For the following services, the summary compensation award shall not exceed the designated amount:
    - i. Post-Confirmation Modification of Plan - Adding Only Unsecured Creditors (Awarded Upon Confirmation of Plan) – \$75;
    - ii. Post-Confirmation Modification of Plan – Simple (Awarded Upon Confirmation of Modified Plan) – \$300;
    - iii. Post-Confirmation Modification of Plan – Complex (Awarded Upon Confirmation of Modified Plan) – \$400;
    - iv. Pre- or Post-Confirmation Lien Avoidance Action (Uncontested/No Trial) – \$350;
    - v. Pre- or Post-Confirmation Lien Avoidance Action (Contested/Trial) – \$500;

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- vi. Post-Confirmation Letter to Creditor to Cease Collection Efforts, Contacts, Post-Petition Garnishment (With Relevant Documentation Attached) – \$50;
- vii. Post-Confirmation Notice of Bankruptcy Filed in Another Court (With Relevant Documentation Attached) - \$50;
- viii. Pre- or Post-Confirmation Defense of an IRS or DFA Motion for Relief from Stay to Setoff Refund – \$75;
- ix. Post-Confirmation Defense of an IRS or DFA Motion to Compel to File Tax Returns – \$75;
- x. Pre- or Post-Confirmation Defense of a DFA Motion for Strict Compliance for Debtor Engaged in Business – \$100;
- xi. Pre- or Post-Confirmation Motion to Assist Debtor in Compliance or Performance of Plan, e.g., Motion to Incur Debt (Personal Property), Abate Plan Payment, Refund/Disbursement (No Trial) – \$300;
- xii. Pre- or Post-Confirmation Motion to Assist Debtor in Compliance or Performance of Plan, e.g., Motion to Incur Debt (Personal Property), Abate Plan Payment, Refund/Disbursement (Trial) – \$400;
- xiii. Pre- or Post-Confirmation Motion to Sell, Refinance, Incur Debt or Modify Loan (Real Property) (No Trial) – \$500;
- xiv. Pre- or Post-Confirmation Motion to Sell, Refinance, Incur Debt or Modify Loan (Real Property) (Trial) - \$650;
- xv. Pre- or Post-Confirmation Objection to Claim (Uncontested; filed by Debtor’s Attorney) – \$175;
- xvi. Pre- or Post-Confirmation Objection to Claim (Contested; filed by Debtor’s Attorney) – \$300;
- xvii. Motion for “Hardship” Discharge Pursuant to 11 U.S.C. § 1328(b) – \$250 (if funds available);
- xviii. Pre- or Post-Confirmation Defense of a Motion for Relief from Stay or Creditor’s Motion to Dismiss (No Trial and Not Provided as Surrender/Abandoned in Plan) – \$300;

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- xix. Pre- or Post-Confirmation Defense of a Motion for Relief from Stay or Creditor's Motion to Dismiss (Trial) – \$500;
  - xx. Pre- or Post-Confirmation Defense of a Trustee's Motion to Dismiss (Other Than for Failure to Modify, Submit Documentation or File Schedules) (No Trial) – \$75;
  - xxi. Pre- or Post-Confirmation Defense of a Trustee's Motion to Dismiss (Other Than for Failure to Modify, Submit Documentation or File Schedules) (Trial) – \$200;
  - xxii. Post-Confirmation Amendment of Schedules C, I & J (Not Part of a Modification to Plan or other Motion) – \$150;
  - xxiii. Proof of Claim (With Relevant Documents Attached, Including Security Documents) – \$75;
  - xxiv. Pre- or Post-Confirmation Motion to “Reinstate” or Set Aside Dismissal (Other Than for Failure to Timely File/Submit Documents or Plan) – \$250; and
  - xxv. Post-Confirmation Motion to “Deconsolidate”/Sever Case – \$300.
- c. For all additional services for which the attorney is seeking a summary compensation award, the debtor and the Chapter 13 Trustee should receive copies of the application for additional services. For applications for additional services not signed by the debtor, the debtor should be provided notice and opportunity to object (21 days) of the application. Notwithstanding the 21 day period described for the debtor in this paragraph, the Trustee will not object, recommend for approval or submit an order to the Court approving the application until the underlying matter for which the fee is sought is concluded.
- d. For additional services *not* listed above, an attorney may file a “long form” application for additional fees *upon the conclusion of the matter* for which the additional services are performed describing the dates and work performed along with a notice and opportunity to object (21 days) to the Chapter 13 Trustee, debtor, creditors and interested parties.

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- e. The summary compensation award for post-confirmation services shall be paid upon Bankruptcy Court order from funds paid by the debtor(s) through the Chapter 13 Trustee's monthly disbursement procedures.
  
- 9. An amount for *actual* and necessary costs for each service listed in Subparagraph 8(b) will be allowed not to exceed \$2 per creditor. For pre-confirmation modifications to plans and pre-confirmation amended schedules requiring notice, an amount for *actual* and necessary costs will be allowed not to exceed \$2 per creditor. The fee to add or remove creditors (currently \$26) also may be included as a cost to be reimbursed by the Trustee.

The Trustees will implement these guidelines beginning December 1, 2010, for cases filed on or after that date for purposes of Paragraphs 3, 4, 5, 6 and 7 (initial services), and for services rendered on or after that date for purposes of Paragraphs 8 (additional services) and 9 (costs).