

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF HAWAII**

In re:

CHAPTER 13 ATTORNEY FEE  
GUIDELINES.

GENERAL ORDER

Dated: June 27, 2016

**ORDER ADOPTING CHAPTER 13  
ATTORNEY FEE GUIDELINES, EFFECTIVE JULY 1, 2016**

Pursuant to Rule 9029 of the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rule 2016-1(c), the court hereby adopts the attached Chapter 13 Attorney Fee Guidelines and Rights and Responsibilities of Chapter 13 Debtors and Attorneys (Local Form H2016rr (7/16)).

Unless the court orders otherwise, these guidelines apply in all cases commenced under or converted to chapter 13 in the District of Hawaii on and after July 1, 2016, and in which a copy of the attached Rights and Responsibilities form has been signed by the debtor and the attorney and filed with the court. The guidelines also apply in pending chapter 13 cases for services rendered on and after July 1, 2016.

SO ORDERED.



***/s/ Robert J. Faris***  
**United States Bankruptcy Judge**

Dated: 06/27/2016

### CHAPTER 13 ATTORNEY FEE GUIDELINES

1. **Scope.** Under LBR 2016-1(g)(1), the court may issue guidelines to determine presumptively reasonable fees for normal and customary services performed by attorneys for chapter 13 debtors. (Any reference in these guidelines to “fees” or “compensation” includes the expenses and any general excise tax related to the services for which compensation is sought.) An attorney eligible under these guidelines may seek the initial allowance of compensation for legal services in connection with the bankruptcy case as part of plan confirmation without filing the application and detailed billing records required by LBR 2016-1(a). The attorney may also seek the allowance of additional compensation for certain post-confirmation services through expedited procedures. Nothing in these guidelines limits the authority of the court to review any request for compensation on its own motion or the motion of any party in interest. These guidelines govern the allowance of fees; payment of the compensation is governed by LBR 3070-2, unless the court orders otherwise. All attorneys for chapter 13 debtors shall file a “Rights and Responsibilities of Chapter 13 Debtors and Attorneys” listing the legal services to be provided to the debtor, whether or not the attorney and debtor agree to the presumptively reasonable fees covered by these guidelines.
2. **Eligibility.** An attorney for a chapter 13 debtor may use the procedures under these guidelines if:
  - a. the attorney has timely filed the disclosure of compensation required under 11 U.S.C. § 329(a) and Fed. R. Bankr. P. 2016(b) (“Rule 2016(b) Disclosure Statement”);
  - b. the attorney and the debtor have executed and filed, prior to entry of a plan confirmation order, a copy of the Rights and Responsibilities of Chapter 13 Debtors and Attorneys (“Rights and Responsibilities Agreement”) adopted in the District of Hawaii;
  - c. the description of legal services to be rendered and the amount of attorney fees in the Rule 2016(b) Disclosure Statement are consistent with the legal services and fee amounts set forth in the Rights and Responsibilities Agreement;
  - d. the fees being requested do not exceed the amounts stated in the appendix to these guidelines; and
  - e. no objection to the requested fees has been filed.
3. **Presumptively Reasonable Fees for Normal and Customary Services.** Having considered comments by the Office of the United States Trustee, the Chapter 13 Trustee, and members of the local bar, the court has determined, in accordance with 11 U.S.C. § 330(a)(4)(B), that the amounts stated in the Appendix are presumptively reasonable for normal and customary legal services rendered by an attorney representing the interests of the debtor in connection with the chapter 13 bankruptcy case. These fee amounts may be allowed through the expedited procedures described in paragraphs 4 and 5.

4. **Allowance of Attorney Fees as Part of Plan Confirmation.** The court has determined the presumptively reasonable fees that may be charged for the normal and customary prepetition and certain postpetition, preconfirmation services. These services and fee amounts for the initial application are itemized in Part I of the Appendix to these guidelines. An attorney eligible under these guidelines may request the allowance of compensation by including in the plan the amount of fees specified in the Rights and Responsibilities Agreement. Absent an objection, the plan confirmation order will provide for allowance of the fees requested.
5. **Allowance of Attorney Fees for Subsequent Services.** The court has determined the presumptively reasonable fees that may be charged for certain services after confirmation. These services and fee amounts are itemized in Part II of the Appendix to these guidelines. An attorney eligible under these guidelines may request the allowance of attorney fees in addition to the amount authorized in the plan confirmation order using the following procedures.
  - a. **Fees Not Exceeding Amounts in Guidelines.** No application for additional compensation under LBR 2016-1(a) is required if the fee amounts do not exceed the amounts specified in these guidelines, and:
    - i. no later than 14 days after payment (including a disbursement from proceeds in a sale of assets or a refinancing of a loan) or an agreement to pay the fees directly to the attorney by the debtor or a third party, the attorney files a supplemental disclosure statement substantially conforming to the local form (Supplemental Disclosure of Compensation by Attorney for Chapter 13 Debtor) disclosing the amount of additional compensation paid or to be paid and certifying that the fees requested do not exceed the amounts in these guidelines; or
    - ii. the attorney requests payment through plan distributions by filing a request for payment of an administrative expense substantially conforming to the local form (Request for Payment of Administrative Expense: Compensation for Debtor's Attorney in Chapter 13 Case), including a certification that the fees requested do not exceed the amounts in these guidelines.
  - b. **Fees Exceeding Amounts in Guidelines.** If the fees being requested exceed the amounts in these guidelines, or if the particular services are not addressed by these guidelines, the attorney may request the allowance of compensation in addition to the amount authorized in the plan confirmation order by filing and serving on the Trustee, the Office of the United States Trustee, and all creditors, an application substantially conforming to the local form (Application for Additional Fees in Chapter 13 Case; Notice of Hearing), attaching detailed billing records for the subject services, and arranging for a hearing in accordance with LBR 9013-1(c). Postpetition, the attorney may not accept any payment for additional legal services directly from the debtor or any other party, except to the extent that funds are deposited into a client trust account and are not drawn upon until the entry of an order allowing the compensation and authorizing payment.

APPENDIX TO CHAPTER 13 ATTORNEY FEE GUIDELINES

Part 1: Fee Schedule – Initial Application

- a. **Basic Case:** Services related to all the prepetition and postpetition responsibilities of the debtor's attorney listed in the Rights and Responsibilities agreement, except for the specific types of services treated separately under these guidelines.  
**Amount: \$3,600 or, if the plan is confirmed without a continuance of the initially scheduled confirmation hearing, \$3,900. (Adjustment made in confirmation order.)**
- b. **Distressed Real Property:** Services related to real property in foreclosure or anticipated to be the subject of foreclosure which the debtor is or will be opposing, and related to negotiating or resolving disputes with secured creditors regarding relief from stay and adequate protection. This fee component includes all services of this type performed prior to the 1-year anniversary of the date the petition is filed or the case is converted to chapter 13, whichever is later.  
**Amount: \$700.**
- c. **Vehicle Repossession/Garnishment:** Services related to enforcing the debtor's rights with respect to repossession of a vehicle or other personal property, or a wage garnishment.  
**Amount: \$450.**
- d. **Motions to Avoid Liens or Value Collateral (Personal Property):** Services related to preparing and filing plan related motions to avoid a judicial or nonpossessory, non-purchase money lien under 11 U.S.C. § 522(f), or plan related motions to value collateral under 11 U.S.C. § 506(a) with respect to personal property.  
**Amount: \$200 per motion; aggregate limit: \$500.**
- e. **Motions to Avoid Liens or Value Collateral (Real Property):** Services related to preparing and filing plan related motions to avoid a judicial lien on real property under 11 U.S.C. § 522(f), or plan related motions to value collateral under 11 U.S.C. § 506(a) with respect to real property.  
**Amount: \$300 per motion; aggregate limit: \$700.**
- f. **Motions to Extend or Impose Stay:** Services related to filing a motion to extend or impose the stay following dismissal(s) of a case during the prior year.  
**Amount: \$450 per motion.**
- g. **Operation of Business:** Services related to the debtor's operation of a business that is the debtor's principal source of income (providing more than 50%).  
**Amount: \$1,700.**

**Part 2: Fee Schedule – Subsequent Services**

- a. **Motions to Modify Confirmed Plan:** Services related to preparing and filing a motion to modify a confirmed plan. Fees are limited to motions filed *more than one year after the date the petition is filed or the case is converted, whichever is later*. Motions to modify plan filed before that deadline are included in the initial fees allowed.  
**Amount: \$300.**
- b. **Motions to Sell Property.** Services related to preparing and filing a motion to sell real or personal property.  
**Amount: \$600 per motion.**
- c. **Motions to Obtain Credit or Incur Debt.** Services related to preparing and filing a motion to obtain credit or incur debt, including approval of loan modifications.  
**Amount: \$600 per motion.**
- d. **Opposition to Relief from Stay Motions:** Services for preparing and filing an opposition to a motion for relief from the automatic or codebtor stay filed *more than one year after the date the petition is filed or the case is converted, whichever is later*. Services performed prior to that deadline are included in the initial fees allowed.  
**Amount: \$700.**
- e. **Opposition to Motions to Dismiss or Convert:** Services related to preparing and filing an opposition to a motion to dismiss or convert the case filed by the Trustee more than one year after entry of a confirmation order. The fee for services related to such a motion filed prior to that date are included in the fee for the basic case.  
**Amount: \$ 550.**
- f. **Unfiled Tax Returns.** Services rendered before and after confirmation with respect to unfiled federal or state tax returns, but the attorney may not charge this fee in addition to opposing a motion to dismiss. (If knowledge of unfiled tax returns exists when petition is filed, attorney may include additional fee in initial application.)  
**Amount: \$250.**

**Fill in this information to identify your case:**

Debtor 1	_____	_____	_____
	First Name	Middle Name	Last Name
Debtor 2 (Spouse, if filing)	_____	_____	_____
	First Name	Middle Name	Last Name
United States Bankruptcy Court - District of Hawaii			
Case number (If known)	_____		

Local Form H2016rr (7/16)

## Rights and Responsibilities of Chapter 13 Debtors and Attorneys

A debtor in a Chapter 13 bankruptcy case must understand the debtor's rights and responsibilities. The debtor must also know and understand his or her attorney's responsibilities and the importance of communicating with the attorney to make the case successful. In order to assure a mutual understanding of these rights and responsibilities in the bankruptcy process, the debtor and the attorney agree as stated below. Reference to a debtor includes both Debtor 1 and Debtor 2 in a joint case.

### **BEFORE THE PETITION IS FILED**

#### **DEBTOR agrees to:**

1. Discuss with the attorney the debtor's objectives in filing the bankruptcy case.
2. Inform the attorney of any and all prior bankruptcy cases filed by the debtor or a spouse.
3. Provide the attorney with accurate, complete information about the debtor's financial situation, including assets and debts, income and expenses, domestic support obligations such as alimony, child support, and divorce agreements, and the status of tax returns and payments.
4. Provide the names and addresses of creditors to be notified of the bankruptcy case and automatic stay, including any address where the creditor has requested correspondence and notices be sent (as opposed to addresses to send payments).
5. For the time period specified by the attorney, timely provide copies of:
  - a. Pay stubs or other evidence of compensation received from an employer;
  - b. All federal tax returns or transcripts of the returns; and
  - c. All bills, notices, statements, or communications from creditors.

#### **ATTORNEY agrees to do the following **personally**:**

1. Meet with the debtor to review the debtor's financial information and discuss the alternatives of filing a case under Chapter 7 or Chapter 13, as well as non-bankruptcy options.
2. Explain to the debtor the need to obtain credit counseling before filing the bankruptcy petition and to complete a debtor education course after filing the petition, and emphasize the difference to the debtor.
3. Explain to the debtor the matters in which the attorney will represent the debtor and describe the services that are being excluded.
4. Explain to the debtor the petition, schedules, statements, plan, and any other documents to be filed on the debtor's behalf and that they must be signed by the debtor under penalty of perjury.

5. If filed online, ensure that the debtor's original signature is obtained on the petition and any documents filed together with the petition before the petition is filed, and explain that the attorney must retain the originally signed documents (or digital copies thereof) for one year after the bankruptcy case is closed.
6. Prepare (or, if prepared by a member of the attorney's staff, review) the petition, schedules, statements, plan and plan motions to value collateral or to avoid liens to be filed with the petition.
7. Advise the debtor that, unless an extension is granted, a failure to file the required schedules, statements, and plan by certain deadlines may result in dismissal of the case with a 180-day bar to refiling.
8. Explain which payments will be made directly by the debtor and which payments will be made by the trustee to creditors through the plan, with particular attention to mortgage and vehicle loan or lease payments, as well as any other claims that accrue interest.
9. Explain that the debtor must make monthly plan payments to the trustee beginning 30 days after the petition is filed (even before the plan is confirmed).
10. Explain to the debtor how, when, and where to make the plan payments to the trustee, and discuss the availability of a wage order as a means to ensure timely plan payments.
11. Explain to the debtor how the fees of the attorney and the trustee will be paid, and provide to the debtor an executed copy of this Rights and Responsibilities of Chapter 13 Debtors and Attorneys.
12. Explain that the court will send a notice of the date, time, and location of the §341 meeting of creditors and advise the debtor of the requirement to attend the meeting and be questioned under oath.
13. Advise the debtor of the need to maintain liability, collision, and comprehensive insurance on vehicles securing loans or leases, and any appropriate insurance if the case involves a business.
14. Advise the debtor that failure to file current and any delinquent tax returns will prohibit confirmation of a plan, delay the case, and may result in dismissal of the case.
15. Advise the debtor that for each year during the bankruptcy case, the debtor must provide the Trustee with copies of all federal and state tax returns, or transcripts of the returns, and must turn over any tax refunds to the Trustee, or the case may be dismissed.
16. Advise the debtor that court approval is required for post-confirmation sales of real or personal property and any new debt exceeding \$1,000.

### **AFTER THE PETITION IS FILED**

#### **DEBTOR agrees to:**

1. Appear punctually at the § 341 meeting of creditors with a government issued photo ID, proof of Social Security number, proof of income, and financial documentation requested by the attorney or Trustee.
2. Timely make the required plan payments – including the turnover of tax refunds - to the Trustee, and timely pay any creditors being paid directly, such as mortgages and payments on car loans and leases.
3. Timely pay any domestic support obligations, such as alimony and child support.
4. Promptly inform the attorney if the debtor loses his or her job or has other financial problems, including missing payments to the Trustee, on a mortgage or other secured debt, or domestic support obligation.

5. Provide the Trustee annually with copies of the federal and state tax returns and, if the Trustee requests, updated schedules "106I" and "106J" for income and expenses, and a statement of monthly income that shows how income, expenditures, and monthly income are calculated.
6. Keep the Trustee and the attorney informed of the debtor's current address and telephone number.
7. Inform the attorney of any debt collection efforts, including wage garnishments or attachments of assets, which occur or continue after the filing of the case, and if the debtor is sued or wishes to file a lawsuit against someone.
8. Contact the attorney before buying, refinancing, or selling real property and before entering into any loan agreements to find out what approvals are required.
9. Maintain liability, collision and comprehensive insurance on vehicles securing loans or leases, and appropriate insurance if the case involves a business.
10. Complete a personal financial management ("debtor education") course from an approved agency prior to making the last payment due under the plan.
11. At the time of the last plan payment, certify that all domestic support obligations have been paid.

**ATTORNEY agrees to personally:**

1. Appear at the § 341 meeting of creditors with the debtor or, in an emergency, arrange at no cost to the debtor for another attorney to appear on behalf of the debtor; and, if not an emergency, obtain the debtor's consent to having another attorney appear with the debtor at the meeting, and ensure that the substitute attorney is thoroughly familiar with the debtor's situation.
2. Review all statements, schedules, and other documents to be filed on behalf of the debtor, and ensure that any requisite amendments in accordance with information provided by the debtor are filed timely.
3. Respond to objections to plan confirmation, and where necessary, prepare an amended plan.
4. After plan confirmation, promptly prepare, file, and serve a motion to modify the confirmed plan if suspending, lowering, or increasing plan payments or duration is in the debtor's best interest.
5. When appropriate, prepare motions to buy, sell, or refinance real property, and motions to avoid liens and to value collateral.
6. Object to improper or invalid claims, if necessary, and file a claim on behalf of the debtor when failure to do so will adversely affect the debtor's case or its successful completion and discharge, or such failure will adversely affect the debtor after case completion and discharge.
7. Represent the debtor in motions for relief from stay and motions to dismiss.
8. Respond promptly to creditor inquiries and any requests by the Trustee for information.
9. Respond promptly to the debtor's questions and inquiries during the pendency of the case.
10. Ensure that the debtor's postpetition responsibilities, including submission of annual reports, tax returns and refunds to the Trustee, are monitored and reviewed.
11. Provide such other legal services as are necessary for the administration of the case. Although representation or non-representation in an adversary proceeding may be the subject of a separate agreement, the attorney must seek to withdraw from the case if additional services will not be provided.



## ATTORNEY FEES

Fixing the attorney fees for a chapter 13 case is a two-step process. First, the attorney and the client must agree upon an amount. Second, the court must decide whether that amount is reasonable.

Normally, in order to obtain the court's approval of attorney fees, the attorney must file a detailed application listing specific work done on specific dates. However, the court will approve chapter 13 debtor's attorney fees without a detailed application in order to make routine cases faster and less expensive. The total amount of attorney fees will be approved as part of plan confirmation so long as the amounts being charged are not greater than certain amounts presumed by the court to be reasonable for particular services. The total amount of fees that will be approved will depend on the number and complexity of the issues in the case. Issues that make a case more difficult and more expensive usually involve an ongoing foreclosure, repossession, or garnishment; delinquent tax returns or payments; alimony, child support, and other domestic obligations that are past due; asking the court to value property that secures a mortgage or loan; and requesting the court to make a lien or security interest void.

For cases filed on and after July 1, 2016, the court has decided the following amounts are reasonable for services that an attorney normally performs before a plan is confirmed. These amounts include associated costs.

- For basic services, the attorney may charge **\$3,600**. If the plan is confirmed without a continuance of the initially scheduled confirmation hearing, the attorney may charge **\$3,900**.
- If the debtor owns real property which is involved in a foreclosure or which is likely to be the subject of a dispute, for services performed prior to the 1-year anniversary of the date the petition is filed or the case is converted to chapter 13, whichever is later, the attorney may charge an additional **\$700**.
- If the debtor is involved in an ongoing repossession of a vehicle or other personal property, or if the debtor is the subject of a wage garnishment, the attorney may charge an additional **\$450**.
- If the debtor wishes to file a plan related motion to avoid a lien on personal property or a plan related motion to value collateral with respect to personal property, the attorney may charge an additional **\$200** per motion. (The total additional charge, however, for these types of motions may not exceed **\$500**.)
- If the debtor wishes to file a plan related motion to avoid a lien on real property or a plan related motion to value collateral with respect to real property, the attorney may charge an additional **\$300** per motion. (The total additional charge, however, for these types of motions may not exceed **\$700**.)
- If the debtor wishes to extend or impose the automatic stay in a case filed after dismissal of one or more prior cases during the previous year, the attorney may charge **\$450**.
- If there are unfiled tax returns due, the attorney may charge an additional **\$250**.
- If the debtor operates a business that is the debtor's principal source of income (more than 50%), the attorney may charge an additional **\$1,700**.

The fee amounts above are amounts that the court will approve as part of plan confirmation. In some cases, the above amounts may be more or less than what is needed to fairly compensate the attorney. The attorney and the client may agree to lesser amounts. But if the attorney and the client agree upon higher amounts, the attorney must file a detailed application and obtain the court's approval. The court always has the power to increase or decrease the amount to which the attorney and the client have agreed.

The debtor may pay all or part of the attorney fees before the petition is filed, but the attorney may not accept more than the amounts stated above. The attorney may withdraw from the client trust account the amount of prepaid fees attributable to services actually performed prepetition, but the withdrawal must be made before the filing of the petition. Postpetition, the attorney may not withdraw any funds from the trust account without court approval. After entry of the confirmation order approving fees, the attorney will withdraw any balance in the client trust account before the Chapter 13 Trustee makes any distribution to the attorney under the plan.

In some cases, the attorney has to do more work than expected after the plan is confirmed. If this occurs, the attorney may ask the court to approve additional fees. The Chapter 13 Attorney Fee Guidelines include fee amounts for certain post-confirmation services. If the court approves additional fees and the plan funding remains sufficient to pay in full all administrative expenses, secured claims, priority claims, and any claims placed in a special class for full payment, the Chapter 13 Trustee ordinarily will pay them, unless the court orders otherwise. After the bankruptcy petition is filed, the attorney may not receive any fees directly from the debtor or from anyone else on the debtor's behalf unless the court gives permission; the attorney may, however, request and receive a retainer from the debtor or another party and deposit it in the attorney's trust account, but the attorney may not draw on the retainer without the court's approval.

If the debtor and the attorney do not agree on the amount of additional fees to be charged for services that were not expected, the attorney may ask the court for permission to withdraw from the case. However, the attorney must continue to provide legal services until the court approves the attorney's withdrawal.

*Continued on next page.*

**Check either Box 1 or Box 2:**

- 1. The Debtor and Attorney agree that, in the circumstances of this case, the fee amounts set forth above may not represent reasonable compensation for the Attorney's services. The Attorney will file applications for compensation and will accept such compensation as the court allows.
- 2. The Debtor and Attorney agree that this case involves the following services and fee amounts:

Basic services (not more than <b>\$3,600</b> ) + additional <b>\$300</b> if confirmed without a continuance of the initially scheduled confirmation hearing	\$
Real property foreclosure or dispute (not more than <b>\$700</b> )	\$
Repossession or garnishment (not more than <b>\$450</b> )	\$
Avoidance of lien(s)/valuation of collateral ( <u>personal</u> property) - not more than <b>\$200</b> /motion ( <b>\$500</b> maximum)	\$
Avoidance of lien(s)/valuation of collateral ( <u>real</u> property) - not more than <b>\$300</b> /motion ( <b>\$700</b> maximum)	\$
Extension or imposition of automatic stay - not more than <b>\$450</b>	\$
Unfiled tax returns (not more than <b>\$250</b> )	\$
Operation of business that is principal source of income (not more than <b>\$1,700</b> )	\$
Total of fee components being charged in this case:	\$
Amount debtor paid before the petition was filed (filing fee not included):	\$
Amount attributable to services performed prepetition and withdrawn prepetition from client trust account:	\$
Balance of attorney fees and costs to be paid by Trustee through the plan:	\$

**THIS AGREEMENT SUPERSEDES ANY OTHER AGREEMENT BETWEEN DEBTOR(S) AND ATTORNEY REGARDING SERVICES TO BE PERFORMED IN CONNECTION WITH THIS BANKRUPTCY CASE.**

**x** \_\_\_\_\_  
Attorney for Debtor(s)

**x** \_\_\_\_\_  
Debtor 1

**x** \_\_\_\_\_  
Debtor 2

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_