

UNITED STATES BANKRUPTCY COURT
DISTRICT OF HAWAII

In re:

CHAPTER 13 PLAN ATTORNEY FEE
GUIDELINES.

GENERAL ORDER

Dated: April 21, 2021

ORDER ADOPTING AMENDED
CHAPTER 13 ATTORNEY FEE GUIDELINES

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. Part 2 of the Appendix to Chapter 13 Attorney Fee Guidelines is amended with respect to Motions to Modify Confirmed Plan and applies to motions filed on and after March 27, 2020.¹

The court's form motion (Motion to Modify Confirmed Plan Under 11 U.S.C. § 1329(a) or (d)) has also been updated and shall be used for such requests. *See* LBR 3015-2(b)(1)(A).

SO ORDERED.



/s/ Robert J. Faris
United States Bankruptcy Judge

¹ *See* General Order Dated April 23, 2020, authorizing an increase to \$1,000 as the presumptively reasonable fee for filing a motion on and after March 27, 2020, to modify a confirmed plan under any provision of 11 U.S.C. § 1329.

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:** All services related to preparing, filing, and prosecuting a motion to modify a confirmed plan (including all amendments to such a motion) that is 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 date are included in the the fees allowed under Part 1.)
Amount: \$1,000.
- 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.