

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA**

www.flsb.uscourts.gov

**GUIDELINES FOR FEE APPLICATIONS FOR
PROFESSIONALS IN THE SOUTHERN DISTRICT
OF FLORIDA IN BANKRUPTCY CASES¹**

Pursuant to Local Rule 2016-1(B)(1), the following Guidelines For Fees And Disbursements For Professionals In The Southern District Of Florida In Bankruptcy Cases (the "Guidelines") apply in all bankruptcy cases in the Southern District of Florida except as provided in Local Rule 2016-1(B)(2) with respect to attorneys for chapter 13 debtors. They delineate information that each interim and final application for professional fees and expenses (the "Application") must contain, and guidelines for reimbursement of disbursements. The Guidelines are mandatory guidelines to which an applicant for compensation (the "Applicant") must certify the Application complies. Such certification shall be by way of the certification required to be attached to the Application by Section A herein (the "Certification"). The "Application" and the "Certification" must substantially conform to the local forms "Application" and "Certification" included in these Guidelines. No deviation from these Guidelines is permissible, regardless of circumstances, without prior order of the presiding judge in such case, entered after notice and hearing on a motion of the Applicant setting forth why the Applicant believes departure from the Guidelines is justified in the circumstances. If such an order is obtained, the Application must comply with the remainder of these Guidelines and the Certification shall specifically so state. Failure to comply with these Guidelines shall result in the denial, without prejudice, of the Application. Pursuant to Local Rule 2016-1(B)(1), applications for cumulative compensation that do not exceed \$5,000 need not include a breakdown by categories of work performed.

¹ These Guidelines shall apply to all professional persons employed under 11 U.S.C. §§327 and 1103 seeking compensation pursuant to 11 U.S.C. §§328, 329, 330 and 331, including investment bankers and real estate advisors, unless the court, in the order of retention, after notice and hearing, specifically provides otherwise (upon an application demonstrating good cause for a variance from these Guidelines). In considering other requests for award of fees and costs (including, but not limited to, under 11 U.S.C. §§503(b) and 506(b)), the court will consider and apply, where appropriate, these Guidelines.

A. CERTIFICATION.

1. Each Application for fees and disbursements must contain the Certification by the professional designated by the Applicant with the responsibility in the particular case for compliance with these Guidelines (the "Certifying Professional"), certifying that: (a) the Certifying Professional has read the Application; (b) to the best of the Certifying Professional's knowledge, information and belief formed after reasonable inquiry, the Application complies with the mandatory Guidelines set forth herein; (c) to the best of the Certifying Professional's knowledge, information and belief formed after reasonable inquiry, the fees and disbursements sought fall within these Guidelines, except as specifically noted in the Certification and described in the Application; and (d) except to the extent that fees or disbursements are prohibited by the Guidelines, the fees and disbursements sought are billed at rates and in accordance with practices customarily employed by the Applicant and generally accepted by Applicant's clients.

2. Each Application for fees and disbursements must contain a certification by the Certifying Professional that the trustee (if any), the examiner (if any), the chair of each official committee (if any), the debtor, the U.S. trustee, and the respective counsel for the foregoing, have all been provided, simultaneously with the filing of the Application with the court, with a complete copy of the relevant Application (together with all exhibits).

3. Each Application requesting reimbursement for services and expenses must contain a certification by the Applicant that: (a) in providing a reimbursable service, the Applicant does not make a profit on that service; (b) in charging for a particular service, the Applicant does not include in the amount for which reimbursement is sought the amortization of the cost of any investment, equipment, or capital outlay (except to the extent that any such amortization is included within the permitted allowable amounts set forth herein for photocopies and facsimile transmission); and (c) in seeking reimbursement for a service which the Applicant justifiably purchased or contracted for from a third party (such as messenger service, over-night courier, computerized research, and title and lien searches), the Applicant requests reimbursement only for the amount billed to the Applicant by the third-party vendor and paid by the Applicant to such vendor.

4. The certifications set forth in these Guidelines shall be set forth in a separate exhibit to the Application and shall substantially conform to the local form "Certification" (and "Certificate of Service") included in these Guidelines.

B. ATTENDANCE AT HEARING ON APPLICATION.

The Certifying Professional shall notify its client that it should be present at the hearing to consider the Application.

C. TIME RECORDS REQUIRED TO SUPPORT FEE APPLICATIONS.

1. Each professional and paraprofessional must record time in increments of tenths of an hour, and must keep contemporaneous time records on a daily basis.

2. Time records must set forth in reasonable detail an appropriate narrative description of the services rendered. Without limiting the foregoing, the description should include indications of the participants in, as well as the scope, identification and purpose of the activity that is reasonable in the circumstances, especially in relation to the hours sought to be charged to the estate for that particular activity.

3. In recording time, each professional and paraprofessional may, subject to Section C(4), describe in one entry the nature of the services rendered during that day and the aggregate time expended for that day in an Activity Code Category (as herein defined) without delineating the actual time spent on each discrete activity in an Activity Code Category, provided, however, single time entries of more than one hour in an Activity Code Category that include two or more activities must include a notation of the approximate time spent on each activity within the Activity Code Category.

4. Time records shall be in chronological order by Activity Code Category. The following is a list of Activity Code Categories (the "Activity Code Category") that are applicable to most bankruptcy cases. Only one category should be used for any given activity and professionals and paraprofessionals should make their best effort to be consistent in their use of categories. This applies both within and across firms. Thus, it may be appropriate for all professionals to discuss the categories in advance and agree generally on how activities will be categorized. The Application may contain additional categories as the case requires. For example, each litigation matter should have its own category. But every effort should be made to use the listed categories in the first instance and to coordinate the use of additional categories with other professionals in the case.

- (a) The following categories are generally more applicable to attorneys but may be used by all professionals as appropriate:

ASSET ANALYSIS AND RECOVERY: Identification and review of potential assets including causes of action and non-litigation recoveries.

ASSET DISPOSITION: Sales, leases (Section 365 matters), abandonment and related transaction work. Where extended series of sales or other disposition of assets is contemplated, a separate category should be established for each major transaction.

BUSINESS OPERATIONS: Issues related to debtor in possession operations in chapter 11 such as employee, vendor, tenant issues and other similar problems, including first day motions.

CASE ADMINISTRATION: Coordination and compliance activities, including preparation of statement of financial affairs; schedules; list of contracts; United States trustee Guideline compliance; United States trustee "Debtor in Possession Reports"; contacts with the U.S. trustee; general creditor inquiries.

CLAIMS ADMINISTRATION AND OBJECTIONS: Specific claim inquiries; bar date motions; analysis, objections and allowances of claims.

EMPLOYEE BENEFITS/PENSIONS: Review issues such as severance, retention, 401K coverage and continuance of pension plan.

FEE/EMPLOYMENT APPLICATIONS: Preparation of employment and fee applications for self and others; motions to establish interim procedures.

FEE/EMPLOYMENT OBJECTIONS: Review of and objections to the employment and fee applications of others.

FINANCING: Matters under Sections 361, 363 and 364 including cash collateral and secured claims; loan document analysis.

LITIGATION: There should be a separate category established for each matter (e.g. XYZ Stay Litigation).

MEETINGS OF CREDITORS: Preparing for and attending the first meeting of creditors and other creditors' committee meetings.

PLAN AND DISCLOSURE STATEMENT: Formulation, presentation and

confirmation; compliance with the plan confirmation order, related orders and rules; disbursement and case closing activities, except those related to the allowance and objections to allowance of claims.

- (b) The following categories are generally more applicable to accountants and financial advisors, but may be used by all professionals as appropriate:

ACCOUNTING/AUDITING: Activities related to maintaining and auditing books of account, preparation of financial statements and account analysis.

BUSINESS ANALYSIS: Preparation and review of company business plan; development and review of strategies; preparation and review of cash flow forecasts and feasibility studies.

CORPORATE FINANCE: Review financial aspects of potential mergers, acquisitions and disposition of company or subsidiaries.

DATA ANALYSIS: Management information systems review, installation and analysis, construction, maintenance and reporting of significant case financial data, lease rejection, claims, etc.

PREPARATION AND REVIEW OF REPORTS REQUIRED BY U.S. TRUSTEE: Preparation and review of the monthly debtor in possession reports, trustee or examiner reports, or other reports required by the U.S. trustee.

LITIGATION CONSULTING: Providing consulting and expert witness services relating to various bankruptcy matters such as insolvency, feasibility, avoidance actions; forensic accounting; etc.

RECONSTRUCTION ACCOUNTING: Reconstructing books and records from past transactions and bringing accounting current.

TAX ISSUES: Analysis of tax issues and preparation of state and federal tax returns.

VALUATION: Appraise or review appraisals of assets.

D. REIMBURSEMENT OF EXPENSES AND SERVICES.

1. Presentation of Disbursements and Expenses in Fee Application

- (a) In requesting reimbursement for disbursements and expenses, Applicants are specifically reminded of other certifications required by these Guidelines, and in particular the certification under Section A(I)(c) hereof. Excessive charges shall not be reimbursed and all charges must be necessary and reasonable. To the extent that an Applicant seeks reimbursement for expenses and services, the Application shall categorize them and shall attach to the Application as an exhibit a summary of the total costs and Disbursements for the period covered by the Application which the Applicant is seeking, in substantially the format included in these Guidelines as local form labeled Exhibit 3.
- (b) Support for each disbursement or expense item for which reimbursement is sought must be kept. Such support shall be provided on request to the court and the United States trustee, and in appropriate circumstances to any party in interest provided that, where applicable, privilege or confidentiality can be preserved.

2. Allowable and Non-Allowable Reimbursable Disbursements and Expenses

- (a) Filing Fees Process Service Fees, Witness Fees and Expert Witness Fees.
- Filing fees (including for necessary adversaries), process service fees, witness fees, and expert witness fees (subject to court approval of the employment of any professionals and the reasonableness of such fees) shall be allowable to the extent of the actual cost incurred by the Applicant.
- (b) Court Reporter Fees and Transcripts.
- Court reporter fees and copies of transcripts shall be allowable to the extent of the actual cost incurred by the Applicant.
- (c) Lien and Title Searches.
- The cost for lien and title searches (whether done in-house or by an outside vendor) is allowable to the extent of the actual cost incurred by, or invoiced

to, the Applicant.

(d) Photocopying.

Photocopying shall be allowable at a cost not to exceed \$.15 per page. The Applicant shall set forth in its fee application the total number of copies. Outside vendor photocopying charges are allowable at the actual cost invoiced to the Applicant. Necessary copies obtained from the Clerk of the Bankruptcy Court (including certified copies) will be permitted at the actual cost incurred by the Applicant. The Applicant shall not seek reimbursement for any copies which the Applicant has provided to a third party if the third party has reimbursed Applicant for the copies.

(e) Postage, Over-night Delivered Courier/Messenger Services.

The cost of postage, over-night delivery, and outside courier/messenger services are reimbursable for the actual cost incurred, if reasonably incurred. Charges should be minimized whenever possible. For example, couriers/messengers and over-night delivery service should be used only when first-class mail is impracticable.

(f) Telephone.

Long distance telephone charges are allowable to the Applicant for the actual cost invoiced from the telephone carrier. Charges for local telephone exchange service and cellular telephone service shall not be reimbursable.

(g) Facsimile Transmission.

A charge for out-going facsimile transmission to long distance telephone numbers are reimbursable at the lower of (a) toll charges or (b) if such amount is not readily determinable, \$1.00 per page for domestic and \$2.00 per page for international transmissions. Charges for in-coming facsimiles are not reimbursable. The Applicant's fee application shall state the total number of pages of the out-going transmissions.

(h) Computerized Research.

Computerized legal research services such as Lexis and Westlaw are

reimbursable to the extent of the invoiced cost from the vendor.

(i) Parking.

Reimbursement for parking, including parking by a professional to attend court proceedings, depositions or case conferences, parking at the airport and client and third party parking, shall be allowable provided the parking expense is actual, reasonable and necessary.

(j) Travel Expenses and Meals.

Travel expenses (mileage, taxis, etc.) and meals (including staff meals) incurred within a seventy five (75) mile radius of the Applicant's office shall not be reimbursable. Mileage charges for out-of-town travel (outside a seventy five (75) mile radius the Applicant's office) with one's own car are reimbursable at the lesser of the amount charged clients in the non-bankruptcy context or the amount allowed by the Internal Revenue Service for per mile deductions. The Applicant shall seek and use the lowest airfare available to the Applicant. Luxury accommodations and deluxe meals are not reimbursable, nor are personal, incidental charges such as telephone and laundry unless necessary as a result of a reasonably unforeseen extended stay not due to the fault of the traveler. Expenses for travel over a seventy five (75) mile radius of the Applicant's office shall be substantiated with copies of all receipts for such travel, and the Application shall include the date of the travel, the purpose of the travel, the cost of each trip, and the name of the person traveling. For purposes of the foregoing, the Applicant's office shall be the office in which the person incurring the travel expense is located.

(k) Word Processing, Document Preparation, Data Processing, Proofreading, Secretarial and Other Staff Services.

Secretarial, library, word processing, document preparation (other than by professionals or paraprofessionals), data processing, and other staff services (exclusive of paraprofessional services), including overtime for the foregoing, shall not be reimbursable. Charges for proofreading for typographical or similar errors are not reimbursable whether the services are performed by a paralegal, secretary, or temporary staff.

E. CONTENT OF APPLICATION.

1. The Application shall provide a narrative of the significant events in the case during the time period covered by the Application, and a brief statement for each major Activity Code Category used during the period of the Application, noting the total hours and fees charged for that category during the period covered by the Application and the particular benefits generated to the estate by the Applicant in that category. The Application (including both interim and final Applications) shall address the factors listed in 11 U.S.C. § 330(a)(3) and any other factors the applicant believes merit consideration by the court. The Application may address, but is not required to address, the twelve factors enumerated in Johnson v. Georgia Highway Express, Inc., 488 F.2d 714 (5th Cir.1974).

2. Exhibits To The Application. Each Application must include:

- (a) The Applicant shall complete and attach to the front of the Application: first, the Fee Application Summary Chart included in these Guidelines, as Exhibit 1 and, second, the Summary of Fee Application in substantially the format included in the local form "Summary of [First][Interim] [Final] Fee Application of _____ [Counsel][Accountant]" in these Guidelines.
- (b) The Certificate required by Section A, attached as exhibit to the application, in substantially the format included in the local form "Application" included in these Guidelines.
- (c) Exhibits, in substantially the format included in these Guidelines as local forms Exhibits 2-A and 2-B, showing the name of each professional, with his or her position in the firm, the name of each paraprofessional who worked on the case during the fee period, the year that the professional was licensed to practice or the number of years of work experience by the paraprofessional, the hours worked by each professional and paraprofessional, the hourly rate for each professional and paraprofessional, and the total dollar amount of the professional fees attributable to such professional or paraprofessional, in the case of Exhibit 2-A; and a summary of time during the period covered by the Application, by Activity Code Category, showing the name of the professional or

paraprofessional, the hourly billing rate, the total number of hours spent during the period of the application on the particular Activity Code Category, and the total fee of that professional or paraprofessional during the period of the Application on the particular Activity Code Category, in the case of Exhibit 2-B. Any change in hourly rates or billing practices from those utilized in the prior Application period must be noted on the exhibit.

- (d) The Summary of Requested Reimbursement of Expenses and Disbursements, in substantially the format attached to these Guidelines as Exhibit 3, as an exhibit to the Application.
 - (e) The Applicant shall attach, as Exhibit 4, the daily time entries of each professional, separated by Activity Code Category, reflecting the name of the billing professional or paraprofessional, the date of the entry, the detailed time entry, and the total number of hours billed. The Applicant shall conform with the provisions of Section C when completing such exhibit.
3. Interim Applications shall cover only the time period since the date covered by the previous interim Application, if any. Such interim Applications shall disclose all previous interim awards, if any by disclosing the information in the Fee Application Summary Chart.
 4. Final Applications shall disclose all previous interim awards. The final Application shall include detailed time entries and expenses as required pursuant to these Guidelines for the time period since employment was approved. Unless fees or expenses were specifically disallowed in interim awards, the final Application may also seek payment of fees and expenses requested, but not previously awarded, in interim Applications.
 5. Prior interim awards are subject to final review and allowance at the hearing on the final Application, and, at the request of a party in interest, or on the court's own motion, prior interim awards are subject to reconsideration.

Fee Application

, counsel [accountant] to the , applies for interim [final] compensation for fees for services rendered and costs incurred in this Chapter proceeding. This application is filed pursuant to 11 U.S.C. §330 and Bankruptcy Rule 2016, and meets all of the requirements set forth in the Guidelines incorporated in Local Rule 2016-1(B)(1). The exhibits attached to this application, pursuant to the Guidelines, are:

Exhibit "1" – Fee Application Summary Chart

Exhibits "2-A" and "2-B"- Summary of Professional and Paraprofessional Time.

Exhibit "3" - Summary of Requested Reimbursements of Expenses.

Exhibit "4" - The applicant's complete time records, in chronological order, by activity code category, for the time period covered by this application. The requested fees are itemized to the tenth of an hour.

The applicant believes that the requested fee, of \$_____ for_____ hours worked, is reasonable considering the nature, extent, and the value of such services, taking into account all relevant factors, including:

The time spent on such services.

The rates charged for such services.

Whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of the case.

Whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed.

With respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field.

Whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under title 11.

The applicant seeks an interim award of fees in the amount of \$_____ and costs in the amount of \$_____.

CERTIFICATION

1. I have been designated by _____ (the "Applicant") as the professional with responsibility in this case for compliance with the "Guidelines for Fee Applications for Professionals in the Southern District of Florida in Bankruptcy Cases" (the "Guidelines").

2. I have read the Applicant's application for compensation and reimbursement of expenses (the "Application"). The application complies with the Guidelines, and the fees and expenses sought fall within the Guidelines, except as specifically noted in this certification and described in the application.

3. The fees and expenses sought are billed at rates and in accordance with practices customarily employed by the Applicant and generally accepted by the Applicant's clients.

4. In seeking reimbursement for the expenditures described on Exhibit 3, the Applicant is seeking reimbursement only for the actual expenditure and has not marked up the actual cost to provide a profit or to recover the amortized cost of investment in staff time or equipment or capital outlay (except to the extent that the Applicant has elected to charge for in-house photocopies and outgoing facsimile transmissions at the maximum rates permitted by the Guidelines).

5. In seeking reimbursement for any service provided by a third party, the Applicant is seeking reimbursement only for the amount actually paid by the Applicant to the third party.

6. The following are the variances with the provisions of the Guidelines, the date of each court order approving the variance, and the justification for the variance: _____

CERTIFICATE OF SERVICE

[Include a certificate of service conforming to Local Rule 2002-1(F)]

[Applicant] Attorneys/Accountant for [address]
[phone]

By:

_____ .
[name of certifying professional]

Fla. Bar No.:

FEE APPLICATION SUMMARY CHART

REQUEST					APPROVAL				PAID		HOLDBACK	
Date Filed	ECF #	Period Covered	Fees Requested	Expenses Requested	Date Ordered	ECF #	Fees Approved	Expenses Approved	Fees Paid	Expenses Paid	Fees Holdback	Expenses Holdback
TOTALS												

EXHIBIT "1"

Summary of
Professional and
Paraprofessional Time
Total per Individual
for this Period
Only
(EXHIBIT "2-A")

[If this is a final application, and does not cumulate fee details from prior interim applications, then a separate Exhibit 2-A showing cumulative time summary from all applications is attached as well]

<u>Name</u>	<u>Partner, Associate or Paraprofessional</u>	<u>Year Licensed</u>	<u>Total Hours</u>	<u>Average Hourly Rate*</u>	<u>Fee</u>
					\$
Blended Average Hourly Rate:					\$
Total fees:					\$

* Indicate any changes in hourly rate and the date of such change:

Summary of Professional and
Paraprofessional Time by
Activity Code Category
for this Time Period Only
(EXHIBIT "2-B")

Activity Code: _____:

<u>Name</u>	<u>Rate</u>	<u>Hours</u>	<u>Fees</u>
-------------	-------------	--------------	-------------

Partners:

Associates:

Paralegals:

Activity Subtotal:			\$
--------------------	--	--	----

Activity Code: _____:

<u>Name</u>	<u>Rate</u>	<u>Hours</u>	<u>Fees</u>
-------------	-------------	--------------	-------------

Partners:

Associates:

Paralegals:

Activity Subtotal:			\$
--------------------	--	--	----

Activity Code: _____:

<u>Name</u>	<u>Rate</u>	<u>Hours</u>	<u>Fees</u>
-------------	-------------	--------------	-------------

Partners:

Associates:

Paralegals:

Activity Subtotal:			\$
--------------------	--	--	----

Activity Code: _____:

<u>Name</u>	<u>Rate</u>	<u>Hours</u>	<u>Fees</u>
-------------	-------------	--------------	-------------

Partners:

Associates:

Paralegals:

Activity Subtotal:			\$
--------------------	--	--	----

Activity Code: _____:

<u>Name</u>	<u>Rate</u>	<u>Hours</u>	<u>Fees</u>
-------------	-------------	--------------	-------------

Partners:

Associates:

Paralegals

:

Activity Subtotal:			\$
--------------------	--	--	----

Summary of Requested Reimbursement Of Expenses
for this Time Period Only

[If this is a final application which does not cumulate prior interim applications, a separate summary showing cumulative expenses for all applications is attached as well]

- | | | |
|-----|--|----------|
| 1. | Filing Fees | \$ _____ |
| 2. | Process Service Fees | \$ _____ |
| 3. | Witness Fees | \$ _____ |
| 4. | Court Reporter Fees and Transcripts | \$ _____ |
| 5. | Lien and Title Searches | \$ _____ |
| 6. | Photocopies | |
| | (a) In-house copies (\$_____ at 15¢/page) | \$ _____ |
| | (b) Outside copies (\$_____) | \$ _____ |
| 7. | Postage | \$ _____ |
| 8. | Overnight Delivery Charges | \$ _____ |
| 9. | Outside Courier/Messenger Services | \$ _____ |
| 10. | Long Distance Telephone Charges | \$ _____ |
| 11. | Long Distance Fax Transmissions | |
| | (copies at \$1/page) | \$ _____ |
| 12. | Computerized Research | \$ _____ |
| 13. | Out-of-Southern-District-of-Florida Travel | \$ _____ |
| | (a) Transportation (\$_____) | |
| | (b) Lodging (\$_____) | |
| | (c) Meals (\$_____) | |

14. Other Permissible Expenses (must specify and justify) \$_____

(a) (\$_____)

(b) (\$_____)

Total Expense Reimbursement Requested \$_____

[The applicant's complete time records, in chronological order, by activity code category, for the time period covered by this application. The requested fees are itemized to the tenth of an hour.]

EXHIBIT "4"