

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA**
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**GUIDELINES FOR CHAPTER 13 ATTORNEY FEES FOR
SECURED CREDITORS – SAFE HARBOR OR MOTION**

The following Guidelines apply in all Chapter 13 cases in the Southern District of Florida when Rule 3002.1 Notices for attorney fees for secured creditors are filed.

Attorney fees (collectively referred to as “Safe Harbor Fees”) incurred by lawyers representing secured creditors shall be presumed reasonable in chapter 13 cases if such fees are timely noticed pursuant to Bankruptcy Rule 3002.1, L.R. 3002.1-1 and sought pursuant to these guidelines.

The court deems the aggregate amount of \$525.00 as reasonable compensation (and the secured creditor may file a single flat fee Rule 3002.1 notice of such amount) for chapter 13 secured creditor attorneys to perform the following:

- Preparing and filing a proof of claim on behalf of a secured creditor (inclusive of a 410A pay history as part of the claim).
- A secured creditor attorney’s review of a debtor’s chapter 13 plan inclusive of any review necessary for all amended plans filed prior to confirmation.
- Monitoring the case for any pleading and/or activity that may impact a secured creditor’s claim prior to confirmation.
- Any objection that may be necessary to protect the secured creditor’s claim prior to confirmation.

Scope of Fee(s)

Upon the filing of a Rule 3002.1 Notice, the following actions are presumed performed and completed by an attorney representing a secured creditor in a chapter 13 case:

- (a) That the attorney has prepared and filed the proof of claim form (inclusive of any amended claims prior to confirmation).
- (b) That the attorney has reviewed the documents attached to a proof of claim and confirmed that such documents evidence that the secured creditor has a perfected lien, and the documents provide for the recoverability of attorney’s fees.
- (c) That the attorney has communicated with servicer, lender, or other lien holder to obtain the necessary information in connection to a debtor’s loan and/or contract.
- (d) That the attorney has reviewed the applicable loan’s pay history.
- (e) That the attorney has verified that the proof of claim was properly docketed.

- (f) That the attorney has communicated and negotiated with the servicer/lien holder, chapter 13 trustee, and debtor's counsel (if necessary).
- (g) That the attorney has reviewed the bankruptcy case docket and a debtor's chapter 13 plan (inclusive of an attorney's review of any amended plan filed prior to confirmation, and an attorney's monitoring of the case for any pleading that may impact the secured creditor's claim, prior to the chapter 13 plan's confirmation).
- (h) That if an attorney files an objection; the attorney has communicated with servicer, conducted legal research (if necessary), prepared and filed the objection, negotiated with debtor or trustee in resolving objection (if necessary), and attended hearing(s) on objection (if necessary).

Chapter 13 Administration of Secured Creditor's Fees

- (i) Claim Paid Through Plan. If a debtor is proposing to cure arrears to a secured creditor, the Safe Harbor Fees shall be included as a supplement to secured creditor's arrearage claim.
- (j) Mortgage Modification Mediation. If a debtor is proposing Mortgage Modification Mediation ("MMM"), the fee notices shall be held in abeyance until the conclusion of the MMM process, as provided for in L.R. 3002.1-1.
- (k) Direct Pay or Surrender. If a debtor is proposing to treat the claim direct or surrendering interest in the claim, the Safe Harbor Fees are presumed reasonable for a secured creditor's work in the bankruptcy and are for notice purposes in connection to a secured creditor's claim. The Safe Harbor Fee in such scenario must be filed via a Bankruptcy Rule 3002.1 notice, will not be in violation of L.R. 3002.1-1, and can be recoverable in the ordinary course of business upon the lifting of the automatic stay.
- (l) Notice filed Post Confirmation. If a Safe Harbor Fee notice is filed after confirmation of a chapter 13 plan, but still within the time frame provided for in Bankruptcy Rule 3002.1, the fees are recoverable and still fall within these guidelines, however, the debtor is not required to file a modified plan to account for such fees, and the debtor can indicate the intent for such fees by completing the required Local Form 48.
- (m) Objections to Rule 3002.1 Notice. Objections to Rule 3002.1 notices shall be handled in accordance with Bankruptcy Rule 3002.1(c) and (e).

Exceptions, Limitations, and Additional Fees for Secured Creditor

- (n) Fees Outside Guidelines Subject to Objection. These guidelines are inapplicable to notices that do not meet the timing restrictions and fee type restrictions listed above. A secured creditor may file post-petition fee notices outside the parameters of these guidelines; however, such fee notices are subject to

objections based upon reasonableness, necessity, and any other grounds as to why such fees may not be appropriate.

- (o) Motion or Application for Additional Fees. Notwithstanding the terms of these guidelines, a secured creditor attorney may file a fee application or separate motion if such attorney asserts that additional fees beyond the Safe Harbor amount should be awarded based upon the work performed in a specific case. If a secured creditor attorney does seek fees beyond the Safe Harbor Fee, the attorney should only file the fee application or motion, but not a Safe Harbor Fee notice.
- (p) Modified Plans. These guidelines do not apply to fees incurred by a secured creditor for the review or objection to modified plans filed after the debtor's initial confirmation. Should a secured creditor file any 3002.1 notice with respect to such modified plan(s), the debtor shall indicate the intent for such fees by completing the required Local Form 48.