



IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO

María de los Ángeles González  
Clerk of Court

Jose V. Toledo U.S. Courthouse  
300 Recinto Sur St., Suite 134  
San Juan, PR 00901

Notice 14-01

MCS Building Suite 222A  
880 Tito Castro Ave.  
Ponce, PR 00716-4732

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## Notice to the Bar and the Public

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**In Re: NOTICE OF ADOPTION OF AMENDMENT TO LOCAL RULES AND FORMS**

The United States Bankruptcy Court for the District of Puerto Rico gives notice of amendment to Local Rules 2016-1, 5080-1, and 7067-1, 4001-1(F) and Local Form C. A copy of the local rules with the amendments incorporated is hereby attached.

The local rules and forms can also be accessed and view on the bankruptcy court's website located at [www.prb.uscourts.gov](http://www.prb.uscourts.gov).

In San Juan, Puerto Rico, this 17<sup>th</sup> day of January, 2014.

  
María de los Ángeles González, Esq.  
Clerk of Court

## **Rule 2016-1**

### **Application for Compensation of Professionals**

**(a) Compensation.** All professionals, including but not limited to, debtor's attorneys, accountants, and creditor's attorneys, seeking interim or final compensation for services and reimbursement of expenses from the estate under 11 U.S.C. §§ 330, 331, 503(b)(2), 503(b)(4), or 506(b) must file an application for compensation and reimbursement, which shall be sufficiently detailed to allow the court to determine whether all the time charged, or any portion thereof, is reasonable and was actual and necessary. The application must conform generally with Fed. R. Bankr. P. 2016. The application and any attachments must comply with the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses. The following rules also apply:

**(1) Trustee Services.** If the trustee is also serving as his/her own attorney, the trustee's attorney application must contain a certification that no compensation has been or will be sought for services as an attorney which are properly trustee services.

**(2) Contingent Fee Matters.** Detailed time records must also be kept on contingent fee matters.

**(3) Travel Time.** The court may allow professional travel time at one-half of the professional's normal hourly rate, unless otherwise justified. This is because time spent traveling is generally unproductive or, if productive, is rarely spent solely on the case for which the professional is traveling. Travel of one (1) hour or less round-trip is not compensable.

**(4) Certification.** Each application must contain a certification by the professional that:

**(A)** the professional has read the application;

**(B)** to the best of the professional's knowledge, information and belief, formed after reasonable inquiry, the compensation and reimbursement of expenses sought conforms with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the United States Trustee Guidelines, and these LBRs; and

**(C)** the compensation and reimbursement of expenses requested are billed at rates no less favorable to the debtor/estate than those customarily employed by the applicant generally.

**(b) Expenses.** An applicant has the burden of establishing that his/her expenses are reasonable and both actual and necessary. The following rules also apply:

**(1) Photocopying.** An applicant must identify the particular documents copied, the number of copies made, and the actual cost per copy – not to exceed 25 cents per page.

**(2) Computerized Research.** Computerized research is reimbursable at actual cost, without markup for handling or administrative charges.

**(3) Messenger Service/Overnight Delivery.** Messenger or overnight delivery services should only be used when the use of first-class mail is impractical. If reasonably incurred, reimbursement for these services will be allowed at actual cost. In-house messenger services are not reimbursable for more than the cost of comparable services outside the firm.

**(4) Postage.** Postage is reimbursable at actual cost.

**(5) Long Distance Telephone Charges.** Long distance telephone charges are reimbursable at actual cost.

**(6) Facsimile Transmissions.** Facsimile transmissions are reimbursable at actual cost, if reasonably incurred. For outgoing transmissions, the actual cost of the telephone charges are reimbursable. Facsimile transmissions received are reimbursable at actual cost, not to exceed 25 cents per page.

**(7) Travel – Air transportation.** Reimbursement for air travel is limited to the amount spent on coach fare.

**(8) Travel – Within Puerto Rico.** Automobile travel within Puerto Rico is reimbursable at a rate to be published by the clerk's office and based upon the mileage information available through the Puerto Rico Highway and Transportation Authority's website, [www.dtop.gov.pr/carretera](http://www.dtop.gov.pr/carretera).

**(9) Travel accommodations and meals.** Reimbursement is allowed for reasonable hotel and meal expenses. Luxury accommodations are not reimbursable.

**(10) Meals – Working.** Working meals at restaurants or private clubs are generally not reimbursable. Reimbursement may be requested for working meals only when food is catered to the professional's office during a meeting with clients, such as a creditor's committee, to permit the meeting to continue through a normal meal period.

**(11) Amenities.** Charges for entertainment, alcoholic beverages, tobacco, newspapers, dry cleaning, etc., are generally not reimbursable.

**(12) Property Inspection Fee.** Charges for these inspections (usually drive-by) should be itemized detailing the date the alleged inspection was made.

**(13) Miscellaneous fees.** Filing fees, court reporter fees, witness fees, and service of process fees are reimbursable at actual cost.

**(c) Denial For Non-compliance.** The court may deny an application for compensation and

expenses *sua sponte* if it does not comply with the requirements set forth in this LBR.

**(d) Sanctions.** The failure of an attorney to timely file the plan, schedules, or statements, to attend the meeting of creditors, to timely file amendments, or to appear at confirmation hearings or at any other scheduled meetings or hearings may result in the reduction of the attorney's fee, for each such occurrence, in such amount as the court finds to be appropriate.

**(e) Attorney's Continuing Duty of Representation in Chapter 13 Cases.** An attorney who represents a debtor in the bankruptcy court at the time a petition under chapter 13 is filed, or when a case under another chapter of the Bankruptcy Code is converted to chapter 13, has a continuing duty to represent the debtor until the occurrence of the earliest of:

- (1) dismissal of the case;
- (2) closing of the case; or
- (3) the entry of an order allowing the attorney to withdraw from further representation of the debtor.

**(f) Attorneys' Fees in Chapter 13 Cases.**

(1) The court may approve attorneys' fees in chapter 13 cases at the confirmation hearing without the debtor's attorney filing a detailed application if the fees, costs and expenses [excluding the filing fee] do not exceed \$3,000.00.

(2) When allowing the flat fee, in addition to the requirements of 11 U.S.C. §§ 526 and 527, counsel for the chapter 13 debtor should discharge the following responsibilities:

(A) Meet with the debtor to review the debtor's debts, assets, liabilities, income, and expenses.

(B) Explain which payments will be made directly by the debtor and which payments will be made through the debtor's chapter 13 plan, with particular attention to mortgage and vehicle loan payments, as well as any other claims that may accrue interest.

(C) Explain to the debtor how, when and where to make the chapter 13 plan payments.

(D) Explain to the debtor how the attorney's fees and trustee's fees are paid and provide an executed copy of this document to the debtor.

(E) Explain to the debtor that the first plan payment must be made to the trustee within 30 days of the date the plan is filed.

(F) Advise the debtor of the requirement to attend the § 341 Meeting of Creditors, and instruct the debtor as to the date, time and place of the meeting.

(G) Advise the debtor of the need to file any due tax returns prior to the § 341 Meeting of Creditors.

(H) Advise the debtor of the necessity of maintaining liability, collision and comprehensive insurance on vehicles securing loans or leases.

(I) Timely prepare and file the debtor's petition, plan, statements and schedules.

(J) Appear at the § 341 Meeting of Creditors with the debtor.

(K) Respond to objections to plan confirmation, and where necessary, prepare an amended plan.

(L) Prepare, file, and serve necessary amendments to the plan which may include suspending, lowering, or increasing plan payments.

(M) Prepare, file, and serve necessary amended statements and schedules, in accordance with information provided by the debtor.

(N) Prepare, file, and serve necessary motions to sell real property when appropriate.

(O) Object to improper or invalid claims, if necessary, based upon documentation provided by the debtor.

(P) Represent the debtor in motions for relief from stay and motions to dismiss.

(Q) If appropriate, prepare, file, and serve necessary motions to avoid judicial liens on real or personal property.

(R) Provide such other legal services as are necessary for the administration of the present case before the bankruptcy court.

**(3) Post Confirmation Fees.** If the compensation for debtor attorney's post confirmation services is in an amount of \$500 or less, then no application for compensation need be filed pursuant to subsections (a) and (b) of this LBR.

**(4)** An application that seeks allowance of fees and expenses totaling \$500.00 or less may be approved if it has the endorsed approval of the debtor and the chapter 13 trustee. If the application lacks their approval, it will be noticed to the debtor and chapter 13 trustee. The court may approve the application if no objection is filed within twenty-one (21) days from the date of the notice.

(5) At the request of any party in interest, or on the court's own initiative, the failure to perform any act required by this LBR in a timely manner may result in a decrease or disgorgement of the amount of attorney's fees allowed by the court for the services rendered.

(6) Upon the dismissal of a Chapter 13 case wherein a Chapter 13 plan has not been confirmed, the court will retain jurisdiction for a period of twenty one (21) days after the dismissal order becomes final, to determine if any professional fees are an administrative expense under 11 U.S.C. §503(b). See 11 U.S.C. § 1326 (a)(2). The debtor's attorney, and or any duly authorized professional, shall move the court within the twenty one (21) days period for such a determination.

## **Rule 4001-1**

### **Relief from Automatic Stay**

**(a) Motion.** A motion for relief from stay shall not be combined with a request for any other type of relief unless so authorized by the court, except that the movant may request adequate protection as alternative relief.

**(b) Affidavit of Military Service Required.** At the time of the filing of a motion for relief from stay in accordance with Fed. R. Bankr. P. 4001, and motions for relief from co-debtor stay in accordance with Fed. R. Bankr. P. 9014, movant must file an affidavit with the court which (a) states whether or not the respondent is in military service and shows necessary facts to support the affidavit, or (b) if movant is unable to determine whether or not the respondent is in military service, states that movant is unable to so determine. The court will not enter any default orders lifting the stay if a movant does not supply the required affidavit of military service. If the court is unable to ascertain a respondent's military status from the presented affidavit, it may require movant to file a bond before entering any default order lifting the stay.

**(c) Service.** Movant must serve both the motion and a notice within three (3) days of issuance of the notice. Movant must file a certificate of service, as provided on the bottom of the reverse side of the notice, within seven (7) days of effecting service. The court may deny the motion for relief from stay and remove the matter from the court's calendar, if movant fails to serve the notice within the three (3) day period prescribed herein. All documents filed pursuant to this LBR must be served on the following parties:

- (1) the debtor;
- (2) debtor's counsel;
- (3) the trustee, if one has been appointed;
- (4) any committee elected pursuant to § 705 or appointed pursuant to § 1102;
- (5) if no committee has been appointed, the creditors listed in Fed. R. Bankr. P. 1007(d);
- (6) all parties with liens of record, or any other party known to the movant claiming an interest in the property;
- (7) parties requesting notice; and
- (8) The United States trustee in a chapter 11 case.

**(d) Relief from Stay of Act Against Property.** If movant seeks relief with respect to a stay of an act against property under 11 U.S.C. § 362(d)(1) or (d)(2), the motion must be accompanied by the following supporting documents:

- (1) true copies of all notes, bonds, mortgages, security agreements, financing statements, assignments, pledges, allonges and any other relevant document;
- (2) a report of any appraiser whose testimony is to be presented at the hearing;

(3) a statement of amount due, including a breakdown in the following categories:

- (A) unpaid principal;
- (B) accrued interest, from and to a specific date;
- (C) late charges, from and to a specific date;
- (D) attorney's fees;
- (E) advances for taxes, insurance, and like concepts;
- (F) unearned interest;
- (G) any other charges including costs and expenses; and
- (H) a per diem interest factor.

**(e) Response.** Respondent must file an answer to the motion for relief from stay within fourteen (14) days after service of the notice prescribed in subsection (c) of this LBR. The court may enter the order lifting stay for the moving party and take the matter off the court's calendar if respondent does not file a timely answer, provided that movant has filed the certificate of service prescribed in subsection (c) of this LBR.

**(f) Hearing.** The notice prescribed in subsection (c) of this LBR must set forth a specific date for the hearing on the motion for relief from stay. A hearing will be held on the date indicated in the notice if movant has timely filed the certificate of service and respondent has filed a timely response.

**(g) Supporting Documents – Respondent.** At least three (3) days prior to the hearing, respondent must file with the court and serve upon movant – or his attorney if so represented – a report of any appraiser whose testimony is to be presented at the hearing, as well as a copy of any other document to be used at the hearing.

**(h) Attorney Conference – Contested Motions.** If the motion for relief from stay is contested, counsel for the parties must confer with respect to the issues raised in the motion, in order to determine whether a consent order may be entered and/or to stipulate to relevant facts.

**(i) Relief from Co-debtor Stay in Chapter 12 or 13 Cases.** A motion for relief from a stay of action against a codebtor in a chapter 12 or 13 case is a contested matter and is governed by Fed. R. Bankr. P. 9014, 11 U.S.C. § 1201 or 1301 and these LBRs. The motion shall clearly state in the caption of the motion the subsection of 11 U.S.C. § 1201 or 1301 under which the party is proceeding.

**Rule 5080-1**  
**Fees - General**

**(a) Authority.** The fees charged for services to be performed by the court are contained in the Bankruptcy Court Miscellaneous Fee Schedule, promulgated by the Judicial Conference of the United States in accordance with 28 U.S.C. § 1930(b). Neither the clerk nor her designees have the authority to waive the payment of any prescribed fee, except as provided in the Miscellaneous Fee Schedule.

**(b) Treatment Where Fee Is Not Timely Paid.** The prescribed fee must be paid in advance of the service to be performed by the clerk's office.

**(c) Refunds.**

**(1) Electronic Refunds.** The authority to approve a refund is a judicial determination that may be delegated to the clerk for court procedures that clearly address the type of refund. Whereas, the clerk has the authority to approve refunds for fees paid electronically for monies collected by or paid to the court in error, such as duplicate charges or electronic system errors.

**(A) Request for Refund.** Claimants seeking a refund must promptly file an application with the supporting documentation generated from the court's electronic case management system. The receipt for payment of fees, and the notice(s) of electronic filing. Refunds will be processed through the electronic credit card system. Refund checks will not be issued.

**(B) Clerk Authorized Actions.** Upon verification of the grounds set forth in the application, the clerk is authorized to dismiss the case or adversary proceeding or strike the pleading when the fee charged resulted from the filing of a duplicate petition, adversary proceeding or pleading.

**(C) Request for Clearance.** A movant may request clearance of the "filing fee due" status in a case or proceeding in which the fee has not yet been paid by contacting the Finance Division.

**(D) Denial of Refund.** If a claimant's refund request is denied, the claimant may seek reconsideration of the request from the judge presiding over the case in which the subject document was filed by filing a motion to that effect.

**(E) Repeated Mistakes.** In the event that a particular attorney or law firm continues to make repeated mistakes when submitting fees and repeatedly requests refunds, the court will consider remedial action and may issue an order to show cause as to why further requests for refunds should be considered.

**(2) Refunds Motion to Reopen.** Refunds are prohibited in motions to reopen a case. The Judicial Conference Policy prohibits refunding the fee even if the court denies the motion.

**Rule 7067-1**  
**Registry Account**

**(a) Form of Deposit.** All moneys deposited in the court's Registry Account must be in the form of certified check, money order, or a manager's check made payable to the "Clerk, U.S. Bankruptcy Court". Personal and third party checks will not be accepted. Deposit of funds under this order will not be accepted unless payment is made as hereby indicated. The clerk will accept funds for deposit only after the court enters an order authorizing such deposit.

**(b) Earning of Interest and Registry Fee Assessment - Interpleader Funds.**

(1) All deposits of three thousand one (\$3001.00) dollars or greater will be deposited into interest bearing time deposit accounts.

(2) Individual accounts will be opened for each case.

(3) The applicable registry fee computation and assessment thereof will be in accordance with 28 USC§1930(b) (19). The fee will be collected by the clerk and deposited with the U.S. Treasury periodically without further order, and will be subject to any subsequent exception(s) or adjustment(s) by the directive of the Administrative Office of the U.S. Courts.

(4) Earned interest: Upon an order for disbursement of registry funds to a party(s), the proportionate interest accrued, if any, will be for the benefit of said party(s), unless otherwise ordered. The Assessment fee will be deducted from the earned interest, prior to the payment of any interest.

**(c) Non- interest bearing Account.** This registry checking account will be maintained to deposit amounts up to three thousand (\$3,000.00) dollars, unless otherwise ordered by the court. Upon reaching the maximum amount on deposit as hereby stated, the clerk is authorized, without further direction from the court, to sign and enter orders for the purchase of registry time deposit accounts or for deposits thereto. Hence, transferring the consigned funds into an interest bearing account as listed in (b) above.

**(d) Disbursement.** The clerk shall disburse funds on deposit in the registry of the court only pursuant to a court order. Funds shall be disbursed only after the time for appeal has elapsed, or upon approval by the court for disbursement forthwith.

**INSTRUCTIONS AND PROCEDURAL GUIDANCE  
FOR CHAPTER 11 CONFIRMATION AND  
REQUIREMENTS UNDER SECTION 1129(a)**

(1) In order to enable the court to adequately and efficiently rule on whether or not to confirm a chapter 11 plan, the following procedural steps must be followed by the proponent of a plan:

(a) The following items are required by the court at least seven (7) days prior to the confirmation hearing:

- (1) a statement regarding compliance with the requirements of §1129(a); and
- (2) a list of the outstanding pre-petition tax claims, other priority claims and expenses of administration.

(b) The following items are required by the court at least two (2) days prior to the confirmation hearing:

- (1) a list of acceptances and rejections; and
- (2) a computation of acceptances and rejections.

[Note: If a case has more than 100 potential voting parties, contact the clerk of the bankruptcy court regarding the time for filing items (b) (1) and (b) (2) above]

(2) The following explanatory directions and exhibits are intended as guidance towards compliance with the aforementioned procedure:

(a) Statement of Requirements of §1129(a)

This document must state how the proponent of the plan will show during the confirmation hearing that the plan complies with each of the requirements of §1129. All calculations and projections must be a part of this statement.

(b) Declaration of Outstanding Pre-Petition Unsecured Tax Claims, Outstanding Involuntary Gap Expenses, Other Priority Claims, and Expenses of Administration

A sample format is shown in Exhibit 1. Counsel for the proponent of the plan, should contact the various creditors shown on the list for accurate figures concerning expenses, fees, commissions etc., before filing the list. An amended declaration must be filed at the confirmation hearing if any amendment occurs during the week prior to the hearing.

(c) List of Acceptances and Rejections

The list of acceptances and rejections must show the total dollar amount and total number of acceptances and rejections for each class and only those creditors or interest holders filing an acceptance or rejection are to be shown on the list. A sample format is shown in Exhibit 2.

All acceptances and rejections filed with the court are recorded and docketed, but the only votes which will be counted are those by creditors and interest holders of impaired classes. Acceptances and rejections received by attorneys should be marked with the class number or claim number and should be filed with the court as soon as possible. They should never be returned to the creditor or interest holder because of alleged defects.

**(d) Computation of Acceptances and Rejections**

The computation of acceptances and rejections must accompany the list of acceptances and rejections. The format is shown at Exhibit 3. If the box marked “unimpaired” is checked, there is no need to complete the balance of the form for the particular class of creditors.

OUTSTANDING PRE-PETITION UNSECURED TAX CLAIMS, OUTSTANDING  
INVOLUNTARY GAP EXPENSES, OTHER PRIORITY CLAIMS, AND EXPENSES OF  
ADMINISTRATION

ADMINISTRATIVE EXPENSES:

Clerk, U.S. Bankruptcy Court	\$ _____
Attorney for Debtor	\$ _____
Attorney for Creditors' Committee	\$ _____
Accountant	\$ _____
Other Professionals (identify)	\$ _____
<u>Total:</u>	\$ _____

PRIORITY CREDITORS:

Wage Claims	\$ _____
Employee Benefit Claims	\$ _____
Layaway Claims	\$ _____
<u>Total:</u>	\$ _____

PRE-PETITION TAX CREDITORS:

Pre-Petition Tax Claims	\$ _____
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CASH PAYMENTS DUE ON EFFECTIVE DATE:

Class ____	\$ _____
Class ____	\$ _____
Class ____	\$ _____
<u>Total:</u>	\$ _____



CLASS \_\_\_\_\_

COMPUTATION OF ACCEPTANCES AND REJECTIONS

[NOTE: A separate form must be prepared for each class of claims]

The following figures are based on acceptances and rejections received from creditors.

CLASS OF CLAIMS:

- ( ) Impaired\*
- ( ) Unimpaired (deemed to have accepted)

\*If the impaired box has been checked, please fill out the remainder of the form

Total amount of acceptances:\* \$ \_\_\_\_\_

Total amount of rejections:\* \$ \_\_\_\_\_

Total amount of acceptances and rejections:  
\$ \_\_\_\_\_

Percentage of amount of acceptances: \_\_\_\_\_ %

(total amount of acceptances divided by the total amount of acceptances and rejections)

Number of creditors filing acceptances:\* \_\_\_\_\_

Number of creditors filing rejections:\* \_\_\_\_\_

Total number of acceptances and rejections:  
\_\_\_\_\_

Percentage of creditors filing acceptances: \_\_\_\_\_ %

(total number of acceptances divided by the total number of acceptances and rejections)

\*Exclude "insiders" (as defined in 11 U.S.C. § 101(31)) and claims that are contingent, unliquidated and/or disputed if the creditor has not filed a proof of claim