

This document has been electronically entered in the records of the United States Bankruptcy Court for the Southern District of Ohio.

IT IS SO ORDERED.

Dated: September 17, 2025



Tyson A. Crist
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

<i>In re:</i>	:	
	:	Case No. 24-31510
Protais Masumbuko	:	Chapter 13
Jeannette Uwimana,	:	Judge Crist
	:	
<i>Debtors.</i>	:	

**ORDER GRANTING IN PART, AND DENYING IN PART, DEBTOR COUNSEL’S
AMENDED APPLICATION FOR ATTORNEY FEES
UNDER LBR 2016-1(b)(2)(C) (DOC. 41)**

Introduction

This matter is before the Court on the *Amended Application for Attorney Fees Under L.B.R. 2016-1(b)(2)(C)* (Doc. 41) (the “Amended Application”) filed by the Dearfield Law Firm LLC (the “Dearfield Firm”), counsel for the Debtors, which seeks an award of “opt-out”¹ attorney fees in the amount of \$7,943, in excess of the “no look fee” permitted under Local Bankruptcy Rule (“LBR”) 2016-1(b)(2)(A), which is currently \$4,350 pursuant to General Order No. 50-1. This is for services rendered in this chapter 13 case both prepetition and pre-confirmation. Seeking fees through the “opt-out” requires itemization. The original *Application for Attorney Fees Under L.B.R. 2016-1(b)(2)(C)* (Doc. 40) (the “Original Application”) was filed on May 12, 2025, within the 60-day period set forth in LBR 2016-1(b)(2)(C) – 60 days from the date of entry of the *Order*

¹ LBR 2016-1(b)(2)(C) allows a Chapter 13 debtor’s attorney to opt-out of the no-look fee and requires a complete itemization within 60 days of the entry of the confirmation order.

Confirming Chapter 13 Plan (Doc. 27) and Awarding Attorney Fees (Doc. 38) (the “Confirmation Order”), which was entered on March 13, 2025. No response has been filed to either the Original Application or the Amended Application.²

Background

Counsel opted out of the “no look fee” and described the legal services provided, within the Application, as concerning “[a]ll pre-petition and post-petition services up until the date of confirmation of the Debtors’ Amended Chapter 13 Plan (Doc. 38 on 03/13/2025).” Am. App. at 1, § (A). Otherwise, the only description of the legal services within the Amended Application is that “[a]n itemized list of attorney and paralegal services/fees is attached to this Application including individual Debtors[’] two separate trucking companies and express trust to establish equitable ownership for Debtors of corporate assets.” *Id.*

On August 21, 2024, the Dearfield Firm filed a *Chapter 13 Plan* (Doc. 11) for the Debtors. The Chapter 13 Trustee filed an *Objection to Confirmation of Plan (Doc. 11) and Request for Denial of Confirmation* (Doc. 20) on October 18, 2024, in which he opposed confirmation on the basis that “[th]e Debtors are 100% owners of two (2) trucking companies: PM Transportation & Logistics, LLC and Freight Solutions, LLC. The Trustee will require business valuations for both entities to determine whether the Debtors are meeting the best interest of creditors test.” Doc. 20 at 2. In response, on January 6, 2025, Debtors filed *Amended Schedules A/B* (Doc. 26) including a more detailed business valuation for PM Transportation & Logistics, LLC and MP Freight Solutions, LLC. Debtors also filed a *First Amended Chapter 13 Plan* (Doc. 27) in which they increased the proposed dividend to unsecured creditors, included payment on two “910 claims” secured by vehicles, included an estimated “opt out” fee of \$6,000 for counsel in paragraph 5.1.7, and addressed the “910 claims” of Huntington National Bank in paragraph 13. Doc. 27 at 1, 5, 9. The Chapter 13 Trustee again objected (Doc. 29) and raised issues with the Debtors proposing to “pay two motor vehicle claims” for vehicles “solely owned by the Debtors’ business, PM Transportation & Logistics, LLC,” in which the Debtors asserted the company has only “bare legal title and the Debtors have equitable interest in the vehicles” such that the “plan should pay the

² The Amended Application was filed three days after the 60-day period; however, it appears the only change was to correct the prepetition amount identified as having been paid by the Debtors to the Dearfield Firm, which was \$1,087, consistent with the Disclosure (Doc. 10), as opposed to \$2,737 as stated in the Original Application.

claims based on *In re Phillips*, 437 B.R. 836 (Bankr. S.D. Ohio 2010).”³ Doc. 29 at 2. Pertinent to the Amended Application, “[t]he Trustee state[d] that equitable interest is not the issue. The issue is whether the claims of Huntington National Bank are the Debtors’ debts.” *Id.* The Chapter 13 Trustee, however, later withdrew his objections to confirmation, as well as an objection to a claim filed by Huntington National Bank. *See* Withdrawals (Docs. 35-37). On March 13, 2025, the Court entered the Confirmation Order (Doc. 38).

Counsel’s work for the Debtors began about six months prior to filing the Voluntary Petition (Doc. 1); however, the time descriptions indicate that all the time was related to preparing to file bankruptcy. The Amended Application states that Attorney Matthew R. Dearfield, who has an hourly rate of \$200, worked 19.15 hours on this case, and Attorney G. Timothy Dearfield, who has an hourly rate of \$300, worked 12.9 hours. Paralegal Elizabeth Thompson, who has an hourly rate of \$135, worked 3.7 hours, but 1.9 of those hours were written off, such that the Dearfield Firm is only charging 1.8 hours of Ms. Thompson’s time. This is the Dearfield Firm’s first application for attorney fees in this case. The total amount sought is \$7,943 less the prepetition amount already paid, which appears to be \$1,087, as confirmed by the *Disclosure of Compensation of Attorney for Debtor* filed with Debtor’s schedules (Doc. 10 at 41) (the “Disclosure”). This results in a remaining amount sought of \$6,856. Notably, however, the estimated total amount of attorney fees contained in the Disclosure was \$6,000.00, which was described on Attachment A thereto to be “due to complicated and extensive nature of case above and beyond a standard Chapter 13 case.” Doc. 10 at 43. Thus, the amount of “opt-out” attorney fees now sought are nearly \$2,000 more than the estimate in the Disclosure.

On July 2, 2025, due to the difference between the estimate in the Disclosure and the actual attorney fees now sought, the Court ordered the Dearfield Firm to file the retention agreement with the Debtors in order to aid the Court in its review of the Amended Application.⁴ *See* Virtual Order

³ *Phillips* held that an alleged fraudulent transfer of a vehicle could not be avoided by the Chapter 7 Trustee under § 548 of the Bankruptcy Code because the Debtor initially set up an express trust for the vehicle in which the Debtor was the trustee holding legal title, and the buyer was the beneficiary and equitable owner, and therefore a subsequent transfer of the legal title to the buyer was not fraudulent. 437 B.R. at 844.

⁴ This Court has previously analyzed “[w]hether attorney fees can or should be awarded in excess of the attorney’s disclosure of compensation made pursuant to 11 U.S.C. § 329(a) and Federal Rule of Bankruptcy Procedure 2016(b).” *In re Vaughn*, 660 B.R. 827, 831, 848 (Bankr. S.D. Ohio) (Humphrey, J.) (concluding that “[t]he caselaw regarding

dated July 2, 2025 (Doc. 43). On July 11, 2025, the Dearfield Firm filed the Retainer Agreement (Doc. 44). It states that for business or complex consumer chapter 13 cases the Dearfield Firm's fees are based on "quote after consultation, generally estimated based on hourly rates." Doc. 44 at 2. The Dearfield Firm's hourly rates are identified in the Retainer Agreement, consistent with the Application, as \$300 for TD, \$200 for MD, and \$135 for paralegals.

Analysis

As recently observed in another ruling on "opt-out" fees in a chapter 13 case, even in the absence of an objection, "the Court has an independent duty to review attorney fee applications for reasonableness '[i]n order to guard the public interest and integrity of the bankruptcy system.' " *In re Mooers*, No. 25-30015, 2025 WL 2058328, at *1, 2025 Bankr. LEXIS 1771, at *1 (Bankr. S.D. Ohio July 21, 2025) (quoting *In re Vaughn*, 660 B.R. 827, 843-44 (Bankr. S.D. Ohio 2024) (Humphrey, J.) (further citations omitted)). Section 330(a) of the Bankruptcy Code⁵ governs awards of attorney fees. Section 330(a)(4)(B) permits the allowance of "reasonable compensation to the debtor's attorney" in a chapter 13 case. And under section 330(a)(2), "[t]he court may, on its own motion . . . award compensation that is less than the amount of compensation that is requested." 11 U.S.C. § 330(a)(2) (quoted in *In re Vaughn*, 660 B.R. at 844).

There are two overall issues of concern to the Court.⁶ First, by the Court's calculation, the total amount of attorney fees, based upon adding up the fee amounts on the right-hand side of the Time Analysis, which are supposed to be the itemized time charged multiplied by the hourly rates,⁷

the court's authority to disallow fees in excess of the amounts identified in a disclosure of compensation pursuant to § 329 and Rule 2016 is clear.").

⁵ Title 11 of the United States Code.

⁶ The rates charged by the Dearfield Firm are not at issue. Their rates have been previously reviewed and approved by this Court. *See, e.g., In re Vaughn*, 660 B.R. at 852 ("Consistent with this court's prior decisions in *Spear* and *Pochron*, and based upon this court's experience with and knowledge of attorney rates in Dayton and the Southern District of Ohio, the court finds that the rates charged by Dearfield for G. Timothy Dearfield's . . . and Elizabeth Thompson's services are appropriate and within the market rate for attorneys and paralegals of comparable experience and skills."); *In re Pochron*, 2022 WL 1085459, at *5, 2022 Bankr. LEXIS 1041, at *14 ("As in *Spear*, the court does not take issue with the rates charged by Dearfield on this matter and finds that all of the rates charged for the professionals who rendered services on behalf of the debtors in this case are appropriate for the Southern District of Ohio and the Dayton area.").

⁷ This does not include the entries marked "NC" on the Time Analysis attached to the Amended Application or the full amount of the October 22, 2024 entry which may have been marked down.

equals \$7,903, not \$7,943. This is \$40 less than the total sought by the Dearfield Firm.⁸ The Court could not replicate counsel's calculation and observes there must have been adjustments not reflected in the Time Analysis. Second, some of the time, including but not limited to larger blocks of research time, were either charged at too high an hourly rate or appear to have been excessive. The research time should have been, if at all possible, charged at a lower rate, and this issue has been previously addressed with the Dearfield Firm. *See, e.g., In re Pochron*, No. 21-31410, 2022 WL 1085459, at *6, 2022 Bankr. LEXIS 1041, at *14-15 (Bankr. S.D. Ohio Apr. 8, 2022) (Humphrey, J.) (“the court’s concern with the Application centers on the amount of time spent and some of the work performed. . . . The Trustee also raised concern with billing at the top rate in the firm for research and whether all of the research was actually needed. . . . The court finds that all of the Trustee’s concerns are warranted.”).

Regarding specific time entries, the following concern research⁹ that was conducted at the highest hourly rate, which should have been charged at a lower rate:

- 1/22/25 Research regarding express trust for bankruptcy court to recognize equitable ownership.
2.5 hrs @ \$300.00 (TD) \$750.00
- 1/31/25 Research corporate loan documents for liabilities and compare to corporate assets to establish Debtors plan meeting 11 U.S.C. 1325(a)(4).
2.0 hrs @ \$300.00 (TD) \$600.00

At the lower rate of \$200 an hour, as charged by Matthew Dearfield (MD), the attorney fees would be reduced by \$450. As in *Pochron*, although to a lesser extent, “the total hours expended multiplied by the hourly rate charge for these services results in what the Court believes is an excessive amount for the total fees charged for the service.” *In re Pochron*, 2022 WL 1085459, at *10, 2022 Bankr. LEXIS 1031, at *30.

When a chapter 13 debtor’s counsel itemizes their attorney fees, this Court has traditionally assessed the fees requested in the larger framework of all of the chapter 13 bankruptcy cases that

⁸ To further complicate matters, multiplying the total hours worked and charged by each professional, as set forth at the end of the Time Analysis and in section (C) of the Amended Application, by the professionals’ stated hourly rates equals \$8,013, which does not match up with either number above.

⁹ Notably, the research appears to have been conducted in response to the Chapter 13 Trustee’s Objection to Confirmation (Doc. 29) filed on January 24, 2025, in which the equitable interest approach was contested, such that the basis for conducting the research is not in question.

come before the Court. *See In re Pochron*, 2022 WL 1085459, at *2, 2022 Bankr. LEXIS 1041, at *2 (citing *In re Spear*, 636 B.R. 765, 769-70 (Bankr. S.D. Ohio 2022)). When this Court compares the services provided in this case by the Dearfield Firm with the services provided by other counsel in other Chapter 13 cases for similar work performed, as well as some of the prior rulings on fee applications by the Dearfield Firm, the Court finds that in addition to the foregoing reductions of \$40 and \$450, a further small fee reduction of ten percent (10%) to specific time entries is warranted in this particular case, as further discussed below.¹⁰

The Court evaluates the Dearfield Firm's Amended Application starting with the loadstar method, "which is calculated by multiplying the number of hours reasonably expended on a matter by a reasonable attorney rate, while also considering the attorney's experience level and comparable rates in the local market." *In re Vaughn*, 660 B.R. 827, 844 (Bankr. S.D. Ohio 2024) (Humphrey, J.) *See also In re Boddy*, 950 F.2d 334, 337 (6th Cir. 1991) (endorsing the loadstar method to approve the reasonableness of fees under § 330). The Court can look at other factors to determine an appropriate overall fee.¹¹ The Court reviewed the Application under this framework.

¹⁰ See also *In re Harper*, No. 21-50709, 2022 WL 727573, 2022 Bankr. LEXIS 652 (Bankr. S.D. Ohio Mar. 10, 2022) (Nami Khorrami, J.) (In a Chapter 13 case in which Dearfield served as debtor counsel and opted out of the no-look fee, the Court reduced the itemized fee application filed under LBR 2016-1(b)(2)(C) from \$8,745.50 to \$7,183).

¹¹ As noted in *Spear*:

The lodestar calculation (hourly rate multiplied by the number of hours incurred) does not necessarily end the determination of what is a reasonable attorney fee. Other factors may and should also be considered and may warrant an increase or a decrease in the fees awarded. *Hensley*, 461 U.S. at 434, 103 S. Ct. 1933. These factors, originating with *Johnson v. Ga. Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974) are commonly referred to as the *Johnson* factors. These factors include: 1) the novelty and difficulty of the issues; 2) the skill required to perform the services properly; 3) the preclusion of other employment resulting from counsel's acceptance of the matter; 4) the customary fee for such matters; 5) whether the fee is fixed or contingent; 6) time limitations imposed by the client or otherwise dictated by the circumstances; 7) the amount at issue and the results obtained; 8) the experience, reputation, and ability of the attorneys; 9) the undesirability of the case; 10) the nature and length of the professional relationship between counsel and the client; and 11) awards in similar cases or under similar circumstances. *Boddy*, 950 F.2d at 338 (citing *Harman v. Robertson*, 772 F.2d 1150, 1152 n.1 (4th Cir. 1985)); *Schumacher v. AK Steel Corp. Ret. Accumulation Pension Plan*, 995 F. Supp. 2d 835, 848 (S.D. Ohio 2014). See also *Blanchard*, 489 U.S. at 91 n.5, 109 S. Ct. 939 (discussing the *Johnson* factors). The 1994 amendments generally incorporated the *Johnson* factors into § 330(a)(3), which governs fee awards to professionals in bankruptcy cases. See 11 U.S.C. § 330(a)(3); *In re Phillips*, 291 B.R. 72, 84 (Bankr. S.D. Tex. 2003) (noting the mention of the *Johnson* factors in congressional documents). In addition, except as otherwise allowed, "the court shall not allow compensation for—(i) unnecessary duplication of services; or (ii) services that were not—(I) reasonably likely to benefit the debtor's estate; or (II) necessary to the administration of the case." 11 U.S.C. § 330(a)(4)(A).

636 B.R. 765, 770–71 (Bankr. S.D. Ohio 2022).

In addition to the research entries above, the Court finds some of the work done by counsel seems more appropriate for a paraprofessional, with a final review by counsel. *See* Entry 13 – 1.0 hour by Matthew Dearfield (“MD”) (Preparation of petition-skeletal); Entry 14 – 1.0 hour by G. Timothy Dearfield (“TD”) (Review/Analyze/edit/advise/execute skeletal petition); and Entry 17 – 4.0 hours (Continued preparation of schedules, SOFA and plan including tax liabilities, income, expenses, assets and debts, business activity). The Court also finds the 3.3 hours of work by TD as the senior attorney at the firm, related to work before and after the meeting of creditors, appeared excessive or could have been completed in part at a lower billing rate. *See* Entries 33 and 35. While some of this work is obviously appropriate for counsel to perform, in this context it appears a little “heavy.” At the same time, it appears there was a language barrier involved in this case, which could have necessitated counsel to spend more time on this case than they otherwise would have. *See* Time Analysis (Doc. 41) at 6, item no. 7 (“Additional counsel telephone communication with Debtors and Debtors’ son given language barrier regarding LLC trucking operations and chapter 13.”). The foregoing specific entries (13, 14, 17, 33, and 35) total \$2,290. In addition, as discussed above, the 4.5 hours of legal research by TD concerning the best interest test and potential corporate claims likely should have been completed at a lower billing rate. *See Spear*, 636 B.R. at 774 (“[C]ounsel need to push work down to the lowest available rate for which such work can be competently performed or otherwise adjust the billing accordingly so that clients are not excessively billed for the level of the work performed.”).

Conclusion

Based upon the foregoing, it is hereby **ORDERED** that the Court first reduces the fees requested by the Dearfield Firm by \$40, given the total of the entries in the Time Analysis attached to the Amended Application is \$7,903 by the Court’s calculation (as opposed to \$7,943 asserted in the Amended Application); second, the Court reduces the remaining fees for the specific reason that 4.5 hours of research were charged at the top rate, resulting in an overcharge of \$450; and third, the Court reduces the other specific time entries, which total \$2,290, but only by 10% in the particular circumstances of this case, in the amount of \$229.00, for a total remainder of \$7,224. Notably, this amount is in line with fees approved in other chapter 13 cases handled by the Dearfield Firm, as well as by other experienced practitioners, for cases with more complicated, business, or business-adjacent issues. *See, e.g., In re Pochron*, 2022 WL 1085459, at *10, 2022 Bankr. LEXIS 1041, at *32 (allowing fees of \$7,731.50); *In re Harper*, 2022 WL 727573, at *7,

2022 Bankr. LEXIS 652, at 16 (approving pre-confirmation fees of \$7,183); *In re Mooers*, 2025 WL 2058328, at *4, 2025 Bankr. LEXIS 1771, at *12 (granting attorney fees of \$7,500).

Accordingly, the Court hereby **GRANTS** the Amended Application in the amount of \$7,224, and **DENIES** the remainder, such that after deducting the attorney fee of \$1,087 paid prepetition as set forth in the Disclosure, the amount remaining for the Chapter 13 Trustee to distribute is \$6,137.

IT IS SO ORDERED.

Copies to: Default List Plus

Edward H. Cahill (Assistant United States Trustee), 170 North High Street, Suite 200, Columbus, Ohio 43215-2417

Nathan A. Wheatley (Counsel for the United States Trustee), 170 North High Street, Suite 200, Columbus, Ohio 43215-2417