A DYNAMIC DUO: CONSENSUAL CONFIRMATION AND TRUSTEE COMPENSATION

Hon. Jerry C. Oldshue, Jr.
Chief U.S. Bankruptcy Judge, Southern District of Alabama

SILENCE IS NOT ALWAYS GOLDEN
ESPECIALLY FOR SUBCHAPTER V DEBTORS SEEKING CONSENSUAL CONFIRMATION

I. The Advantages of Subchapter V

As most bankruptcy practitioners are aware, the Small Business Reorganization Act of 2019 ("SBRA") went into effect February 19, 2020.[1] The purpose of adding the Subchapter V provisions to the Bankruptcy Code was to streamline the Chapter 11 process and make relief more accessible and cost-effective for small business debtors.[2] *In re Louis*, No. 20-71283, 2022 WL 2055290 (Bankr. C.D. Ill. June 7, 2022)(citing *In re MCM Natural Stone, Inc.*, 2022 WL 1074065 (Bankr. W.D.N.Y. Apr. 8, 2022) (citations omitted). Subchapter V by its very nature is intended to be an expedited process. *In re Wetter*, 620 B.R. 243, 251 (Bankr. W.D. Va. 2020)(citing *In re Seven Stars on the Hudson Corp.*, 618 B.R. 333, 346 (Bankr. S.D. Fla. 2020)). The SBRA provides qualifying debtors with some powerful and cost-saving restructuring tools not otherwise available to Chapter 11 debtors including:

> (1) elimination of the absolute priority rule, which allows equity holders to retain their ownership interests without paying all creditors in full;[3]
>
> (2) no mandatory appointment of a creditors' committee;[4]

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[1] Small Business Reorganization Act of 2019, Pub. L. No. 116-54, Aug. 23, 2019, 133 Stat. 1079, 1087 ("This Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.").
[2] Subject to certain exceptions set forth in §1182(b), generally, a debtor is eligible to proceed under Sub V if the debtor is a "person" engaged in "commercial or business activities" that does not have aggregate debts in excess of the debt limit ($7.5mm until June 21, 2024 sunset of §1182(1)) and at least 50% of the debts arise from the debtor's commercial or business activities.
[3] 11 U.S.C. §§ 1181(a), 1191(b).
[4] 11 U.S.C. § 1181(b).

(3) no mandatory requirement to file a disclosure statement;[5]

(4) appointment of a Subchapter V trustee to assist in developing a consensual plan, while leaving the debtor in possession of its assets and in control of its business;[6]

(5) the exclusive right (which cannot be terminated) to file a plan;[7]

(6) the ability to modify a claim secured only by a security interest in the debtor's principal residence, if new value received in connection with granting the security interest was used primarily in connection with the debtor's business and not primarily to acquire the property;[8]

(7) the ability to confirm a plan even if all classes reject the plan;[9]

(8) the ability to pay administrative expenses over time under a plan;[10]

(9) modification of the disinterestedness requirements of Section 327(a) for a professional that holds a prepetition claim of less than $10,000;[11] and

(10) elimination of the requirement to pay quarterly U.S. Trustee fees.[12]

Courts have noted that these significant benefits allow small businesses to file bankruptcy in a timely, cost-effective manner, and hopefully remain operational. *In re Seven Stars* at 339-340. However, to strike a balance between creditor protection and debtor relief, Subchapter V debtors have a duty to proceed expeditiously. *Id.* at 340 (citing *In re Travel 2000, Inc.*, 264 B.R. 444, 448 (Bankr. W.D. Mich. 2001)). For instance, Subchapter V requires that: (1) the court conduct a status conference within 60 days of the order for relief; (2) the debtor file a status report 14 days before the conference; and (3) the debtor file a plan within 90 days of the order for relief. *11 U.S.C. §1188, 1189.* Under the SBRA, these deadlines can only be extended if " the need for

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[5] *Id.*
[6] 11 U.S.C. § 1183(b)(7).
[7] 11 U.S.C. § 1189(a).
[8] 11 U.S.C. § 1190(3).
[9] 11 U.S.C. § 1191(b).
[10] 11 U.S.C. § 1191(e).
[11] 11 U.S.C. § 1195.
[12] 28 U.S.C. § 1930(a)(6)(A).

the extension is attributable to circumstances for which the debtor should not justly be held accountable." *11 U.S.C.* §1189(b).

II. The Boon of A Consensual Plan

Section 1191 of the Bankruptcy Code sets forth the requirements for confirmation of a Chapter 11, Subchapter V Plan. It provides in part:

> (a) Terms.--The court shall confirm a plan under this subchapter only if all of the requirements of section 1129(a), other than paragraph (15) of that section, of this title are met.
>
> (b) Exception.--Notwithstanding section 510(a) of this title, if all of the applicable requirements of section 1129(a) of this title, other than paragraphs (8), (10), and (15) of that section, are met with respect to a plan, the court, on request of the debtor, shall confirm the plan notwithstanding the requirements of such paragraphs if the plan does not discriminate unfairly, and is fair and equitable, with respect to each class of claims or interests that is impaired under, and has not accepted, the plan.

11 U.S.C. §1191

Thus, the traditional Chapter 11 confirmation requirements set forth in Section 1129(a) remain applicable excepting the specifically listed subsections. As a result, if a Subchapter V plan complies with the provisions of §1129(a)[13], other than (15)[14], it can be confirmed as a "Consensual Plan". Alternatively, even if the requirements of paragraphs §1129(a)(8)[15] and(a)(10)[16] cannot be met, §1191(b) allows for confirmation of a "Non-Consensual Plan" as long as the plan does not discriminate unfairly, and is fair and equitable, with respect to each class of claims or interests that

[13] Including the §1129(a)(8) requirement that each impaired class has accepted the plan.
[14] The disposable income requirement for individual debtors.
[15] Requiring that each class of claims or interests accept the plan or are not impaired under the plan.
[16] Requiring that if a class of claims is impaired, at least one impaired class accepts without counting insiders.

is impaired. Achieving a consensual confirmation is often[17] preferable because: (1) the debtor receives a discharge at confirmation instead of after completion of the payments;[18] (2) property acquired after filing, with some limited exceptions, does not become property of the estate;[19] and (3) the trustee is discharged upon substantial consummation of the plan, saving the debtor the on-going cost of paying the trustee.[20]

III. The Empty Chair: A Conundrum Of Non-Participating Creditors in Subchapter V

The problem of non-participating creditors in Chapter 11 proceedings is not new; although its impact on Subchapter V debtors is arguably more significant. Before the advent of Subchapter V, a majority of courts held that an impaired class cannot be deemed to have accepted a plan if no creditor in the class has voted. *See In re Higgins Slacks Co.*, 178 B.R. 853 (Bankr. N.D. Ala. 1995); *In re Townco Realty Inc.* 81 B.R. 707 (Bankr. S.D. Fla. 1987); *In re Trenton Ridge Investors, LLC*, 461 B.R. 440 (Bankr. D. Colo. 2011); *In re Castaneda*, No. 09-50101, 2009 WL 3756569 (Bankr. S.D. Tex. Nov. 2, 2009); *In re Vita Corp.*, 358 B.R. 749, 749 (Bankr. C.D. Ill. 2007), aff'd, 380 B.R. 525 (C.D. Ill. 2008). Since certain advantages of a Subchapter V are dependent on a consensual confirmation, the inability to garner acceptance from classes of impaired creditors can jeopardize the debtor's ability to reap all the benefits afforded by the SBRA.

Given the laudable goal of consensual confirmation, some Subchapter V debtors have sought anew to equate creditors' silence with consent. Many courts and at least one noted

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[17] Although there as several noted benefits of a consensual plan, practitioners should also note that there may be some instances in which a consensual plan is not preferable. One example would be if a debtor anticipates post confirmation modification of a plan after substantial consummation, which is not possible with a consensual plan.
[18] 11 U.S.C. §§1141(d), 1192 [Upon confirmation of a consensual plan, an entity receives a discharge under § 1141(d)(1), and the exceptions to discharge under § 523(a) apply only to an individual under §1141(d)(2).]
[19] 11 U.S.C. §§ 1186, 1191 [This can be a significant advantage for individuals who later convert to Chapter 7.]
[20] 11 U.S.C. § 1183(c)(1).

bankruptcy commentator have refused to take such a leap. *See In re Creason*, No. 22-00988-SWD, 2023 WL 2190623 (Bankr. W.D. Mich. Feb. 23, 2023)(holding that consistent with applicable bankruptcy rules, a creditor's failure to vote does not constitute consent); *In re Samurai Martial Sports, Inc.*, 644 B.R. 667, 690 (Bankr. S.D. Tex. 2022)(Subchapter V case, stating that "[B]alloting on the plan is obviously necessary if the debtor wants to achieve consensual confirmation under §1191(a) because all classes of impaired creditors must accept the plan to meet the confirmation requirement in §1129(a)(8)"); *In re Double H Transportation, LLC*, 603 F. Supp. 3d 468 (Bankr. W.D.Tex. 2022)(explaining that §1126 applies in Subchapter V cases and under § 1126(g), "a class is deemed not to have accepted a plan if such plan provides that the claims or interests of such class do not entitle the holders of such claims or interests to receive or retain any property under the plan on account of such claims or interests—even if no objections are filed"); *In re Lupton Consulting LLC*, 633 B.R. 844, 862 n. 20 (Bankr. E.D. Wis. 2021)(acknowledging that failure to cast a ballot is not consent); *In re S B Bldg. Assocs. Ltd. P'ship*, 621 B.R. 330, 374–75 (Bankr. D.N.J. 2020)(noting in a jointly administered Chapter 11 case that consistent with the Supreme Court's repeated mandate that the Bankruptcy Code be read in accordance with its plain language (unless those terms are ambiguous or would lead to an absurd result), it agrees with the majority of cases that hold that affirmative acceptance is required under section 1129(a)(8) and that the failure to object will not suffice; *see also* 7 *Collier on Bankruptcy* ¶ 1129.02 (16th ed. 2022)(noting that *Ruti-Sweetwater*[21] was "an unfortunate decision").

Yet some courts, principally in the Tenth Circuit, have employed a "deemed acceptance rule" for §1129(a)(8) in Subchapter V cases. *See In re Jaramillo*, No. 21-10306-T11, 2022 WL 4389292 (Bankr. D.N.M. Sept. 22, 2022)(stating that the "deemed acceptance" rule applies in

[21] See citation and explanatory parenthetical of this case below.

Subchapter V); *In re Robinson*, 632 B.R. 208, 220 (Bankr. D. Kan. 2021)(citing and applying Tenth Circuit precedent of *In re Ruti-Sweetwater, Inc.*, 836 F.2d 1263, 1267 (10th Cir. 1988)(holding that a nonobjecting and nonvoting creditor is deemed to have accepted a chapter 11 plan under §1129(a)(8)); *In re Olson*, 2020 WL 10111637 (Bankr. Utah) (same); and *In re Desert Lake Group, LLC*, no. 20-22496, doc. 114 (Bankr. D. Utah Sept. 30, 2020) (unpublished) (same); *see also In re Trenton Ridge* at 456-457 (holding pre SBRA that a plan could not be confirmed as consensual but mentioning scenarios which might constitute exceptions to the general rule (that non-acceptance is not consent) including: court rulings at hearings, clearly stated and well-advertised plan provisions, and situations in which a few small non-voting classes would undermine the votes of thousands of others).

Courts refusing to treat the failure to vote as plan acceptance have recognized their independent duty to ensure that debtors meet all the statutory requirements for confirmation and give effect to the applicable statutes and rules as written. *In re Creason*, No. 22-00988-SWD, 2023 WL 2190623 (Bankr. W.D. Mich. Feb. 23, 2023)(citing *United Student Aid Funds, Inc. v. Espinosa,* 559 U.S. 260, 277 n.14 (2010); *see also*, *In re Lett*, 632 F.3d 1216, 1229 (11th Cir.2011)(noting the bankruptcy court has a duty to ensure the strictures of §1129 are met); *In re Piper Aircraft Corp.*, 244 F.3d 1289, 1299–1300 n. 4 (11th Cir.2001)(explaining a court must independently satisfy itself that the criteria of §1129(a) are met). The *Creason* Court recently acknowledged this responsibility in the context of Subchapter V and found it impossible to reconcile the notion of 'deemed acceptance' with the formal requirements of *Rule 3018(c). Creason* at 2. The Court explained that the language of *Rule 3018* provides in part that " . . .[a]n acceptance or rejection shall be in writing, identify the plan or plans accepted or rejected, be signed by the creditor or equity security holder or an authorized agent, and conform to the appropriate

Official Form . . ." *Fed. R. Bankr. P. 3018 (c)*. Although it acknowledged the considerable power in the hands of a non-participating creditor with control over an entire class, the *Creason Court* held consistent with the plain statutory language that lack of the requisite consent via ballot, "flipped the confirmation from consensual to cram down." *Id.*

To the contrary, the Bankruptcy Court for the District of Kansas held in *In re Robinson* that a debtor's amended Subchapter V plan could be confirmed as consensual even though all classes were impaired and no creditor in any class returned a ballot. 632 B.R. 208, 220 (2021). The *Robinson* Court explained that "[u]nlike most jurisdictions, the Tenth Circuit recognizes "deemed acceptance" of a Chapter 11 plan by nonvoting creditors for purposes of §1129(a)(8)." *Id.* at 218 (citing *In re Ruti-Sweetwater,1267-1268*). It also noted that: (1) it was bound by the Tenth Circuit precedent; (2) the facts of the case did not denote apathy on the part of nonvoting creditors, but rather resulted from negotiated treatment to reach a consensual plan; and (3) deemed acceptance is " buttressed by the policy behind subchapter V" which is "designed to facilitate the efficient and economical administration of the case and the prompt confirmation of a plan." *Id.* at 220. Thus, the *Robinson* court found that creditors and all classes in the Subchapter V case, none of whom voted, objected to confirmation, or appeared at the confirmation hearing, had accepted the plan and confirmed it as a consensual plan under §1191(a) upon finding the other requirements of §1129(a) were met. *Id.* at 221.

IV. Consensual Confirmation Prospects Without Significant Creditor Involvement.

Although creditors' failure to accept a Subchapter V plan can derail a consensual confirmation, in certain instances, debtors may still be able to achieve a consensual plan despite the lack of copious creditor participation. This is true when non-participating creditors: (1) are not impaired; (2) are in a class which otherwise accepts the plan; or (3) are otherwise not entitled to

vote. *See 11 U.S.C. §§1129(a)(8); 1126(c), 1123(a).* Section §1129(a)(8) provides that "[w]ith respect to each class of claims or interests- (A) such *class has accepted* the plan; or (B) such class *is not impaired* under the plan." If a class is not impaired, it is deemed to have accepted the plan. *11 U.S.C. §1126(f).*

A class is impaired when there is any alteration of the creditor(s) legal, equitable, or contractual rights. *In re Heaven's Landing, LLC*, No. 20-21350-JRS, 2023 WL 1869212, at 13 (Bankr. N.D. Ga. Feb. 9, 2023)(citing *11 U.S.C. §1124; In re Club Assocs.*, 107 B.R. 385, 401 (Bankr. N.D. Ga. 1989), *subsequently aff'd*, 956 F.2d 1065 (11th Cir. 1992)). Although the definition of impairment is broad, it is not necessarily the death knell for a consensual plan. The benefits of Subchapter V may warrant proposing a plan in which prospective non-participating or non-consenting creditors are simply not impaired.

When impairment exists, strategic efforts toward obtaining the requisite consent may prove beneficial. Section 1126(c) provides in part, "[A] class of interests has accepted a plan if such plan has been accepted by holders of such interests . . . that hold at least two-thirds in amount and more than one-half in number of the allowed interest of such class . . . *that have accepted or rejected such plan."* Thus, creditors who fail to vote are not counted in the analysis. So even if only one creditor in a particular class votes, as long as they vote is to accept, the entire class is deemed to have accepted.[22] Thus, depending on the types and creditors involved, it is conceivable that a Subchapter V debtor can obtain a consensual confirmation with minimal creditor participation. Additionally, as courts in this circuit have allowed plans to designate a separate "convenience class" of claims consisting only of every unsecured claim that is less than an amount the court

[22] Assuming the creditor's vote is entitled to be counted for such purpose.

approves as reasonable and necessary for administrative convenience under §1122(b), this could also be a useful tool for Subchapter V Debtors with numerous creditors holding small claims. *See In re United Marine, Inc.,* 197 B.R. 942, 945 (Bankr. S.D. Fla. 1996).

Further, as it is the general policy of the IRS and other federal and state agencies not to vote on Chapter 11 plans, it is worth noting that courts have held administrative priority tax claimants do not constitute a voting class because they are priority claims under §507(a)(8) and must be paid in full under 11 U.S.C. §1129(a)(9)(c). *In re Equitable Dev. Corp.*, 196 B.R. 889, 893–94 (Bankr. S.D. Ala. 1996)(citing *In re Boston Post Road*, 21 F.3d at 484 (2d Cir. 1994); *In re Greystone III,* 995 F.2d, at 1281 (5th Cir. 1991)(holders of §507(a)(1) administrative lease claims not entitled to vote); *In re Perdido Motel Group, Inc.,* 101 B.R. 289 (Bankr.N.D.Ala.1989)(507(a)(8)priority tax claimants not entitled to vote); *In re Winters*, 99 B.R. 658 (Bankr.W.D.Pa.1989) (whether paid in full or paid a lesser amount by agreement, priority tax creditors are not an impaired class). Additionally, *Official Form 425A Plan of Reorganization for Small Business Under Chapter 11* provides in part that . . . "[u]nder Code §1123(a)(1) administrative expense claims and priority tax claims are not in classes." *See In re Louis*, No. 20-71283, 2022 WL 2055290, at 15 (Bankr. C.D. Ill. June 7, 2022)(citing *In re New Hope Hardware, LLC*, 2020 WL 6588615, at 1-2 (Bankr. N.D. Ga. Sept. 9, 2020) (Subchapter V consensual confirmation allowed where debtor agreed to pay priority tax claims within five years with interest as required by § 1129(a)(9)(C)—failure of priority tax claimants to vote for confirmation was not an issue).

Thus, practitioners should keep this framework in mind when evaluating potential Subchapter V elections, formulating proposed plans, and communicating with creditors to achieve a consensual confirmation notwithstanding the lack of fervent creditor participation. However, if

despite the best laid plans, consensual confirmation cannot be achieved, debtors can still benefit from non-consensual confirmation (as discussed above) upon complying with the requirements of §1191(b).

COMPENSATION OF SUBCHAPTER V TRUSTEES: HARD WORK PAYS OFF (HOPEFULLY)

The SBRA provides for the appointment of a Trustee in Subchapter V cases. *11 U.S.C. 1183.* Section 1183 provides that the Trustee shall –

> (1) perform the duties specified in paragraphs (2), (5), (6), (7), and (9) of section 704(a) of this title;
>
> (2) perform the duties specified in paragraphs (3), (4), and (7) of section 1106(a) of this title, if the court, for cause and on request of a party in interest, the trustee, or the United States trustee, so orders;
>
> (3) appear and be heard at the status conference under section 1188 of this title and any hearing that concerns--
>
> (A) the value of property subject to a lien;
>
> (B) confirmation of a plan filed under this subchapter;
>
> (C) modification of the plan after confirmation; or
>
> (D) the sale of property of the estate;
>
> (4) ensure that the debtor commences making timely payments required by a plan confirmed under this subchapter;
>
> (5) if the debtor ceases to be a debtor in possession--
>
> (A) perform the duties specified in section 704(a)(8) and paragraphs (1), (2), and (6) of section 1106(a) of this title; and
>
> (B) be authorized to operate the business of the debtor;
>
> (6) if there is a claim for a domestic support obligation with respect to the debtor, perform the duties specified in section 704(c) of this title; and
>
> (7) facilitate the development of a consensual plan of reorganization.

11 U.S.C.A. § 1183 (West)

Courts have noted that of these responsibilities, the Subchapter V trustee's primary duty is to "facilitate the development of a consensual plan of reorganization." 11 U.S.C. § 1183(b)(7); *In re Ozcelebi*, 2022 WL 990283, at 7 (Bankr. S.D. Tex. Apr. 1, 2022); *UST Program Policy and Practices Manual*, § 3-17.1.1, p. 189 ("A trustee is appointed in every [Subchapter V] case tasked primarily with facilitating a consensual plan."). It is a significant distinction shared by no other trustee in bankruptcy and it makes the Subchapter V trustee's role more like that of a mediator than other trustees who have traditionally taken on a more adversarial role. *In re Louis*, No. 20-71283, 2022 WL 2055290, at 16 (Bankr. C.D. Ill. June 7, 2022)(citing *Seven Stars on the Hudson*, 618 B.R., 346 n.81).

Given the benefits of Subchapter V and a consensual confirmation, help from the Trustee can be extremely valuable. While the SBRA provides for the compensation of standing Subchapter V trustees under 28 U.S.C. §586, it does not statutorily provide for the compensation of non-standing trustees. However the *U.S. Trustee's Handbook* provides that non-standing trustees are compensated through § 330(a)(1). Generally, a court may award professionals, including attorneys and trustees, "reasonable compensation for actual, necessary services rendered" and reimbursement of actual and necessary expenses. *11 U.S.C. §330(a)(1)(A)- (B).* In order for compensation to be awarded, a fee application must be "filed with the court which details the work done and expenses advanced for which compensation is sought." *In re Vancil Contracting, Inc.*, 2008 WL 207533, at 2 (Bankr. C.D. Ill. Jan. 25, 2008); *see Fed. R. Bankr. P. 2016(a).* As with other fee requests, the applicant bears the ultimate burden of proving entitlement to the compensation requested. *In re Earl Gaudio & Son, Inc.*, 2019 WL 1429978, at 9 (Bankr. C.D. Ill. Mar. 29, 2019) (citations omitted).

When a subchapter V is confirmed, the plan should provide for the payment of the Subchapter V Trustee's compensation. See 11 U.S.C. 1191(a)(9)(A) (requiring that a consensual

plan provide for payment of claims under §507(a)(2) which includes Trustee claims for compensation under §330 consistent with §507(a)(2) granting priority to claims for administrative expenses allowed under § 503(b)). If the plan is confirmed consensually, the compensation must be paid on the plan's effective date while if it is a nonconsensual cramdown, the trustee's compensation, may paid over the life of the plan. *See §1191(e).* Additionally, while the SBRA provides for *standing* Subchapter V Trustee's compensation, it does not address compensation for a non-standing trustee when the case is dismissed or converted. 28 U.S.C. § 586(e).

As a result, non-standing Subchapter V Trustees can encounter difficulties in obtaining compensation when a case is unsuccessful. Recognizing this issue, Judge Bonapfel proposed three potential solutions: (1) predicating dismissal orders on the payment of compensation to the Trustee; (2) including Trustee compensation in the Debtor's budgeting such as in cash collateral or financing orders; or (3) requiring periodic payments to be held in an escrow type account for payment of professional fees. Paul W. Bonapfel, "*A Guide to the Small Business Reorganization Act of 2019*," 93 Am. Bankr. L.J. 571 (2020). The third option has been employed by some courts in the Eleventh Circuit which have addressed this issue.[23] In courts which do not have a standing order or established process, Subchapter V Trustees should be proactive in assuring adequate funds will be available for payment of their administrative expenses in the unfortunate event that the case results in conversion or dismissal.

[23] See the attached chart.

ELEVENTH CIRCUIT SUBCHAPTER TRUSTEE FEES SURVEY*

Alabama Northern	On BA's Motion will enter an order requiring that $1000 mth be budgeted and held in D's counsel's trust account, until compensation is awarded or denied.
Alabama Middle	The Court enters an order in Sub V cases requiring that within 30 days of the petition date and continuing monthly thereafter, Debtor shall remit to the Trustee interim compensation in the amount of **$1,000.00**. It is subject to adjustment by the Court on the request of any interested party and the Court's approval of the Trustee's fee application under 11 U.S.C. § 330. Also the Debtor shall include the Trustee's interim compensation in any proposed cash collateral budget.
Alabama Southern	The Court is contemplating implementation of a local administrative order providing for escrow of Subchapter V Trustee fees.
Florida Northern	The Court enters an Order in Sub V cases requiring that within thirty (30) days of the petition date and continuing monthly thereafter, Debtor shall remit to the Subchapter V Trustee interim compensation in the amount of **$525.00** to be held in trust until approved by the Court. It is subject to review by the Court pursuant to 11 U.S.C. § 330. Also, the Debtor shall include the Subchapter V Trustee's interim compensation in any proposed cash collateral budget.
Florida Middle	The Court enters an order in Sub V cases requiring that within 30 days of the petition date and continuing monthly thereafter, Debtor shall remit to the Trustee interim compensation in the amount of **$1,000.00**. It is subject to adjustment by the Court on the request of any interested party and the Court's approval of the Trustee's fee application under 11 U.S.C. § 330. Also the Debtor shall include the Trustee's interim compensation in any proposed cash collateral budget.
Florida Southern	Typically does not require an escrow of fees but has ordered it when debtor's counsel acknowledged that it would be helpful for budgeting purposes.

*This information is as of April 25, 2023 and is derived from survey responses of the courts listed.

ELEVENTH CIRCUIT SUBCHAPTER TRUSTEE FEES SURVEY*

Georgia Northern	Does not have a local rule or policy requiring a fixed monthly amount be escrowed to ultimately be applied towards Sub V Trustee fees
Georgia Middle	Has not addressed this issue yet.
Georgia Southern	Has not addressed this issue yet.

*This information is as of April 25, 2023 and is derived from survey responses of the courts listed.