

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

DEBTOR COUNSEL FEES IN CHAPTER 13 CASES
FILED IN THE ALBANY DIVISION

Administrative Order - 08-01

WHEREAS, a need exists to be certain that debtors understand (1) their rights and responsibilities to the court, to the Chapter 13 Trustee, and to creditors of their estate, (2) the importance of honest and continual communication with their attorney to make their case successful, and (3) the fees being charged for their case by their attorney; and

WHEREAS, a need exists to be certain that debtors' attorneys understand what legal services they are expected to provide when a chapter 13 case is filed in the Albany Division of the Northern District of New York. NOW, after due deliberation, it is hereby,

ORDERED, as follows:

Chapter 13 debtor counsel shall set forth the amount of the legal fee to be charged for services rendered to the debtor both in the 2016(b) Statement and chapter 13 plan filed with the court. The fee requested shall constitute a flat fee for all services rendered and to be rendered in connection with the case in accordance with this court's *Rights and Responsibilities of Chapter 13 Debtors and their Attorneys* (form attached) (the "Flat Fee"), unless otherwise specified in the 2016(b) Statement. Except as otherwise ordered by the court, after a hearing held on notice to all parties in interest, the Flat Fee, whether paid through the chapter 13 plan or directly by the debtor, shall not be more than \$3,700, nor more than 50% of the amount to be funded through the chapter 13 plan.

If the 2016(b) Statement provides that the fee required does not constitute a Flat Fee, no fee shall be awarded absent entry of a separate order. In those instances, counsel shall request approval by filing and serving an appropriate Application for Compensation pursuant to 11 U.S.C. § 331. All such applications shall be accompanied by the appropriate narrative of services rendered and contemporaneous time records.

Nothing contained herein is meant to limit the rights of the Chapter 13 Trustee or an interested party to object to the fees or method of payment sought by debtor's counsel.

This Order shall be effective with respect to all chapter 13 cases filed with the Albany Division on or after April 1, 2008.

Dated: FEB 21 2008


Hon. Robert E. Littlefield, Jr.

***United States Bankruptcy Court
for the Northern District of New York
Albany Division***

RIGHTS AND RESPONSIBILITIES OF CHAPTER 13 DEBTORS AND THEIR ATTORNEYS

It is important for Chapter 13 debtors to understand their rights and responsibilities. It is also important that the debtors know that communicating with their attorney(s) is essential to successfully completing their plan. Debtors should also know that they may expect certain services to be performed by their attorney.

In order to assure that debtors and their attorneys understand their rights and responsibilities in the bankruptcy process, the following guidelines approved by the Court are hereby agreed to by the debtors and their attorneys, **unless the Court orders otherwise:**

(Nothing in this Agreement shall be construed to excuse an attorney from any ethical duties or responsibilities under FRBP 9011 or applicable non-bankruptcy law.)

BEFORE THE CASE IS FILED

The debtor agrees to:

1. Provide the attorney with accurate financial information and timely provide all requested documentation.
2. Discuss with the attorney the debtor's objectives in filing the case.

The attorney agrees to:

1. Meet with the debtor to review the debtor's debts, assets, liabilities, income, and expenses.
2. Counsel the debtor regarding the advisability of filing either a Chapter 7 or Chapter 13 case, outlining the procedures with the debtor, and answering the debtor's questions.
3. Explain what payments will be made directly by the debtor and what 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 which accrue interest.
4. Explain to the debtor how, when, and where to make the Chapter 13 plan payments.
5. Explain to the debtor how the attorney's fees are paid and provide an executed copy of this document to the debtor.
6. 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.
7. 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.
8. Advise the debtor of the necessity of maintaining liability and hazard insurance on all real property as well as liability, collision, and comprehensive insurance on vehicles securing loans or leases.
9. Timely prepare and file the debtor's petition, plan, statements, and schedules.

AFTER THE CASE IS FILED

The debtor agrees to:

1. Keep the Trustee and attorney informed of the debtor's address and telephone number.
2. Inform the attorney of any wage garnishments or attachments of assets which occur or continue after the filing of the case.
3. Contact the attorney promptly if the debtor loses his/her job or has other financial problems.
4. Let the attorney know if the debtor is sued during the case.

5. Inform the attorney if any tax refunds the debtor is entitled to are seized or not returned to the debtor by the IRS or Franchise Tax Board.
6. Contact the attorney before buying, selling, or refinancing any property, and before entering into any loan agreements to find out what approvals are required.

The attorney agrees to:

1. Appear at the 341 Meeting of Creditors with the debtor.
2. Respond to objections to plan confirmation and, where necessary, prepare an amended plan.
3. Prepare, file, and serve necessary modifications to the plan which may include suspending, lowering, or increasing plan payments.
4. Prepare, file, and serve necessary amended statements and schedules, in accordance with information provided by the debtor.
5. Prepare, file, and serve such motions as are needed during the case including, but not limited to, motions to avoid liens, sell property, approve settlements, approve new debt, etc.
6. Timely review all filed proofs of claim.
7. Timely object to all improper and invalid proofs of claim based upon information and documentation provided by the debtor if such objection is necessary and beneficial to the debtor or to the estate.
8. Represent the debtor in connection with motions for relief from stay and for dismissal or conversion of the case.
9. Where appropriate, prepare, file, and serve necessary motions to partially or wholly avoid liens on real property or personal property pursuant to sections 506 or 522.
10. Communicate with the debtor by telephone or by being available for office appointments to discuss pending issues or matters of concern.
11. Provide such other legal services as are necessary for the proper administration of the present case before the Bankruptcy Court.

Approval for legal fees in the total sum of \$_____ will be requested by the attorney. The attorney has received \$_____ prepetition (the initial retainer) and requests payment of the balance of \$_____ through the Chapter 13 plan.

Legal fees to be paid to the attorney shall be a “flat fee” for all services to be rendered in this case. Additional fees may be awarded and paid to the attorney if an extraordinary level of service is provided. If such occurs, the attorney shall apply to the Court for any additional fees and all such fees shall be paid through the plan unless otherwise ordered. The attorney may not receive fees directly from the debtor other than the initial retainer, without court approval

If the debtor disputes the legal services provided or charged by the attorney, the debtor must advise the Court or the Chapter 13 Trustee in writing and request that the matter be set for a hearing.

The attorney may move to withdraw pursuant to Local Bankruptcy Rule 2091-1, or the client may discharge the attorney at any time.

Dated:

Debtor

Dated:

Debtor

Dated:

Attorney for Debtor(s)