UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

GUIDELINES FOR PAYMENT OF ATTORNEYS' FEES IN CHAPTER 13 CASES

(Effective in cases filed on or after October 17, 2005)

The following are Guidelines for the circumstances under which the court will, as part of the chapter 13 plan confirmation process, approve fees of attorneys representing chapter 13 debtors.

An attorney may decline to seek approval of compensation pursuant to these Guidelines. If an attorney so declines, his or her compensation shall be disclosed, reviewed, and approved in accordance with applicable authority including, without limitation, 11 U.S.C. §§ 329 and 330, Fed.R.Bankr.P. 2002, 2016, and 2017.

Alternatively, attorneys may have their fees approved and paid as part of the chapter 13 plan confirmation process if they comply with the following Guidelines.

1. Counsel may seek approval for fees in the order confirming the plan up to the amounts set forth in Paragraph 2 without filing a detailed application if:

a) Counsel has filed an executed copy of the "Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys," attached hereto; and
b) No objection to the requested fees has been raised.

2. The maximum fee which can be approved through the procedure described in Paragraph 1 is: $3,500 in nonbusiness cases, and $5,000 in business cases.

3. If counsel does not wish to obtain approval of fees in accordance with these Guidelines, or if an executed copy of the "Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys" is not filed, or if counsel requests fees in excess of the amounts in Paragraph 2, or if there is an objection, fees will not be automatically approved upon plan confirmation pursuant to these Guidelines. In such cases, counsel must deposit all advance payment of post-petition fees in trust, must apply for all fees, and shall comply with 11 U.S.C. §§ 329 and 330, and Fed. R. Bankr. P. 2002, 2016, and 2017.

4. If counsel has filed an executed copy of the "Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys," but the initial fee is not sufficient to fully compensate counsel for the legal services rendered in the case, the attorney may apply for additional fees. The court will not approve, however, additional compensation in cases in which no plan is confirmed, or for work necessary to confirm the initial plan. Further, counsel should not view the fee permitted by these Guidelines as a retainer that, once exhausted, automatically justifies a fee motion. This fee is sufficient to fairly compensate counsel for all preconfirmation services and most post-confirmation services such as reviewing the notice of filed claims, objecting to untimely claims, and modifying the plan to conform it to the claims filed. Only in instances where substantial and unanticipated post-confirmation work is necessary should counsel request additional compensation. The form application attached hereto may be used by the attorney when seeking additional fees. The necessity for a hearing on the application shall be governed by Bankruptcy Rule 2002(a)(6).

5. Except for pre-petition retainers, all fees shall be paid through the plan unless otherwise ordered. Absent court authorization, the attorney may not receive fees directly from the debtor other than the pre-petition retainer.

6. If an attorney has elected to be compensated pursuant to these guidelines but the case is dismissed prior to confirmation of a plan, absent a contrary order, the trustee shall pay to the attorney to the extent funds are available an administrative claim equal to 50% of the total fee the debtor agreed to pay less any pre-petition retainer. The attorney shall not collect, receive, or demand additional fees from the debtor unless authorized by the court.

7. On its own motion or the motion of any party in interest, any time prior to entry of a final decree

the Court may order a hearing to review any fee paid or to be paid pursuant to a prior order.

Approved effective October 17, 2005 for chapter 13 cases filed in the Eastern District of California.

Dated: 28 October 2005

Michael S. McManus
Chief Bankruptcy Judge

Thomas C. Holman
Bankruptcy Judge

Christopher M. Klein
Bankruptcy Judge

W. Richard Lee
Bankruptcy Judge

Whitney Rimel
Bankruptcy Judge

Robert S. Bardwil
Bankruptcy Judge

_____ *[Name; State Bar ID No.]*
_____ *[Address]*
_____
_____ *[Telephone]*

Attorney for Debtor(s)

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

In re	)	
	)	
	)	**Case No.**
	)	
Debtor(s).	)	

RIGHTS AND RESPONSIBILITIES OF CHAPTER 13 DEBTORS AND THEIR ATTORNEYS

It is important for debtors who file a bankruptcy case under Chapter 13 to understand their rights and responsibilities. It is also important that the debtors know what their attorney's responsibilities are, and understand the importance of communicating with their attorney to make the case successful. 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, absent a contrary court order, debtors and their attorneys agree as follows:

BEFORE THE CASE IS FILED

The debtor agrees to:

1. Provide the attorney with accurate financial information.
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, discuss both procedures with the debtor, and answer 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 and Trustee's fees are paid and provide

an executed copy of this document to the debtor.

6. Explain to the debtor that the plan payment must be made to the Trustee on the twenty-fifth day of each month beginning the month after the petition is filed.
7. Advise the debtor of the requirement to attend the 341 Meeting of the 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, collision and comprehensive insurance on vehicles securing loans or leases.
9. Timely prepare and file the debtor's petition, plan, motions to value collateral, motions to avoid liens, 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 are seized or not returned to the debtor by the IRS or Franchise Tax Board.
6. Contact the attorney before buying, refinancing, or selling real or personal property with a value of $1,000 or more, before incurring new debt exceeding $1,000.
7. Pay any filing fees and expenses that may be incurred directly to the attorney.

The attorney agrees to provide the following legal services:

1. Timely serve the debtor's petition, plan, statements, and schedules on the chapter 13 trustee.
2. Timely serve the debtor's plan and motions to value collateral and motions to avoid liens together with the notice of hearing required by paragraph 3(b) of General Order 05-03.
3. Appear at the 341 Meeting of Creditors with the debtor.
4. Respond to objections to plan confirmation, and where necessary, prepare an amended plan.
5. Prepare, file, and serve necessary modifications to the plan which may include suspending, lowering, or increasing plan payments.
6. Prepare, file and serve necessary amended statements and schedules, in accordance with information provided by the debtor.
7. Prepare, file, and serve necessary motions to buy, sell, or refinance property when appropriate.
8. Object to improper or invalid claims, if necessary, based upon documentation provided by the debtor.
9. Represent the debtor in motions for relief from stay.

10. Where appropriate, prepare, file, and serve necessary motions to avoid liens on real or personal property and to value the collateral of secured creditors.
11. Provide such other legal services as are necessary for the administration of the present case before the Bankruptcy Court.

The fee charged for a chapter 13 bankruptcy is a matter for negotiation between the attorney and the debtor. While the court's "Guidelines for Payment of Attorneys Fees in Chapter 13 Cases" permit an initial fee of up to $3,500.00 in nonbusiness cases, and $5,000.00 in business cases, lesser fees may be negotiated. These initial fees may be paid, in whole or in part, directly by the debtor prior to the filing of the petition. To the extent not paid by the debtor before the filing of the petition, the fees must be paid through the plan by the Trustee.

Initial fees charged in this case are $_____, and of this amount, $_____ was paid by the debtor before the filing of the petition. While this initial fee should be sufficient to fairly compensate counsel for all preconfirmation services and most post-confirmation services, where substantial and unanticipated post-confirmation work is necessary, the attorney may request the court to approve additional fees. If additional fees are approved, they shall be paid through the plan unless otherwise ordered. The attorney may not receive fees directly from the debtor.

DATED: _____ _____
Debtor

DATED: _____ _____
Joint Debtor

DATED: _____ _____
Attorney for Debtor(s)

_____ *[Name; Bar ID No.]*
_____ *[Address]*
_____
_____ *[Telephone]*

Attorney for Debtor(s)

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

In re	)	**Case No.**
	)	
	)	
	)	
	)	
Debtor.	)	

APPLICATION AND DECLARATION RE: ADDITIONAL FEES AND EXPENSES IN CHAPTER 13 CASES

[For Use Only in Cases Where an Executed Copy of "Rights and Responsibilities" has been Filed]

Pursuant to Bankruptcy Code Section 330 and Bankruptcy Rule 2016(a), the undersigned hereby applies for $_____ in additional fees and $_____ in additional expenses in this Chapter 13 case. In support of this application, the applicant hereby declares under penalty of perjury as follows:

The applicant has served as attorney for the debtor since _____. On _____ applicant received a retainer of $_____. An executed copy of this Court's "Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys" was filed on _____. As reflected in that document and in the Bankruptcy Rule 2016(b) disclosure statement, applicant and the debtor agreed that the initial fee for legal services and expenses in connection with this Chapter 13 case would be $_____. Additional fees have been allowed by

order(s) of this Court on the following dates and in the following amounts: _____ _____. To date, fees in the amount of $_____ have been paid by the Chapter 13 Trustee through the debtor's Chapter 13 plan.

The initial agreed-upon fee, as well as additional fees previously allowed, are not sufficient to fully compensate the attorney for the legal services rendered. The time sheets attached hereto as Exhibit A cover all services rendered to the debtor in connection with this Chapter 13 case since the date the applicant commenced rendering services. [Include a brief description of the specific work for which compensation is sought and a narrative explaining why the fees previously allowed pursuant to the Chapter 13 Fee Guidelines were not sufficient to fairly compensate the applicant for this work in light of the amount or complexity of the work undertaken for the debtor.] _____ _____ _____ _____ _____.

After exercising reasonable billing judgment, the total number of hours expended in this case for which applicant seeks compensation is _____. The applicant's customary hourly rate for services of this nature is $_____. A reasonable fee for the services rendered would be $_____ (multiply hours times hourly rate to arrive at the lodestar amount). Attached hereto as Exhibit B is an itemization of all out-of-pocket

expenses incurred in connection with this Chapter 13 case.

Accordingly, applicant respectfully requests that the Court allow additional fees of $_____ (lodestar amount less initial agreed-upon fee plus any additional fees previously allowed) and $_____ in additional expenses to be paid through the Chapter 13 plan.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: _____

_____
Applicant and Attorney for Debtor

If the debtor agrees that the requested compensation is reasonable and should be paid, the debtor should sign below.

If the debtor does not agree that the additional compensation requested in this application is reasonable or is due and owing, the debtor should not sign below and instead should file a brief written explanation of any objection the debtor may have to the requested compensation.

DATED: _____

_____
Debtor

DATED: _____

_____
Debtor