

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

GUIDELINES FOR PAYMENT OF ATTORNEYS' FEES IN CHAPTER 13 CASES
(Effective July 1, 2003)

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: \$2,500 in nonbusiness cases, and \$4,000 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 Bankruptcy Rules 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 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. After plan confirmation, the Chapter 13 Trustee shall pay the lesser of 50% of the plan payment or \$250 of each plan payment to the attorney until the fee is paid in full.

6. If an attorney has elected to be compensated pursuant to these guidelines but the case is dismissed prior 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.

[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(d) of General Order 03-03.
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 \$2,500.00 in nonbusiness cases, and \$4,000.00 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. If the initial fees ordered by the court are not sufficient to compensate the attorney for the legal services rendered in the case, the attorney further agrees to apply to the court for any additional fees. Additional fees 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)

1 _____ [Name; Bar ID No.]
2 _____ [Address]
3 _____ [Telephone]

4 Attorney for Debtor(s)

5 **UNITED STATES BANKRUPTCY COURT**
6 **EASTERN DISTRICT OF CALIFORNIA**

7 **In re**) **Case No.**
8)
9)
10 _____ **Debtor.**)

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

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

15 Pursuant to Bankruptcy Code Section 330 and Bankruptcy Rule
16 2016(a), the undersigned hereby applies for \$_____ in
17 additional fees and \$_____ in additional expenses in this
18 Chapter 13 case. In support of this application, the applicant
19 hereby declares under penalty of perjury as follows:

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

1 order(s) of this Court on the following dates and in the
2 following amounts: _____
3 _____. To date, fees in the amount of \$_____ have
4 been paid by the Chapter 13 Trustee through the debtor's Chapter
5 13 plan.

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

17 _____
18 _____
19 _____
20 _____
21 _____.

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

1 expenses incurred in connection with this Chapter 13 case.

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

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

9 DATED: _____
10 _____
11 Applicant and Attorney for Debtor

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

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

19
20 DATED: _____
21 _____
22 Debtor

23 DATED: _____
24 _____
25 Debtor

26
27
28