

**UNITED STATES BANKRUPTCY COURT**  
**Eastern District of California**  
**501 I Street, Suite 3-200**  
**Sacramento, CA 95814-7303**

**Chambers of**  
**FREDRICK E. CLEMENT**  
**Chief Bankruptcy Judge**

**916-930-4540**

December 20, 2024

Re: Chapter 13 Flat Fees-Revised

An Open Letter to the Bar:

Several months ago, I asked the bar for input on LBR 2016-1(c), which controls the amount, retainer, and timing of payment for flat fees in Chapter 13 cases. The major complaint was that the rule pinched debtor's counsel's cashflow, *viz.*, the 25% retainer cap and the equal monthly payment provisions.

After considering your comments and working with a committee of Chapter 13 practitioners, we have revised LBR 2016-1(c). We have elected to tweak the existing rule, rather than to re-write it. Transmitted with this letter is revised LBR 2016-1(c) (a clean and a redline version) and EDC Form 2016-1, which modify existing LBR 2016-1(c). The collective bench has approved these revisions for public comment. The most significant changes are: (1) increasing the flat fee, i.e., \$12,000 for consumer cases and \$18,000 for business cases; (2) setting presumptive amounts earned: (A) 25% of the fee upon filing of the petition; (B) an additional 25% upon initial confirmation; and (C) an additional 50% for cases that go the distance; (3) increasing the retainer cap to 50% of the fee; (4) authorizing the attorney to appropriate from the retainer, that it is removed from his/her trust account, on the occurrence of the following events: (A) 25% upon filing the petition; and (B) an amount not to exceed 25% of the fee upon confirmation; (5) requiring that if confirmation is not achieved, any retainer above 25% of the fee must be returned and that debtor's counsel file a form declaration so averring; and (6) authorizing front-loading of up to 50% of the fee (if not covered by the retainer), but requiring the second 50% of the fee to be paid in equal monthly installments. Other and less significant changes to the rule were also made. I urge you to read the rule in its entirety.

We, the collective bankruptcy bench, are interested in hearing from you about this proposal. Perhaps this rule is worthy of adoption; perhaps it is not. No later than January 22, 2025, please send your comments to me in writing. You may do so either (1) by letter addressed to Fredrick E. Clement, Chief Judge, United States Bankruptcy Court, 501 I Street, Suite 3-200, Sacramento, CA 95814; or (2) if you prefer, particularly for shorter comments, by sending an email to [PublicComments@caeb.uscourts.gov](mailto:PublicComments@caeb.uscourts.gov). If you are comfortable, please do provide your name and telephone number; frequently, we have follow-up questions or comments that we would like to discuss with you. I will personally be sure that your comments are brought to the attention of each member of the bench and that your views are considered.

I look forward to hearing from you.

Sincerely,



Fredrick E. Clement  
Chief Judge, U.S. Bankruptcy Court