

ENTERED

TAWANA C. MARSHALL, CLERK
THE DATE OF ENTRY IS
ON THE COURT'S DOCKET



The following constitutes the ruling of the court and has the force and effect therein described.

Barbara J. Houser

United States Bankruptcy Judge

Signed January 07, 2013

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS**

IN RE:	§	
STANDING ORDER	§	
CONCERNING ATTORNEY FEES	§	GENERAL ORDER
IN ALL CHAPTER 13 CASES	§	2013-01

IT IS HEREBY ORDERED:

**COMPENSATION AND EXPENSE REIMBURSEMENT TO DEBTOR'S
COUNSEL IN CHAPTER 13 CASES.**

a. Unless otherwise ordered by the Court, this General Order governs the compensation of Debtor's counsel and reimbursement of expenses in cases filed under Chapter 13 of the Bankruptcy Code on or after January 1, 2013 and supersedes Section 10 of General Order 2010-01.

b. An attorney representing a Debtor under Chapter 13 shall be the attorney of record from the filing of the petition for relief under Chapter 13 (if signed by the attorney), from the filing of a notice of appearance on behalf of the Debtor (if the Debtor filed the case pro se), or from the date of the substitution of counsel (if the Debtor filed the case with other counsel) until the close or dismissal of the case (including disposition of motion(s) to reinstate), unless relieved of representation by order of the Court in accordance with L.B.R. 2091-1.

c. In an individual, non-business case, the Court deems \$3,500 (the "Standard Fee") as reasonable compensation and reimbursement of expenses for an attorney representing the Debtor in accordance with 11 U.S.C. § 330(a)(3)(B). The Court will therefore allow the Standard Fee, plus bankruptcy clerk filing fees and the cost of a credit report for each Debtor (collectively, the "Costs"), in an individual, non-business case, without the requirement of an application for compensation under 11 U.S.C. § 330 and Bankruptcy Rule 2016(a). PROVIDED, HOWEVER, that an attorney may request attorney's fees and expenses exceeding the Standard Fee and Costs upon (i) formal application under Bankruptcy Rule 2016(a) and subsection i of this General Order, with notice and hearing, for all fees and expenses; (ii) formal application under subsection j of this General Order for fees and expenses exceeding the

Standard Fee and Costs; or (iii) a motion under subsection k of this General Order for matters designated therein. Allowance of fees and expenses greater than the Standard Fee and Costs shall be by separate order of the Court.

d. An attorney may not receive a post-petition retainer or payment from the Debtor other than as specified in this General Order without leave of Court.

e. As guidelines, the Court contemplates that the following matters will be included in the Standard Fee:

(1) All conferences with the Debtor, including timely responses to Debtor inquiries, whether by telephone or in writing;

(2) Preparation of the bankruptcy petition, including emergency petitions, schedules, statement of financial affairs, chapter 13 statement of current monthly income (B22C), a plan of reorganization (the "Plan"), and the AAPD;

(3) Preparation of, and representation of the Debtor on, a motion to extend or impose the stay;

(4) Representation of the Debtor at the Section 341 Meeting and any continued meeting;

(5) Representation of the Debtor at the pre-hearing conference and the Plan confirmation hearing;

(6) Representation of the Debtor in connection with two motions under 11 U.S.C. § 362, but not including an evidentiary final hearing;

(7) Representation of the Debtor on motions to dismiss, including Trustee motions to dismiss (with or without prejudice);

(8) Preparation of, and representation of the Debtor on, motions to avoid liens and judgments;

(9) Preparation of, and representation of the Debtor on, one motion to reinstate the case;

(10) Preparation of, and representation of the Debtor on, motions to except the Debtor from the mandatory wage directive provisions of this General Order;

(11) Preparation of all documents and notices, including submissions for Trustee recommendation, and attendance at all hearings and/or pre-hearing conferences, including, without limitation:

- (i) Suggestion(s) of bankruptcy, and filing same in the appropriate courts;
 - (ii) Motions to extend the time to file paperwork;
 - (iii) Schedules and statements of financial affairs, and any required amendments thereto;
 - (iv) Motions regarding the manner of the Debtor's attendance at the Section 341 Meeting;
 - (v) Requests to the Trustee to reset the Section 341 Meeting;
 - (vi) Notices to creditors, where appropriate, explaining the automatic stay;
 - (vii) The Plan and Plan documents;
 - (viii) Requests for Plan payment deferrals;
 - (ix) Motions for emergency refund of Plan payments;
 - (x) Objections to claims and/or the TRCC, after appropriate review;
 - (xi) The AAPD;
 - (xii) Communications and negotiations with the Internal Revenue Service;
 - (xiii) All case-related correspondence;
 - (xiv) Notices or motions, if necessary, to convert the case;
 - (xv) Motions to dismiss the case;
 - (xvi) Interlocutory orders; and
 - (xvii) Communications to the Debtor explaining the Trustee's annual or semi-annual report.
- (12) Wage order review;
- (13) Budget consultations;
- (14) Making and performing, or assisting the Debtor in making or performing, the disclosures and duties required by 11 U.S.C. §§ 521, 527, 528, and 1308;

(15) Taking all steps reasonably necessary to insure that the Debtor receives a discharge in the case; and

(16) Other miscellaneous normal, customary services, including correspondence to clients and review of correspondence from clients, communication with the Trustee and the Trustee's office, and communication with representatives of the Clerk's office.

f. The guidelines assume two lift stay motions and one motion to reinstate the case, all of which typically occur in the life of a Chapter 13 case. The guidelines assume the resolution of lift stay motions at preliminary hearings, or by agreement (at either preliminary or final hearings), and a typical hearing of 10 to 20 minutes on other contested matters routinely heard at a Chapter 13 Standing Trustee docket. The guidelines do not contemplate that the Standard Fee would include an evidentiary final hearing on a motion to lift stay, or an evidentiary hearing of more than 30 minutes on a motion to dismiss, objection to exemption, confirmation hearing, claims objection, or other contested matters, or the representation of the Debtor in an adversary proceeding.

g. Other than the provisions of subsection b, this General Order does not apply to a Chapter 13 case converted to a case under Chapter 7 of the Bankruptcy Code. Upon entry of an order converting a case to Chapter 7, the amount and manner of payment of compensation for an attorney for Chapter 7 related services is a matter between the Debtor and his or her attorney.

h. In a Level 2 business case, the Court deems \$4,000 as reasonable compensation and reimbursement of expenses for an attorney under 11 U.S.C. § 330(a)(3)(B) (the "Business Standard Fee"). The Court will therefore allow the Business Standard Fee, plus bankruptcy clerk filing fees, in a Level 2 business case without the requirement of an application for compensation under 11 U.S.C. § 330 and Bankruptcy Rule 2016(a). A Level 2 business case is when (1) the debtor's monthly gross receipts (or the monthly gross receipts of any corporation, partnership, LLC, etc. controlled by the debtor) are \$10,000.00 or more, (2) the debtor incurs trade credit in the production of income that is not paid in full every month, (3) the business has any employees other than family, (4) the business has a liquor license, or (5) any other reason that in the opinion of the trustee justifies a more thorough investigation than is possible at a Section 341 docket.

i. In any case, counsel for the Debtor may elect to apply for all attorney's compensation and expenses based solely on a lodestar analysis, with notice and hearing. The application must comply with 11 U.S.C. § 330, Bankruptcy Rule 2016(a) and the Court's Guidelines for Compensation and Expense Reimbursement of Professionals effective January 1, 2001. The application must include time records for all work performed on the case. For lodestar applications, the Court will not approve a fee over \$700 for the preparation of the fee application.

j. For applications requesting compensation and expenses for particular matters not included in the Standard Fee or the Business Standard Fee under this General Order,

e.g., a final evidentiary hearing on a motion to lift stay, the attorney must include time records for the particular matter. For those matters, the Debtor's attorney must use the lodestar analysis and comply with 11 U.S.C. § 330, Bankruptcy Rule 2016(a) and the Court's Guidelines for Compensation and Expense Reimbursement of Professionals effective January 1, 2001. For lodestar applications for particular matters, the Court will not approve a fee over \$400 for the preparation of the fee application.

k. Provided the Debtor agrees, and notwithstanding any other provision of this General Order, for certain matters not within the guidelines for the Standard Fee or the Business Standard Fee, and to encourage uniformity and consistency and to minimize the expense of the fee application process, the Court will approve, upon motion, and waive the application requirement, the following supplemental fees:

- (1) For a Plan modification, \$350, plus expenses not to exceed \$50.
- (2) For a motion to sell property, \$350, plus expenses not to exceed \$50.
- (3) For a motion to incur debt, \$350, plus expenses not to exceed \$50.

(4) For a motion to lift (after the two motions to lift stay included within the Standard Fee or the Business Standard Fee), \$350, plus expenses not to exceed \$50.

(5) For an Objection to a Trustee's Notice of Intent To Disburse Excess (year) Tax Refund To Creditors And Raise Debtor's Plan Base, a responsive pleading to a Trustee motion to compel with regard to a tax return and/or tax refund, or a similar pleading addressing tax refunds and who is entitled to same, \$350, plus expenses not to exceed \$50.

A motion under this subsection may request that the Court authorize the Debtor to pay these fees and/or expenses directly to his or her attorney.

This General Order amends all previous standing orders regarding the setting of attorney fees in Chapter 13 cases.

###END OF ORDER###