

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

IN THE MATTER OF	§	
	§	
ATTORNEY COMPENSATION AND	§	GENERAL ORDER NO. 2002-03
EXPENSE REIMBURSEMENT IN	§	
CHAPTER 13 CASES	§	
	§	

GENERAL ORDER

IT IS HEREBY ORDERED:

1. Unless otherwise ordered by the Court, this General Order governs the compensation of attorneys and reimbursement of expenses in cases under Chapter 13 of the Bankruptcy Code.

2. Paragraph 10 of General Order 98-4, entered August 17, 1998, is **WITHDRAWN**.

3. 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, or, if not, from the filing of a notice of appearance until the close or dismissal of the case (including disposition of motions to reinstate), unless relieved of representation by order of the Court following L.R. 83.12.

4. In an individual, non-business case, the Court deems \$2,000 as reasonable compensation and reimbursement of expenses for a debtor's attorney under 11 U.S.C. §330(a)(3)(B). The Court will therefore allow fees and expenses of \$2,000, plus bankruptcy clerk filing fees, 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). A debtor may request attorney's fees and expenses exceeding \$2,000 plus filing fees (1) upon formal application under Rule 2016(a) and ¶6 of this order, with notice and hearing, for all fees and expenses; (2) upon formal application under ¶7 of this order for fees and expenses exceeding \$2,000; or (3) upon motion under ¶8 of this order for designated matters. Allowance of fees and expenses greater than \$2,000, plus filing fees, shall be by separate order of the Court.

4.1 For purposes of the application of L.B.R. 2016.1(b), the retainer amount shall be increased up to \$2,000. A maximum of \$1,500 plus bankruptcy clerk filing fees may be paid before confirmation unless otherwise ordered by the Court. The balance, if any, shall be payable only after the debtor's case is confirmed. A debtor's attorney may not receive a post-petition retainer or payment from the debtor other than as specified in this paragraph or ¶8, without leave of court.

4.2. As guidelines, the Court contemplates that the following matters will be included in the \$2,000 standard:

a. All conferences with the debtor, including timely responses to debtor inquiries, whether by telephone or written.

b. Preparation of the bankruptcy petition, schedules and statement of financial affairs, including emergency petitions.

c. Representation of the debtor at the meeting of creditors under 11 U.S.C. §341 and any continued meeting.

d. Representation of the debtor at a confirmation hearing.

e. Representation of the debtor in connection with 11 U.S.C. §362 motions, including two motions, one concerning the debtor's residence and one concerning a vehicle, but not including an evidentiary final hearing.

f. Representation of the debtor on motions to dismiss, including trustee motions to dismiss with prejudice or without prejudice.

g. Preparation of and representation of the debtor on motions to avoid liens and judgments.

h. Preparation of and representation of the debtor on one motion to reinstate.

i. Preparation of documents and notices, including submissions for trustee recommendation, and attendance at all hearings, including:

- (1) Filing suggestion of bankruptcy
- (2) Requests for plan payment deferrals
- (3) Motions for emergency refund of plan payments
- (4) Review and, if appropriate, object to claims; review trustee's notice of claims filed and not filed; review and, if appropriate, object to trustee's recommendations concerning claims
- (5) Preparation of plan and plan documents
- (6) Preparation of authorization for pre-confirmation disbursements
- (7) Notices to creditors, where appropriate, explaining automatic stay
- (8) Negotiation and communications with the Internal Revenue Service
- (9) Explanation of semi-annual report
- (10) Motions to extend time to file paperwork
- (11) Requests to the trustee to reset §341 meeting
- (12) Amendments of schedules
- (13) All case-related correspondence

(14) Notice or motion, if necessary, to convert case

(15) Voluntary dismissals

(16) Motion regarding manner of debtor attending §341 meeting

(17) Interlocutory orders

j. Wage order review

k. Budget consultations

l. 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 the Clerk of Court.

4.3. The guidelines assume two lift stay motions, one concerning the debtor's residence and one concerning a vehicle, 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, and a typical hearing of 10 to 20 minutes on other contested matters 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 would include an adversary proceeding.

4.4. Other than ¶3, this 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 a debtor's attorney for Chapter 7-related services is a matter between the debtor and his or her attorney.

5. In a business case, the Court deems \$2,500 as reasonable compensation and reimbursement of expenses for a debtor's attorney under 11 U.S.C. § 330(a)(3)(B). The Court will therefore allow fees and expenses of \$2,500, plus bankruptcy clerk filing fees, in a business case, without the requirement of an application for compensation under 11 U.S.C. § 330 and Rule 2016(a). The provisions of ¶¶4.1, 4.2, 4.3 and 4.4 apply to a business case, except that the retainer amount under L.B.R. 2016.1(b) shall be increased up to \$2,500 and the pre-confirmation draw on the retainer shall be increased up to \$2,000.

6. In any case, 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, 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 \$250 for the preparation of the application.

7. For applications requesting compensation and expenses for particular matters not included in the \$2,000 or \$2,500 plus filing fees under this order, for example, 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, comply with 11 U.S.C. § 330 and submit the application in conformance with 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 \$250 for the preparation of the application.

8. Notwithstanding any other provision of this General Order, for certain matters not within the guidelines for the standard fee, to encourage uniformity and consistency, and to minimize the expense of the fee application process, the Court will approve without a separate application, if the debtor agrees, and waive the application requirement, the following fees:

- a. For a plan modification motion, \$350, plus expenses not to exceed \$50.

- b. For a motion to sell property, \$350, plus expenses not to exceed \$50.
- c. For a motion to incur debt, \$350, plus expenses not to exceed \$50.
- d. For a motion to lift stay (after the two motions to lift stay included within the standard fee), \$350, plus expenses not to exceed \$50.

A motion under this paragraph may request that the court authorize the debtor to pay these fees or expenses directly to his or her attorney.

9. The Court deems fees not to exceed \$450 plus actual expenses not to exceed \$150 as reasonable compensation for a creditor's attorney who is entitled to compensation from a debtor under applicable non-bankruptcy law, without prejudice to a party contesting entitlement to fees, or the reasonableness of the amount of or mode of payment of the fees and expenses. Allowance of fees and/or expenses in a greater amount shall be by separate order of the Court after a hearing on application or motion and notice. This ¶9 applies to, but is not limited to, motions to lift stay, claims allowance and confirmation hearings.

10. This order shall apply to Chapter 13 cases filed on and after December 2, 2002.

SO ORDERED.

Signed this 28th day of October, 2002.

/s/ Stevan A. Felsenthal
Honorable Steven A. Felsenthal,
Chief Judge

/s/ Robert C. McGuire
Honorable Robert C. McGuire

/s/ Barbara J. Houser
Honorable Barbara J. Houser

/s/ Robert L. Jones
Honorable Robert L. Jones

/s/ Dennis Michael Lynn
Honorable Dennis Michael Lynn

/s/ Harold C. Abramson
Honorable Harold C. Abramson