UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA

IN RE:	:	
COMPENSATION OF	:	**GENERAL ORDER NO. 3-2005**
ATTORNEYS IN	:	
CHAPTER 13 CASES	:	

ORDER

This Order is effective as to all cases filed on or after October 17, 2005, and, as to those cases, it replaces General Order No. 9 entered on September 8, 2003. General Order No. 9 continues to apply to cases filed prior to October 17, 2005.

In recognition of the high volume of Chapter 13 cases filed in this District and acknowledging that many of these cases require the same or very similar legal services to each debtor, the Court enters the following General Order to promote the efficient management of applications for compensation by debtors' attorneys, to provide fair and equitable treatment of debtors and their attorneys, and to avoid undue additional financial burden on debtors. This Order is intended to establish certain procedures allowing payment of attorney's fees without separate fee applications and hearings in cases where the attorney and debtor agree that the fee for representation in a Chapter 13 case will be less than $2,501.00. Attorneys are prohibited from advising clients or the public that the Court requires any minimum or maximum fee be charged for a Chapter 13 case. This Order does ***not*** seek to set any fee in any Chapter 13 case, and it does not and is not intended to set any minimum or maximum fee in any Chapter 13 case filed in this District.

Attorneys representing debtors in Chapter 13 cases are required to represent the debtor in all matters relating to the case affecting the debtor's interests unless the attorney is permitted to withdraw by order of the Court. Local Rule 9010-2. For their services, attorneys are entitled to a reasonable fee, determined in accordance with ethical requirements of the State Bar of Georgia. Rule 4-102 of the Rules of the State Bar of Georgia. Pursuant to 11 U.S.C. § 329(b), the Court may require the return of excessive fees. Accordingly, it is hereby ORDERED that:

1. Effective as to cases filed on or after October 17, 2005, an attorney for a Chapter 13 debtor or joint debtor ("Debtor") need not file a fee application if the total fee sought to be paid is less than $2,501.00 per case; provided, however, that:

(a) the Chapter 13 plan shall govern the payment of attorney's fees from the proceeds available and paid into the office of the Trustee by Debtor or on Debtor's behalf;

(b) upon confirmation of the plan, the Trustee is authorized to disburse to the Debtor's attorney the fee, as provided for in the plan, from funds available after payment of the Trustee's fees and expenses and, if applicable, any adequate protection payments under 11 U.S.C. § 1326(a)(1)(C);

(c) if no plan is confirmed and the case is dismissed or converted to a Chapter 7, unless otherwise ordered, the Trustee is authorized to disburse to Debtor's attorney as compensation and reimbursement of expenses the amount set forth in the proposed plan, after payment of any unpaid filing fees pursuant to the Clerk's notification, Trustee's fees and expenses, and adequate protection payments, if applicable.

2. After the filing of a Chapter 13 case, the attorney for Debtor shall collect no compensation other than allowed by this Order without prior court approval based upon an appropriate application and order.

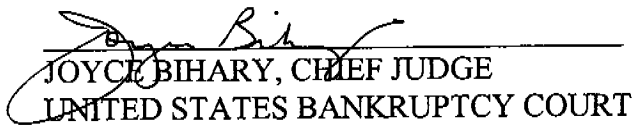
3. Prior to filing a Chapter 13 petition, Debtor's attorney shall provide to Debtor a copy of the attached "Rights and Responsibilities" and shall certify same in the Rule 2016(b) disclosure statement; failure of an attorney to perform all of the duties set forth in said Rights and Responsibilities may result in the reduction or disgorgement of attorneys fees, for each such occurrence, in such amount as the court finds appropriate.

4. Nothing herein shall prohibit Debtor's attorney in any case from seeking compensation pursuant to the requirements of 11 U.S.C. § 330.

5. Any fee allowed and paid in accordance with the procedures specified in this Order shall be interim in nature and, as such, subject to review, disallowance and

disgorgement, upon request of any party in interest or on the Court's own motion.

IT IS SO ORDERED, this 5th day of October, 2005.



JOYCE BIHARY, CHIEF JUDGE
UNITED STATES BANKRUPTCY COURT
FOR THE COURT

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA

RIGHTS AND RESPONSIBILITIES STATEMENT BETWEEN CHAPTER 13 DEBTORS AND THEIR ATTORNEYS

Chapter 13 of the Bankruptcy Code gives each debtor ("Debtor") important rights, such as the right to keep property that could otherwise be lost through repossession, foreclosure or liquidation by a Chapter 7 Trustee. Chapter 13 also places burdens on Debtors, however, such as the burden of making complete and truthful disclosures of their financial situation and prompt payments as required by the Plan. It is important for Debtors who file a Chapter 13 bankruptcy case to understand their rights and responsibilities to the court, the Chapter 13 Trustee and to creditors. Debtors are entitled to expect certain services to be performed by their attorneys, but Debtors also have responsibilities to their attorneys. To assure that Debtors and their attorneys understand their rights and responsibilities in the Chapter 13 process, the judges of the Bankruptcy Court for the Northern District of Georgia have approved this statement of rights and responsibilities of Debtors and their attorneys in Chapter 13 cases that include, but are not limited to the following, as each case's facts may require more of both Debtor and Debtor's attorney.

BEFORE THE CASE IS FILED

EACH DEBTOR SHALL:

1. Discuss with the attorney the Debtor's objectives in filing the case.

2. Timely provide the attorney with full and accurate financial and other information, including, but not limited to:

   (a) Copies of pay stubs or other evidence of payment received before the date of filing of the petition, as requested by the attorney;

   (b) Copies of all Federal income tax returns (or transcript of the returns) as requested by the attorney.

3. Inform the attorney of any and all prior bankruptcy cases Debtor has filed.

4. Provide copies of all bills, notices, statements or communications from creditors, as requested by attorney.

THE ATTORNEY SHALL:

1. Personally counsel Debtor regarding the advisability of filing either a Chapter 13 or a Chapter 7 case, discuss with Debtor the procedures in both Chapters, as well as non-

bankruptcy options, and answer Debtor's questions.

2. Personally explain to Debtor the requirement of obtaining a certificate from an approved nonprofit budget and credit counseling agency.

3. Personally explain to Debtor that the attorney is being engaged to represent Debtor on all matters arising in the case, and explain how and when the attorney's fees and the trustee's fees are determined and paid.

4. Personally review with Debtor and obtain Debtor's signature on the completed petition, plan, as well as the Statement of Financial Affairs, Income and Expenses, and other statements as well as the various schedules (the "Schedules"), and all amendments thereto, whether filed with the petition or later. The Schedules may be prepared initially with the help of clerical or paralegal staff of the attorney's office, but personal attention of the attorney is required for the review and signing by Debtor.

5. Timely prepare and file Debtor's petition, plan, Schedules, statement of monthly net income, and any other required pleading.

6. Explain to Debtor how, when and where to make all necessary payments, including both payments that must be made directly to creditors and payments that must be made to the Chapter 13 Trustee, with particular attention to housing, vehicle, and domestic support obligation payments.

7. Advise Debtor of the need to maintain appropriate insurance especially for house and vehicle.

8. Inform Debtor of the need to potentially provide attorney with copies of each Federal income tax return (or transcript of the return) for each tax year ending while the Debtor is in the case.

AFTER THE CASE IS FILED

EACH DEBTOR SHALL:

1. Appear punctually at the meeting of creditors (also called the "341 meeting") with recent proof of income, a photo identification card, and proof of Social Security number. Acceptable forms of proof of identification are: driver's license; government ID, state picture ID; student ID, U.S. passport; military ID; resident alien card. Acceptable forms of proof of Social Security number are: Social Security Card; medical insurance card; pay stub; W-2 form; IRS form 1099; Social Security Administration Report. Debtor must be present both in time for check-in and when the case is called for the actual examination.

2. Make the required payments to Trustee and to such creditors as are being paid directly, or, if required payments cannot be made, to notify the attorney immediately.

3. Promptly provide attorney, upon their request, evidence of all payments made directly to creditors and Trustee, including amount and date of payment.

4. Notify the attorney immediately of any change in Debtor's address or telephone number.

5. Inform the attorney immediately of any wage garnishments, liens or levies on assets that occur or continue after the filing of the case.

6. Contact the attorney immediately if Debtor loses employment, is "laid off" or furloughed from work or has any significant change in income; experiences any other significant change in financial situation, including serious illness, personal injury, lottery winnings, or an inheritance.

7. Notify the attorney immediately if Debtor is sued or wishes to file a lawsuit, including divorce, matters regarding personal or property injury (including any worker's compensation matters), and any other matter in which Debtor is involved in a lawsuit or legal action outside this court.

8. Inform the attorney immediately if any tax refunds to which Debtor is entitled are seized or not received when due from the IRS or Georgia Department of Revenue.

9. Contact the attorney before buying, refinancing, or contracting to sell real property, and before entering into any loan agreement.

10. Complete an instructional course concerning personal financial management prior to receiving a discharge.

THE ATTORNEY SHALL:

1. Advise the Debtor of the requirement to attend the meeting of creditors, and notify or remind Debtor of the date, time and place of the meeting, in such detail as is helpful or necessary to Debtor's appearance.

2. Inform Debtor that Debtor must be punctual and, in the case of a joint filing, that both spouses must appear at the same meeting.

3. Provide competent legal representation for Debtor at the meeting of creditors, appear in time for check-in and the actual examination and, unless excused by Trustee, for the confirmation hearing.

4. If an attorney not employed by Debtor's attorney's law firm (a "contract" attorney) will be attending Debtor's 341 meeting or any court hearing, personally explain to Debtor in advance the role and identity of the contract attorney, obtain Debtor's written permission for the contract attorney to represent Debtor and provide the contract attorney with the file in sufficient time to review and discuss it with Debtor prior to such representation.

5. Make all reasonable efforts for the individual attorney who met with Debtor to attend the § 341 meeting or any other court hearing. However, if that attorney is unavailable then an attorney will be present on behalf of the Debtor with knowledge of Debtor's case and authority to make any modifications to Debtor's plan deemed necessary.

6. Timely submit to Trustee properly documented proof of income for each Debtor, including business reports for self-employed debtors, and all required pay advises and tax returns or transcripts.

7. Timely respond to objections to plan confirmation, and where necessary, prepare, file and serve amended Schedules or an amended plan.

8. Timely prepare, file, and serve any necessary annual financial statements, amended statements and Schedules, and any change of address, in accordance with information provided by each Debtor.

9. Monitor all incoming case information (including, but not limited to, Order Confirming Plan, Notice of Intent to Pay Claims, and 6-month status reports) for accuracy and completeness. Contact promptly Trustee or Debtor regarding any discrepancies.

10. Promptly respond to Debtor's questions through the term of the plan.

11. Timely prepare, file and serve necessary modifications to the plan after confirmation, including modifications to suspend, lower, or increase plan payments.

12. Prepare, file and serve necessary motions to buy or sell property and to incur debt.

13. On or before 60 days after the general bar date, certify the attorney has reviewed claims with Debtor, prepared, filed and served objections to improper or invalid claims and filed claims within 30 days after the bar date for creditors who fail to file claims when such failure will adversely affect Debtor's case or its successful completion and discharge or such failure will adversely affect Debtor after case completion and discharge.

14. Timely confer with Debtor and respond to any motion to dismiss the case, such as for payment default, or unfeasibility, and to motions to increase the percentage payment to unsecured creditors.

15. Timely confer with Debtor and respond to motions for relief from stay.

16. Timely prepare, file and serve appropriate motions to avoid liens.

17. Provide any other legal services necessary for the administration of the case.