

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA

Filed in U.S. Bankruptcy Court  
Atlanta, Georgia

MAY 17 2004

By: W. Yvonne Evans, Clerk  
Debbie Pugh  
Deputy Clerk

IN RE: :  
PAYMENT OF FILING FEE IN :  
INSTALLMENTS TO COMMENCE : GENERAL ORDER NO. 11  
BANKRUPTCY CASE :  
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**AMENDED AND RESTATED ORDER CONCERNING PAYMENT OF  
FILING FEE IN INSTALLMENTS TO COMMENCE BANKRUPTCY CASE**

This Order amends, restates, and supercedes General Order No. 6, entered February 25, 2000, authorizing payment of the filing fee in installments.

Section 1930(a) of Title 28 of the United States Code requires a party filing a Title 11 bankruptcy case to pay a filing fee. A party filing bankruptcy is not granted the right to proceed *in forma pauperis*. *United States v. Kras*, 409 U.S. 434, 93 S.Ct. 631, 34 L.ed.2d 626 (1973). Bankruptcy courts do not have the authority to waive payment of the filing fee required to commence a bankruptcy case.<sup>1</sup> Bankruptcy Rule 1006(a) requires that a petition be accompanied by the filing fee while Rule 1006(b)(1) permits a party to file an application, along with the petition, requesting that the filing fee be made in installments. Rule 1006(b)(2) authorizes the Court to permit the filing fee to be paid in installments and to set the number, amount, and dates of payment. Accordingly, it is ORDERED that:

1. Subject to the provisions of paragraph 4 below, the Clerk is authorized to accept for filing a bankruptcy petition initiating a Chapter 7 or a Chapter 13 case without payment in full of the filing fee, provided that the petition is accompanied by an application to pay the filing fee in no more than

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<sup>1</sup> On October 1, 1994 pursuant to a Congressional directive, the Judicial Conference of the United States instituted a three year pilot program in six judicial districts to study the effect of waiving bankruptcy fees for individual Chapter 7 debtors unable to pay the fees. The Northern District of Georgia was not one of the districts selected to participate in the study. See Publ.L. No. 103-121, § 111(d), 28 U.S.C. §1930, Statutory Notes, Report on Bankruptcy Fees. Congress did not extend or codify this pilot Chapter 7 fee waiver program after the three years expired.

three installments. A minimum payment of \$75.00 must accompany the petition and application, except that **if Debtor is unable to make the initial filing fee payment at the time of filing, an order will be entered requiring Debtor to make the initial filing fee payment of \$75.00, within ten days following the date the petition is filed.** If Debtor fails to make that initial filing fee payment within the time specified, Debtor's case may be dismissed without further notice or opportunity for hearing.

Additionally, the application to pay the filing fee in installments must provide that the second installment shall be in an amount not less than one-half of the unpaid balance of the filing fee and shall be due and payable on or before 30 days from the petition date; and that the final installment amount shall equal the remaining unpaid balance of the filing fee and shall be due and payable on or before 60 days from the petition date.

2. Payment of the filing fee in installments does not modify the obligation of Debtor to pay the fee in full even in the event that Debtor's case is dismissed prior to payment of the filing fee in full.

3. If Debtor does not timely pay the second or final filing fee installment payment, the Clerk will issue a Deficiency Notice and Debtor's failure to pay by the date set in the Deficiency Notice will constitute cause warranting dismissal of the case without further notice or opportunity for hearing.

4. If Debtor files an application to pay the filing fee in installments and the Court's records show that Debtor has been a Debtor in a prior case in which Debtor applied to pay the filing fee in installments and then defaulted on that obligation, Debtor will not be permitted to pay the filing fee in installments. In that event, Debtor must pay the filing fee in full, within ten days following the date the petition is filed. If Debtor fails to pay timely the filing fee in full as required, Debtor's pending case will stand dismissed and the automatic stay will stand annulled *ab initio* as of the date of the filing of the petition.

If the Clerk inadvertently accepts Debtor's application to pay the filing fee in installments when Debtor has failed to pay the full filing fee in a prior case, the Debtor will be served with a Deficiency Notice requiring payment of the full filing fee within ten days following the date the petition is filed. If Debtor fails to pay timely the filing fee in full within the designated time, Debtor's pending case will stand dismissed and the automatic stay shall stand annulled *ab initio* as of the date of the filing of the petition.

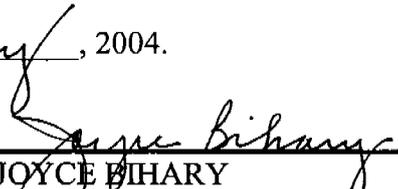
5. All filing fee payments shall be made to the Clerk of Court in cases under all chapters, including cases under Chapter 13. ALL PAYMENTS MUST BE MADE BY CASH, U.S. POST OFFICE MONEY ORDER, CERTIFIED CHECK, ATTORNEY'S CHECK, OR TRUSTEE'S CHECK, PAYABLE TO "CLERK, UNITED STATES BANKRUPTCY COURT."

6. In accordance with Bankruptcy Rule 1006(b)(3), until the filing fee is paid in full, no Debtor shall pay, and no person shall accept, any money for services in connection with Debtor's case, and Debtor shall not relinquish, and no person shall accept, any property as payment for services in connection with this case.

7. This order becomes effective on July 15, 2004.

**IT IS SO ORDERED.**

At Atlanta, Georgia, this 17<sup>th</sup> day of may, 2004.

  
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JOYCE BIHARY  
CHIEF U. S. BANKRUPTCY JUDGE  
FOR THE COURT