

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA**

IN RE:

**FEES, EXPENSES, AND COSTS OF
ATTORNEYS FOR DEBTORS IN
CHAPTER 13 CASES**

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**GENERAL ORDER
NO. 22-2017**

**ORDER WITH REGARD TO FEES, EXPENSES AND COSTS
OF ATTORNEYS FOR DEBTORS IN CHAPTER 13 CASES**

This Order establishes procedures for attorneys to utilize in charging and collecting attorney's fees, expenses, and costs in connection with representation of Debtors in Chapter 13 cases in accordance with the Local Form for Chapter 13 plans that the Court adopted in General Order 21-2017 (the "Local Form"). As used in this Order, "Debtor" includes both debtors in a joint Chapter 13 case, and "Trustee" means the Chapter 13 Trustee in the case.

This Order establishes no particular fee or method of payment of the attorney's fees, expenses, and costs. The agreement between the attorney and the Debtor must provide for reasonable fees in accordance with 11 U.S.C. § 330(a)(1) and (a)(4)(B) and the ethical requirements of the State Bar of Georgia. Pursuant to 11 U.S.C. § 329(b), the Court may order the return of excessive fees, expenses, and costs. Allowable expenses and costs may include the payment of the fee required for filing the case. All terms and conditions of the agreement between the Debtor and the attorney must be disclosed in the statement that Rule 2016(b) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") requires (the "2016(b) Statement").

1.0 Attorney must represent Debtor in all matters. Attorneys representing Debtors in Chapter 13 cases must represent the Debtor in all matters related to the case

that affect the Debtor's interests unless the attorney is permitted to withdraw by order of the Court. See N.D. Ga. Bankruptcy Local Rule 9010-5.

2.0 Use of Local Form § 4.3 for payment of attorney's fees, expenses, and costs through the Chapter 13 plan.

2.1 General rule. Local Form § 4.3 permits the payment of the fees, expenses, and costs of the Debtor's attorney from payments that the Debtor makes to the Trustee under the plan. Section 4.3 applies when the agreement between the Debtor and the attorney involves either (A) a "flat fee" for all services in the case; or (B) an initial "flat fee" for services commonly required in the case prior to confirmation of the plan and additional fees, expenses, and costs for specific tasks pursuant to a set fee schedule for the specified tasks or on an hourly basis. Any provisions for additional fees, expenses, and costs must be included in the agreement between the Debtor and the attorney and disclosed in the 2016(b) Statement.

2.2 Nonstandard provision required for certain fees, expenses, and costs. Local Form § 4.3 is not applicable for the allowance of fees, expenses, and costs if the fee agreement between the Debtor and the attorney provides for fees on an hourly basis or if the fee agreement does not contemplate a flat fee for most services prior to confirmation of the plan. For fee agreements of this nature, the plan must include a nonstandard provision in Local Form § 8 that provides for allowance and payment of the attorney's fees, costs and expenses. The 2016(b) Statement must contain sufficient information regarding the fee arrangement to allow thorough review by the Court and all parties in interest. The nonstandard provision must state whether Local Form § 4.3 will govern disbursement to the attorney of fees, costs, and expenses. If so, the nonstandard provision must state: (A) an estimate of the fees, expenses, and costs that

the Debtor and the Debtor's attorney anticipate will be required during the case and a monthly amount to be paid to the attorney as a monthly amount under Local Form §4.3 to the extent that they are allowed; (B) that, pending allowance of the attorney's fees, expenses, and costs, the Trustee will reserve funds otherwise payable to the attorney under Local Form § 2.6(b) and for disbursement of the reserved funds to the extent that the attorney's fees, expenses, and costs are allowed; and (C) that any funds reserved in excess of the allowed amounts shall be treated as a Regular Payment under Local Form § 2.4. Otherwise, the nonstandard provision must state how the allowed attorney's fees, expenses, and costs will be paid.

3.0 Allowance of fees, expenses, and costs of Debtor's attorney.

3.1 Allowance of fees, expenses, and costs of Debtor's attorney set forth in Local Form § 4.3; allowance of additional amounts. Upon confirmation of the plan, the unpaid fees, expenses, and costs of the Debtor's attorney set forth in Local Form § 4.3 are allowed as administrative expenses under 11 U.S.C. § 503(b) subject to the terms of this Order and of the confirmed plan. The Debtor's attorney must file an application for allowance of additional fees, expenses, and costs that are not set forth in Local Form § 4.3. The application must describe how the allowance and payment of the additional fees, expenses, and costs, will affect distributions to creditors under the plan.

3.2 Allowance of fees, expenses, and costs of Debtor's attorney provided for in nonstandard provision. If the fees, expenses, and costs of the Debtor's attorney are the subject of a nonstandard provision in accordance with § 2.2 of this Order, the Debtor's attorney must file an application for allowance of the fees, expenses, and costs in accordance with Bankruptcy Rule 2016.

3.3 Procedure for allowance of fees, expenses, and costs of Debtor's attorney. The following applies when this Order requires an application for allowance of any fees, expenses and costs of the Debtor's attorney:

3.3.1 Upon filing such an application, the Debtor's attorney may schedule a hearing using the self-calendaring procedure of the judge assigned to the case.

3.3.2 If the application seeks an amount less than or equal to the amount set forth in Bankruptcy Rule 2002(a)(6), the Debtor's attorney may upload a proposed order and notice in the form attached hereto as Exhibit A, which provides for the allowance of such fees, expenses, and costs without a hearing and without further order in the absence of a timely objection and schedules a hearing if a timely objection is filed. The assigned judge may enter the uploaded order and notice; enter a different order; or direct the Debtor's attorney to schedule a hearing on the application.

4.0 Payment of fees, expenses, and costs of attorney for Debtor upon conversion to Chapter 7 or dismissal of case. The following provisions apply when the plan filed with the Court contains Local Form §§ 4.3(f), (g), (h), or (i), as applicable, or if a nonstandard provision with regard to the Debtor's fees, expenses, and costs contains a substantially similar provision:

4.1 Conversion to Chapter 7 before confirmation. If (A) the case is converted to Chapter 7 before confirmation; (B) the Debtor's attorney has complied with the requirements of this Order; (C) the 2016(b) Statement discloses that the Debtor has directed the Trustee to disburse funds to the Debtor's attorney to pay unpaid fees upon conversion; and (D) Local Form § 4.3(f) or a similar provision so provides, then the Trustee is authorized to deliver to the Debtor's attorney, from funds available, the

amount equal to (X) the unpaid amount of the fees, expenses, and costs of the Debtor's attorney, not to exceed \$2,500, less (Y) any payments to Debtor's attorney prior to conversion.

4.2 Dismissal before confirmation. Unless the Court orders otherwise, if (A) the case is dismissed before confirmation; (B) the Debtor's attorney has complied with the requirements of this Order; and (C) Local Form § 4.3(g) or a similar provision so provides, then the Debtor's attorney shall be allowed an administrative expense, subject to objection, in the amount of (X) the smaller of \$ 2,500 or the amount of fees, expenses, and costs set forth or estimated in the plan, less (Y) any payments to Debtor's attorney prior to dismissal. Debtor's attorney may file a fee application in compliance with Bankruptcy Rule 2016(a) to request allowance of any fees, expenses, and costs in excess of \$ 2,500, but it must be filed within 14 days of the dismissal. The Trustee is authorized to pay from funds available, after payment of the Trustee's fees and, if applicable, any payments due under 11 U.S.C. § 1326(a)(1)(B) or (C) and in accordance with the plan, the amount allowed herein or pursuant to any fee application at dismissal pursuant to 11 U.S.C. § 1326(a)(2).

4.3 Conversion to Chapter 7 after confirmation. If (A) the case is converted to Chapter 7 after confirmation; (B) the Debtor's attorney has complied with the requirements of this Order; (C) the 2016(b) Statement discloses that the Debtor has directed the Trustee to disburse funds to the Debtor's attorney to pay unpaid fees upon conversion; and (D) Local Form § 4.3(h) or a similar provision so provides, then the Trustee is authorized to deliver to the Debtor's attorney from funds available, the unpaid amount of the allowed fees, expenses, and costs of the Debtor's attorney.

4.4 Dismissal after confirmation. Unless the court orders otherwise, if (A) the case is dismissed after confirmation; (B) the Debtor's attorney has complied with the requirements of this Order; and (C) Local Form § 4.3(i) or a similar provision so provides, then the Trustee is authorized to pay from funds available, after payment of the Chapter 13 trustee's fees and, if applicable, any payments due under 11 U.S.C. § 1326(a)(1)(B) or (C) and in accordance with the plan, the unpaid amount of the allowed fees, expenses, and costs of the Debtor's attorney.

5.0 Filing and content of 2016(b) Statement. The 2016(b) Statement must:

5.1 Be filed before the payment of any fees, expenses, and costs of the Debtor's attorney in the bankruptcy case;

5.2 Describe all fees received before the filing of the case and the amounts and method of any future payments;

5.3 Disclose any direction given by the Debtor with regard to disbursement of funds held by the Trustee upon conversion of the case, as set forth in Local Form §§ 4.3(f) and (h); and

5.4 Certify that the attorney has provided the Debtor a copy of the "Rights and Responsibilities" as set forth in § 8.0 of this Order.

6.0 Attorney for Debtor cannot accept fees from Debtor after filing of case except as the Debtor's plan and this Order permit. The attorney for the Debtor shall not accept payment of fees from a Debtor after the filing of the Debtor's case except as set forth in the Debtor's plan and as set forth in this Order.

7.0 Objections regarding fees, expenses, and costs of Debtor's attorney.

Any agreement between the Debtor and the Debtor's attorney is subject to objection by

any party in interest. Any party in interest may object to allowance of any fees, costs, and expenses of Debtor's attorney.

8.0 Statement of rights and responsibilities. Before filing a Chapter 13 petition on behalf of a Debtor, the attorney for the Debtor must provide the Debtor a copy of the statement of Rights and Responsibilities attached as Exhibit B and shall certify same in the 2016(b) Statement. Failure of an attorney to perform all of the attorney's duties set forth in the statement of Rights and Responsibilities may result in the reduction or disgorgement of fees, expenses, and costs in such amount as the Court concludes is appropriate.

9.0 Modification of fee agreement by the Court. The Court in its discretion may modify any agreement between the Debtor and the Debtor's attorney with regard to fees, expenses, and costs in connection with services rendered in connection with representation of the Debtor in the case. A modification that results in a reduced fee will not constitute grounds for the attorney for the Debtor to withdraw, and it will not reduce the duty that the attorney has to the Debtor.

10.0 Interim nature of payment of fees, expenses, and costs of Debtor's attorney. Any allowed fees, expenses, and costs of the Debtor's attorney paid in conjunction with the case shall be interim in nature and subject to review, disallowance, and disgorgement upon request of any party in interest or *sua sponte* by the Court.

11.0 Effective Date; Superseding of prior General Orders; Transition.

11.1 This Order is effective December 1, 2017.

11.2 In cases to which this Order applies, this Order supersedes General Order No. 18-2015, Compensation of Attorneys for Debtors in Chapter 13 Cases. General

Order No. 18-2015 remains in effect with regard to cases to which this Order does not apply.

11.3 This Order applies: (A) in all cases filed on or after December 1, 2017; (B) in all cases filed before December 1, 2017, that are converted to Chapter 13 on or after December 1, 2017; and (C) in all cases filed before December 1, 2017, in which the Debtor did not file a plan before December 1, 2017.

EXHIBIT A

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
[Appropriate Division] DIVISION

IN RE:)	Case No. <i>[xx-xxxxx]</i> – <i>[Assigned</i>
)	<i>Judge's Initials]</i>
<i>[Name of Debtor(s)],</i>)	
)	
Debtor(s).)	Chapter 13
)	

**ORDER SETTING OBJECTION DEADLINE ON APPLICATION FOR
COMPENSATION, SETTING HEARING IF OBJECTIONS ARE FILED, AND
GRANTING APPLICATION IN THE ABSENCE OF FILED OBJECTIONS**

On *[Date of filing application]* Debtor's[s'] attorney ("Counsel") filed an Application for Compensation (the "Application") (Doc. No. *[Docket no. for application]*). The Application seeks approval of additional compensation for services rendered, and/or expenses incurred. In the Application, Counsel asserts that it is entitled to an additional \$*[enter amount less than or equal to the amount set forth in Bankruptcy Rule 2002(a)(6)]* for *[state specific services rendered and/or expenses incurred]* based on the Attorney-Client Agreement signed by the Debtor(s), and the Disclosure of

Compensation (“2016(b) Statement”) filed on *[Date of filing Rule 2016(b) Statement. (Doc. No. [Docket no. for 2016(b) Statement])]*.

Upon review of the Application, the Rule 2016(b) Statement, and the docket in this case,

IT IS ORDERED that any objections to the Application must be filed with the Clerk of this Court and served on Counsel and the Chapter 13 Trustee no later than 21 days after entry of this Order and Notice (the “Objection Deadline”);

IT IS FURTHER ORDERED that, if no objections are filed by the Objection Deadline, the attorney’s fees and/or expenses requested in the Application shall be allowed as of the date of the Objection Deadline, subject to the provisions of General Order 22-2017, and the Chapter 13 Trustee shall pay such allowed fees pursuant to the confirmed plan in this case and the provisions of General Order 22-2017.

IT IS FURTHER ORDERED AND NOTICE IS HEREBY GIVEN that, if an objection is filed on or before the Objection Deadline, a hearing will be held on *[Choose a hearing date and time in accordance with the assigned judge’s self-scheduling procedures and insert in the form “at __: __ __.m. on [month] [day], [year] that is at least 30 days from the date this order and notice is submitted] in Courtroom [Insert Courtroom Number of assigned judge], United States Courthouse, [Insert Courthouse address for appropriate division]*.

The Clerk is DIRECTED to serve a copy of this Order upon Debtor(s), Counsel, the Chapter 13 Trustee, and all parties requesting notice in this case.

END OF ORDER

EXHIBIT B

Rights and Responsibilities Statement

(Statement adopted by General Order 18-2015 to be included here)