

**United States Bankruptcy Court
Northern District of Georgia**

1415 U.S. COURTHOUSE
75 SPRING STREET, S.W.
ATLANTA, GEORGIA 30303

CHAMBERS OF
STACEY W. COTTON
CHIEF JUDGE

PHONE: 404-215-1026

NOTICE

DATE: September 9, 2003

RE: CHAPTER 13 DEBTORS' ATTORNEYS' FEES

TO: Attorneys who practice in the Bankruptcy Court for the Northern
District of Georgia

General Order No. 9 has been adopted by the Court after a great deal of study and deliberation. The Court has carefully taken into consideration the viewpoints of the Chapter 13 Trustees in this District as well as those of many members of the Bar who have provided their input. The Court thanks all of those who have contributed to the process and hopes that this new Order will be both workable from a practical standpoint and helpful in improving the quality of legal services rendered to Chapter 13 debtors in this District.

General Order No.9 is effective as to all Chapter 13 cases filed on or after September 8, 2003.

All Chapter 13 cases filed prior to September 8, 2003 are governed by General Order No. 4.

The Court advises the Bar that the process of revising the form Chapter 13 plan used in this District is underway and will require more detailed information in a Chapter 13 plan, so that the debtor's attorney and the debtor will be able to determine what is feasible, given the likely claims and the debtor's income and expenses. The Court does not intend to increase the amounts in General Order No. 9 when it adopts new requirements in the Chapter 13 plan procedure. This Order is adopted in anticipation of the additional plan requirements.

Chief Judge Stacey W. Cotton
FOR THE COURT

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA

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W. YVONNE EWANS
CLERK

GENERAL ORDER NO. 9 BY Theresa Casey

(Supercedes General Order No. 4 as to cases filed on or after September 8, 2003)

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 the debtor agree that the fee for representation in a Chapter 13 case will be less than \$2,501. 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, effective as to cases filed on or after September 8, 2003, an attorney for a Chapter 13 debtor or joint debtors (“**Debtor**”) need not file a fee application if the fee sought to be paid is less than \$2,501 per case; provided, however, that:

(a) upon confirmation of a plan in the first distribution thereunder, the Chapter 13 Trustee (“**Trustee**”) is authorized to disburse to the debtor’s attorney an amount not to exceed \$1,500, less any attorney’s fee received prior to filing, such disbursement to be made from the proceeds available and paid into the office of Trustee by Debtor, or on Debtor’s behalf, after deduction of any unpaid filing fees and payment of Trustee’s fees and expenses;

(b) Trustee is authorized to disburse the balance of any such attorneys fees under Debtor’s plan at the rate of up to \$125 per month, beginning in the month following the first Plan distribution set forth in (a) and continuing monthly until paid; and

(c) if no plan is confirmed and the case is dismissed or converted to a Chapter 7, unless otherwise ordered, Trustee is authorized to disburse to Debtor’s attorney compensation not to exceed the sum of \$900, less any sums previously received after deduction of any unpaid filing fees and payment of Trustee’s fees and expenses; and it is

ORDERED that 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; and it is

ORDERED that 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

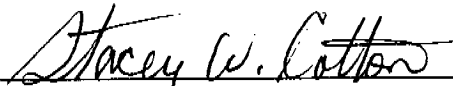
same in the Rule 2016(b) disclosure statement; failure of an attorney to perform all of the duties set forth in said Rights and Responsibilities may result in the reduction or disgorgement of attorneys fees, for each such occurrence, in such amount as the court finds appropriate; and it is

ORDERED that nothing herein shall prohibit Debtor's attorney in any case from seeking compensation pursuant to the requirements of 11 U.S.C. §330; and it is

ORDERED that 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, at Atlanta, Georgia, this the 8th day of September, 2003.

FOR THE COURT:



STACEY W. COTTON, CHIEF JUDGE
UNITED STATES BANKRUPTCY 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 properly documented proof of income.

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 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.
3. 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.

4. Timely prepare and file Debtor's petition, plan, Schedules and any other required pleading.
5. 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 ("Trustee"), with particular attention to housing and vehicle payments.
6. Advise Debtor of the need to maintain appropriate insurance especially for house and vehicle(s).

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. Notify the attorney immediately of any **change** in Debtor's **address or telephone number**.
4. Inform the attorney immediately of any **wage garnishments, liens or levies** on assets that occur or continue after the filing of the case.

5. 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.
6. 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.
7. 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.
8. Contact the attorney before buying, refinancing, or contracting to sell real property, and before entering into any loan agreement.

THE ATTORNEY SHALL:

1. Advise 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. Timely submit to Trustee properly documented proof of income for each Debtor, including business reports for self-employed Debtors.
6. Timely respond to objections to plan confirmation, and where necessary, prepare, file and serve amended Schedules or an amended plan.

7. Timely prepare, file, and serve any necessary amended statements and Schedules and any change of address, in accordance with information provided by each Debtor.
8. 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.
9. Promptly respond to Debtor's questions through the term of the plan.
10. Timely prepare, file and serve necessary modifications to the plan after confirmation, including modifications to suspend, lower, or increase plan payments.
11. Prepare, file and serve necessary motions to buy or sell property and to incur debt.
12. 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.
13. 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.
14. Timely confer with Debtor and respond to motions for relief from stay.
15. Timely prepare, file and serve appropriate motions to avoid liens.
16. Provide any other legal services necessary for the administration of the case.