

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF LOUISIANA

In re: *

Chapter 13 *
Fixed Fee Agreement Section A *

*

Reasons for General Order No. 2007-2

On June 5, 2006, Administrative Order 06-03 was entered in all pending Chapter 13 bankruptcy cases filed in the Eastern District of Louisiana accepting a fixed fee arrangement for debtors' counsel representation. Subsequent to the entry of that Order, this Court has obtained additional information regarding the time spent and activities required by debtors' counsel in chapter 13 matters filed in this district. In particular, this Court has considered the affidavits of debtors' counsel setting forth the time and costs required to represent a debtor based on the activities required by this Court's previous Administrative Order.

As a result, this Court has determined that additional time is being expended over that originally believed necessary to handle the typical chapter 13 matter. Based on the information supplied, this Court finds that debtor's counsel spend an average of 12.5 to 14 hours to perform the services required by the fixed fee arrangement proscribed by Administrative Order 06-03.

As a result, this Court believes that a modification to Administrative Order 06-03 is warranted and will be implemented by adjusting the fixed fee allowed in the district as follows:

In the event that debtors' counsel elect to represent debtors on a fixed fee basis in accordance with the terms of the Administrative Order, no application for compensation will be required. To the extent debtors' counsel accept representation on any terms deviating from those set forth herein, application for approval of the fee agreement must be made with the Court.

I. Fee Arrangements Governed By This Order

If counsel agrees to accept a fixed fee arrangement that meets the standards set forth in this Order, counsel shall file (1) a Bankruptcy Rule 2016(b) Disclosure of Fixed Fee Agreement in the form set forth as Exhibit “A” and (2) include a provision in the Chapter 13 plan providing for the payment of the remainder of the unpaid fixed fees in the amount contained in the Rule 2016(b) Disclosure. The form of Exhibit “A” *must be* utilized without variation in order to take advantage of the procedures set forth in this Order and the fixed fee.

II. The Scope of Work Required

The actual work that is governed by the fixed fee arrangement is set forth in Exhibit “A.” The fee agreement must provide comprehensive services to debtors for a period ending not less than 120 days after confirmation of debtors’ Chapter 13 plans.¹ Counsel must agree to prepare, review and file the plan, schedules, statement of financial affairs, amended plans, and all other papers and motions required in the case. Counsel must answer motions filed against the debtors, even if the answer is that the debtors do not oppose the relief requested. Counsel must attend the §341 meeting and, if required, attend the confirmation hearing. Counsel must advise debtors concerning their obligations and duties pursuant to the Bankruptcy Code, Bankruptcy Rules, applicable court orders and the provisions of their Chapter 13 plan. Counsel will not be required to respond to or commence adversary proceedings as part of the fixed fee arrangement. The fixed fee arrangement will require postconfirmation work including, but not limited to, defense of motions to lift stay or dismissal filed within the relevant time period, as well as routine claim objections necessary to

¹ Counsel is excused from continued representation only by order of the Court. As a result, counsel will be required to respond to any Motion to Dismiss a client’s case whenever filed, unless excused from representation by the Court. However, counsel electing the fixed fee arrangement set forth in this Order may seek additional compensation for work on matters first set for hearing after the expiration of 120 days.

implement, confirm or enforce the terms of a plan. It will also require the filing of modifications to confirmed plans made necessary by the filing of proofs of claim.

The Court will set the fixed fee for this district at \$2,520.00 for all cases filed on or after April 23, 2007, and for debtors with disposable income, as calculated by Official Form B22C, in excess of the median family income for a family of like size living in the State of Louisiana as determined by the United States Census Bureau. The fixed fee in this district for all cases filed on or after April 23, 2007, and for debtors with disposable income, as calculated by Official Form B22C, below the median family income for a family of like size living in the State of Louisiana as determined by the United States Census Bureau shall be \$2,250.00.

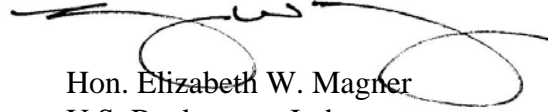
The fixed fee limits approved by the Court in this Order are not exclusive. Counsel have the option to forego the pre-approved fixed fee arrangement described in this Order in favor of a traditional application based on a lodestar analysis, statute and any other factors counsel believe relevant.² The purpose of this Order is to establish a standard that is optional, simple, and efficient, but that meets both practical and statutory considerations.

If counsel elect to file individual applications for compensation under traditional statutory guidelines, daily time sheets should be maintained, and time should be delineated by tasks in 1/10th of an hour increments by the party performing the task. Applications for compensation in excess of the fixed fee may not be filed or set for hearing until 120 days following the confirmation of the

² *In re Cahill*, 428 F.3d 536 (5th Cir. 2005); *In re Fender*, 12 F.3d 480 (5th Cir. 1994); *Johnson v Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974).

plan. The Chapter 13 Trustee is not authorized to disburse administrative expenses to counsel in excess of the fixed fee limits without a court order approving same.

New Orleans, Louisiana, May 3, 2007.

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke at the top.

Hon. Elizabeth W. Magner
U.S. Bankruptcy Judge

EXHIBIT “A”

Bankruptcy Rule 2016(b) Disclosure
of Fixed Fee Agreement

[Name of attorney] files this Bankruptcy Rule 2016(b) Disclosure and Application for Approval of Fixed Fee Agreement.

1. I have agreed to provide the following services to the Debtor(s) on a fixed fee basis:

- A. Counsel with the Debtor(s) on an as needed basis;
- B. Prepare and file a proposed Chapter 13 plan and any required amendments to the plan;
- C. Prepare and file the required schedules, statement of financial affairs, and any other required documents with the Court, Chapter 13 Trustee, or United States Trustee’s office;
- D. Prepare and file miscellaneous motions required to protect the Debtor(s)’ interests in the case;
- E. Prepare and file responses to motions filed against Debtor(s)-even if the response is a statement that the Debtor(s) have no opposition to the relief requested – (Section A only);
- F. Attend the §341(a) meeting of creditors;
- G. Prepare and file objections to claims necessary to confirm, implement or enforce the terms of a plan which could have been brought within 120 days of confirmation.
- H. Attend the confirmation hearing, if required under the circumstances, including but not limited to if Objection is filed; and
- I. Advise the Debtor(s) concerning their obligations and duties pursuant to the Bankruptcy Code, Bankruptcy Rules, applicable court orders and the provisions of their chapter 13 plan.

2. The fixed fee agreement does not include the following services:

- A. Representation of the Debtor(s) in an adversary proceeding, either as a plaintiff or a defendant;

B. Representation of the Debtor(s) in a contested matter, the subject of which is extraordinary in the context of chapter 13 cases in the United States Bankruptcy Court for the Eastern District of Louisiana;

C. Representation of the Debtor(s) in any matter in which the Court orders fee shifting pursuant to which fees are to be paid by a person other than the Debtor(s); and

D. Representation on matters for which the first hearing is set more than 120 days following confirmation.

3. I have not shared or agreed to share any of the compensation paid or to be paid. The following sets forth all compensation that is being paid by any person or entity other than the Debtor(s).

4. As of the filing of this petition, I have received \$_____ in compensation and \$_____ will be paid under the chapter 13 plan.

Dated _____

Counsel to Debtor(s)