

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

In Re:)	
)	
Sequence of Payments for the Distribution of)	Administrative Order No. 17-07
Attorney Fees to Debtors' Attorneys by the)	(Southern Division Only)
Chapter 13 Standing Trustee)	
)	

**ADMINISTRATIVE ORDER AUTHORIZING AND ALLOWING
THE SEQUENCE OF PAYMENTS FOR THE DISTRIBUTION OF ATTORNEY FEES
TO DEBTORS' ATTORNEYS BY THE CHAPTER 13 STANDING TRUSTEE**

This Order amends and replaces Administrative Order 16-02 entered on February 19, 2016 to ensure consistency with Rule 3015.1 of the Federal Rules of Bankruptcy Procedure, and Local Bankruptcy Rules 1006-1 and 5081-1. The provisions of this Administrative Order are applicable only in Chapter 13 cases filed in the Southern Division. The following sequence of payments is authorized for the Chapter 13 Standing Trustee's distribution of funds in cases where the original petition was filed on or after December 1, 2017, if the plan or modified plan approved by the Court so provides:

- I. From payments received by the Trustee, the Trustee shall collect his percentage fee currently due from all Payments Under the Plan at the time that funds are disbursed until said fee is collected in full;
- II. From payments received by the Trustee, the Trustee shall then disburse any case filing fees that are currently due under 28 U.S.C. Chapter 123 and Local Rule 1006-1;
- III. From payments received by the Trustee, the Trustee shall then disburse adequate protection payments to secured or lease creditors with allowed claims as provided in the debtor's most recent plan until the amounts that are then currently due are paid in full;
- IV. From payments received by the Trustee, the Trustee shall then disburse the initial payment of attorney fees to debtor's attorney as awarded in the Confirmation Order, if an initial payment is awarded, until the initial payment is paid in full;
- V. From payments received by the Trustee, the Trustee shall then disburse pursuant to the

Confirmation Order or a subsequent Order of the Court the following amounts proportionately:

- a. The monthly fixed payments awarded to secured creditors with filed, allowed claims including any amounts currently due and any unpaid arrearages; and
- b. The monthly fixed payments awarded to priority unsecured creditors with filed, allowed claims including any amounts currently due and any unpaid arrearages; and
- c. The monthly fixed payments awarded to debtor's attorney for the unpaid balance of attorney fees including any amounts due and any unpaid arrearages; and
- d. The monthly fixed payments awarded for any other administrative expense including any amounts currently due and any unpaid arrearages.


The monthly fixed payments identified above in Paragraph V shall continue until the amounts that are then currently due are paid in full.

VI. The monthly fixed payments identified in Paragraph V above that are due pursuant to the Confirmation Order or a subsequent Order of the Court but are unpaid shall accrue proportionately based upon the amount of each fixed payment awarded, and shall be paid proportionately by the Trustee on a pro rata basis from available funds on hand.¹

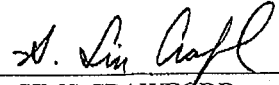
VII. The provisions of this Administrative Order shall not be deemed collateral estoppel or res judicata as to a creditor, a creditor's attorney, or another party in interest who files an objection to confirmation or an objection to modification of a Chapter 13 plan pursuant to the United States Bankruptcy Code or other applicable law.

¹ For example: If the Confirmation Order provides for fixed payments in the amount of \$200 to a secured car creditor, \$200 to a secured mortgage creditor, and \$100 to debtor's attorney for the balance of the attorney fee awarded in the Confirmation Order, and the Trustee has received a partial plan payment in the amount of \$100, the Trustee shall disburse, after payment of Trustee fees, approximately \$40 to the secured car creditor, approximately \$40 to the secured mortgage creditor, and approximately \$20 to the debtor's attorney.

Dated this the 2nd day of October, 2017.



TAMARA O. MITCHELL
United States Bankruptcy Judge



D. SIMS CRAWFORD
United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

In re:)	
)	
Compensation for Debtors' Attorneys)	Administrative Order No. 17- <u>03</u>
in Chapter 13 Cases)	(Southern Division Only)
)	
)	

**ADMINISTRATIVE ORDER SUPPLEMENTING
LOCAL BANKRUPTCY RULE 2016-1**

This Order replaces Administrative Order 11-02 entered on December 16, 2011.

The United States Bankruptcy Court for the Northern District of Alabama has adopted Local Bankruptcy Rule 2016-1 which provides for an award of an attorney fee in Chapter 13 cases without the filing of a fee application so long as debtor's counsel complies with the Rule. It appears to this Court that in addition to the provisions of the Rule, which will continue to be applicable in all cases assigned to this Court in the Southern Division, in some cases a fee enhancement may be appropriate while in other cases a substantial fee reduction may be appropriate. Thus, this Order will supplement that Local Rule and authorize both the enhancements and the reductions, and provide, outline and define factors and criteria that will be utilized and applied in determining the fees to be awarded to attorneys for debtors in Chapter 13 cases assigned to the undersigned Judges in the Southern Division when the attorneys seek a fee based on the Local Rule without the filing of a fee application.

A. FEE ENHANCEMENTS

The Court will consider each case to determine whether a fee enhancement is appropriate. This determination will generally occur at the time of confirmation but will not necessarily be limited to that time frame. This enhancement will be in the sole and complete discretion of the Court. The factors and criteria that the court will consider include but are not limited to the following:

1. The Chapter 13 plan is confirmed without objection or all objections to confirmation are resolved at least 7 days prior to the date of confirmation;
2. The complexity and size of the case, including the complexity of the proposed distributions under the debtor's plan;
3. The amount of fees that the debtor has paid to attorneys for prior cases.
4. The amount of fees paid pre-petition;
5. Whether the petition, plan, schedules and all documents were timely filed, complete, legible, and provided sufficient information for the Court and Trustee to properly analyze the case and plan;

6. Whether any filing fees due were timely remitted, and
7. Whether the attorney appeared timely at scheduled hearings.

The amount of any enhancement may vary depending on the circumstances of each case and shall also be in the sole and complete discretion of the Court. Further, attorneys that represent Chapter 13 debtors shall advise their clients of potential fee enhancements or shall notify the Court that an enhancement is waived.

B. FEE REDUCTIONS

The Court has been and continues to be cognizant of the overuse of "emergency filings"; attorneys too often file a case that they deem an emergency in order to file the bare minimum to get a case number and have a case filing. While this Court fully supports the opportunity to protect debtors by these emergency filings, it also appears to this Court that some may be abusing the process. An emergency filing must include the following forms that are properly completed and signed: petition, Form B 121 (Statement of Social Security Number), and Matrix. If a case is an emergency, and if all documents are not filed, the clerk's office enters a notice of deficiency and the CM/ECF system provides on the docket report the date by which the schedules and other remaining documents are due.

In addition to schedules and documents being filed untimely, some that are filed are not legible, are scanned in at an angle or wrong side up, and often have missing information. The Court will review the cases and may reduce the attorney fee based on any deficiencies and any failure to timely correct the deficiencies. The factors and criteria that the Court will consider include but are not limited to the following:

1. The completeness of the schedules and the timeliness of the filing of all schedules and required documents, and the accuracy of the docket events selected compared to the actual PDF document that is filed;
2. The number of prior cases for a debtor filed by the same attorney and the fees paid in prior cases;
3. Whether the attorney appears timely at scheduled hearings;
4. Whether the terms of the plan are clear, concise, adequate and complete;
5. The number of confirmation hearings required to get a plan confirmed if the delay is based on the failure of the debtor's attorney to timely provide information, file documents or amend the plan;
6. Whether the debtor's attorney has failed to resolve any procedural issues pre-confirmation;
7. The time elapsed from the filing of an objection to confirmation until the time of filing an amended plan or additional documents, if either or both resolve the issue, and
8. Whether a hearing is required on confirmation only to resolve a mathematical dispute between the Trustee and the debtor's attorney

regarding the amount of the plan payment and/or fixed payments, and the dispute is ultimately resolved in favor of the Trustee.

The amount of any reduction may vary; however, if schedules are not timely filed (i.e., by the date the CM/ECF system provides for them to be filed - this is generally NOT the hearing date) then an initial reduction of \$500.00 will be made, and a further reduction of \$100.00 per day may be made for every day the schedules are not filed. In addition, if the schedules are filed but have information missing (examples: dates obligations were incurred, dependents, sufficient description of collateral, etc.) more reductions shall be made and will generally start at no less than \$100.00 for each problem or deficiency. Further, if a plan must be amended because it is incomplete, contains information that is clearly incorrect (example: a fixed payment that is to begin before the case was even filed) or omits available information, and the attorney clearly failed to proof read or check the plan or amended plan before filing it, substantial fee reductions will be made.

C. TRUSTEE RECOMMENDATION

The Chapter 13 Trustee shall make a notation on the 341 bench sheet or by separate pleading if he recommends an enhancement or a reduction. Any such recommendation is contingent on all factors being satisfied as noted in this Order. This recommendation shall be considered but shall not be binding on the Court.

D. EFFECTIVE DATE

This Order shall be effective immediately in all currently pending Chapter 13 cases in the Southern Division, as well as in all new Chapter 13 cases filed in the Southern Division that are assigned to either of the undersigned Judges.

Dated this the 2nd day of October, 2017.


TAMARA O. MITCHELL
United States Bankruptcy Judge


D. SIMS CRAWFORD
United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

In re:
Procedural and Administrative Matters) Administrative Order No. 17-02
) (Southern Division Only)
)

ADMINISTRATIVE ORDER

This Order replaces Administrative Orders 07-06, entered April 19, 2007; 10-05, entered July 1, 2010; and 10-06, entered July 28, 2010.

Rule 9029 of the Federal Rules of Bankruptcy Procedure authorizes this Court to establish and promulgate local rules of practice and procedure not inconsistent with the Federal Rules of Bankruptcy Procedure and subject to the requirements of Rule 83 of the Federal Rules of Civil Procedure.

IT IS HEREBY ORDERED that, effective immediately, the following rules will apply to all cases and proceedings filed and pending in the United States Bankruptcy Court for the Northern District of Alabama, Southern Division.

A. PROCEDURE FOR ASSIGNMENT OF CERTAIN BANKRUPTCY CASES IN THE SOUTHERN DIVISION

1. Any case filed by the same debtor within twelve months of the date of entry of an order of dismissal or discharge of a prior case shall be assigned to the same judge from the prior case.
2. Any case filed by the same debtor within twelve months of the date of closing a prior case shall be assigned to the same judge from the prior case.
3. Any case filed by a debtor that already has a case pending shall be assigned to the same judge as the pending case.
4. If any such case has been assigned either by the random or by the automatic assignment and is inconsistent with this Order, the clerk's office shall reassign the case consistent with this Order.

B. DEFICIENT OR INCOMPLETE PETITIONS, LISTS, STATEMENTS, AND SCHEDULES

In the event the petition is incomplete or fails to comply with the Bankruptcy Code, Federal Rules of Bankruptcy Procedure, or Local Bankruptcy Rules, the clerk shall provide a deficiency notice to the debtor and the attorney for the debtor accompanied by a notice which will make provision for an opportunity for hearing on the dismissal of the debtor's case for failure to file all required documents timely. The notice shall contain a provision stating that the debtor's case may be dismissed if all required documents are not filed within fourteen days from the date of the filing

of the petition. If all documents are filed timely, the hearing on dismissal may be removed from the Court's calendar without further notice.

C. DOCUMENTATION REQUIRED FOR PERCENTAGE, POT, AND BASE PLANS IN CHAPTER 13 CASES

Within fourteen days of the filing of a petition for relief under Chapter 13 of the Bankruptcy Code in a case in which the plan proposes to pay less than 100% to unsecured creditors, or within fourteen days of the filing of a motion to modify the plan in a Chapter 13 case which reduces the proposed distribution to unsecured creditors to be less than 100%, the debtor must provide to the Chapter 13 trustee and file with the clerk the following additional documentation:

1. The two most recent pay stubs for the debtor and debtor's spouse, even if the debtor's spouse is not a co-debtor;
2. All W-2 statements or income tax returns for the last calendar year for the debtor and the debtor's spouse, even if the debtor's spouse is not a co-debtor;
3. A recent appraisal or statement from the tax assessor as to the value of each parcel of real estate in which the debtor owns an interest; and
4. A statement of the equity in any mobile home owned by the debtor.

Before filing these documents, the debtor shall redact all but the last four digits of the Social Security number and any account numbers, the names of all minor children, and the month and day of any birth date. Further, these documents shall be filed using the appropriate docket event so this information is protected for privacy purposes pursuant to the Guide to Judiciary Policy. If the debtor fails to properly file the additional documentation at the time of the filing of the plan or the motion to modify, the plan may not be confirmed, or the motion to modify may not be granted.

D. DISTRIBUTION OF PRE-CONFIRMATION ADEQUATE PROTECTION PAYMENTS ON PERSONAL PROPERTY IN CHAPTER 13 CASES

1. The Chapter 13 plan proposed and filed by the debtor may provide for pre-confirmation lease payments on personal property under 11 U.S.C. § 1326(a)(1)(B).
2. The Chapter 13 plan proposed and filed by the debtor may provide for pre-confirmation adequate protection payments on personal property under 11 U.S.C. § 1326 (a)(1)(C).
3. The Chapter 13 trustee is directed to make the pre-confirmation lease and adequate protection payments on personal property described above as proposed in a debtor's Chapter 13 plan if proper proofs of claim are filed.

E. NOTICE OF OBJECTION DEADLINE AND CONFIRMATION HEARINGS IN CHAPTER 13 CASES

Upon the filing of an amended Chapter 13 plan, the Court may, in its discretion, and where appropriate, shorten the notice time for

1. The deadline for filing an objection to confirmation, and

2. The continued confirmation hearing.

F. MOTIONS TO SUSPEND PAYMENTS, MOTIONS TO REDUCE PAYMENTS, AND MOTIONS TO MODIFY A CONFIRMED PLAN IN A CHAPTER 13 CASE

Except as otherwise directed by the Court, when the following motions are filed:

1. Motions to Suspend Payment,
2. Motions to Reduce Payments, and
3. Motions to Modify Plan (whether included with an Amendment to Schedules),


the clerk shall send a notice to the parties to whom notice is properly given advising the party that a motion has been filed and that the party has twenty-one days from the date of the notice to object to the filed motion and to request a hearing. The clerk shall not send such a notice on Amendment to Schedules which do not contain a Motion to Modify Plan. If no objection is timely filed, the motion may be granted. The clerk shall set all objections filed for a hearing.

G. FILING A CONSENT TO ACTION IN CHAPTER 13 CASES

An attorney may file a Consent to Action at Hearing on a Trustee's Motion to Dismiss in Chapter 13 cases. The Consent must substantially comply with the fillable PDF form found on the Court's website at <http://www.alnb.uscourts.gov/forms/all-forms>. If the Consent is complete, and filed properly and timely, the debtor and debtor's counsel do not have to appear at the hearing. Counsel shall be sure to notify the debtor if he or she does not need to be present.

If the Consent is not timely filed, is not properly filed, is incomplete, or if the form has been altered in any way, then the Trustee's Motion to Dismiss will be heard as scheduled and noticed. If the debtor and debtor's counsel fail to appear, the Court may still proceed with the hearing.

Dated this the 2nd day of October, 2017.


TAMARA O. MITCHELL
United States Bankruptcy Judge


D. SIMS CRAWFORD
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

In re:

) Case. No.
)
Debtor.)

**CONSENT TO ACTION AT HEARING ON
TRUSTEE'S MOTION TO DISMISS**

Comes now the Debtor and hereby consents to the following action being taken in this case at the hearing on the Trustee's Motion to Dismiss:

- The case may be dismissed.
- The case shall be converted to one under chapter 7 at the Debtor's request.
- The Debtor shall resume his/her regular payments to the Trustee.
The Debtor consents that the Trustee's Motion to Dismiss will be conditionally DENIED pending compliance by the Debtor with these conditions: (1) the Debtor shall cause a full plan payment to be received in the Trustee's office before 4:00 p.m., 30 days from the date of the hearing on the Trustee's Motion to Dismiss; and, (2) the Debtor shall cause all plan payments due during the next 12 months to be received in the full amounts due in the Trustee's office before 4:00 p.m. on the dates due. The Debtor further consents that if he/she fails to satisfy these conditions, the Trustee may file a Notice of Continuing Default with the Court, with copies to the Debtor and Debtor's attorney, after which the Court may grant the Trustee's Motion to Dismiss and may dismiss this case without further notice or hearing.
- The Trustee shall issue a payroll deduction order to the employer of the Debtor,
_____ (name of Debtor) at:

(employer's name)

(employer's address)

(employer's telephone number)

The Debtor understands that he/she shall make direct payments to the Trustee until the employer begins the deductions.
- The Debtor consents to increase Chapter 13 plan payments to _____.

DATE:

CONSENTED TO BY:

DEBTOR*

CHAPTER 13 TRUSTEE

DEBTOR*

ATTORNEY FOR DEBTOR(S)

***This form must be signed by the Debtor.**