

**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