

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MARYLAND**

In Re:

\* ADMINISTRATIVE  
ORDER NO. 09-01

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AMENDING APPENDIX F  
OF THE LOCAL  
BANKRUPTCY RULES

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**Dated: June 5, 2009**

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**ORDER AMENDING APPENDIX F OF THE LOCAL BANKRUPTCY RULES**

**WHEREAS**, the U.S. Bankruptcy Court for the District of Maryland received a request from an ad hoc committee of the practicing bar on Chapter 13 attorney fees to consider changes to Appendix F, *Chapter 13 Debtor's Counsel Responsibilities and Fees*, of the Local Bankruptcy Rules; and

After an exchange of communications with the committee, on March 31, 2009, proposed changes to Appendix F were made available for public comment; and

The U.S. Bankruptcy Court having considered comments received during the comment period which ended May 30, 2009, has determined that the changes to Appendix F should be adopted as proposed and included in the Local Rules of this Court, it is therefore:

ORDERED, that effective the first day of July, 2009, Appendix F, as amended, is adopted by the Judges of this Court. The amendment shall be effective as to all proceedings pending in this Court on that date insofar as is just and practicable, and shall govern all proceedings in bankruptcy cases thereafter commenced in this Court.

**SO ORDERED.**



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Duncan W. Keir, Chief Judge

**CHAPTER 13 DEBTOR'S COUNSEL  
RESPONSIBILITIES AND FEES**

1. A copy of paragraphs 2. and 3. of this document, Chapter 13 Debtor's Counsel Responsibilities and Fees, must be delivered to the debtor(s) by counsel at the time counsel is employed, in addition to the retainer agreement by and between the debtor(s) and debtor's counsel.
2. With the exception of adversary proceedings, appeals, and U.S. Trustee audits, for which separate arrangements may be made, counsel must represent their client in all matters in the bankruptcy case as long as counsel is counsel of record. This includes defending motions, including motions for relief from stay, and bringing objections to claims and prosecuting motions on behalf of debtor. After the initial engagement, counsel may not demand payments from the debtor as a precondition to doing the work. Notwithstanding the foregoing, the Court may, upon prior application, allow counsel to enter a limited appearance, including, but not limited to, representation on a pro bono or reduced fee basis.
3. Counsel must remain as counsel of record until the entry of a court order allowing the withdrawal of appearance, or until the case is dismissed or closed. The failure to receive payment for services rendered or to be rendered may serve as the basis for counsel filing a motion to withdraw.
4. The following fee arrangements are presumed reasonable under Section 329 and allowable under Section 330 and require no application or approval, except as stated below. This presumption is rebuttable and the fee can be the subject of an order to justify the fee.

If no objection or order to justify fee is filed or entered, the presumptively reasonable fee is deemed allowed under 11 U.S.C. § 330 without the entry of an Order. However, if an objection or order to justify fee is filed or entered, the burden shall be upon debtor's counsel to prove that the fee should be allowed under 11 U.S.C. § 330 under the facts and circumstances of the case for which the fee is sought. The foregoing notwithstanding, any objection filed by a trustee or other party in interest shall describe the asserted factual basis for rebutting the presumption.

A. A flat fee, not to exceed \$3,500.00 for representation of the debtor for all matters in the main case. However, Counsel may by application request approval of additional fees for work done upon matters that were both not reasonably expected and that are extraordinary, or for work done after 90 days following the entry of the order confirming plan until representation ends. Such application may be made on Local Form E with notice (Local Form E-1).

B. A flat fee, not to exceed \$4,500.00 for representation for all matters in the main case. Except as stated in the following sentence, Counsel waives all opportunity to apply for additional work in the main case. Counsel may by application request approval of additional fees for work done upon matters that were not reasonably expected and that are extraordinary. Such application may be made on Local Form E with notice (Local Form E-1).

C. A flat fee, not to exceed \$2,000.00 for representation of the debtor on all matters relating to plan confirmation. Counsel may apply for additional compensation for additional fees for prosecuting or defending motions not relating to the plan confirmation, including, without limitation, motions for relief from stay, or for claims objections. Such application may be made on Local Form E with notice (Local Form E-1). The requirement for representation in all matters in the bankruptcy case, stated in paragraph 2. above, applies without regard to the more limited coverage of the \$2,000.00 fee arrangements set forth in this subparagraph.

D. In any fee arrangement described in subparagraphs A, B and C above, the plan may provide that the Trustee will disburse any unpaid fees to counsel and other claimants whose claims are described in 11 U.S.C. § 507(a)(2), before any disbursement by the Trustee to other creditors except claimants whose claims are described in 11 U.S.C. § 507(a)(1). Unless otherwise provided by the confirmed Plan, if, after payment to claimants whose claims are described in 11 U.S.C. § 507(a)(1), the remaining unpaid balance of the attorney's fee, the Trustee's commission and other claims described in 11 U.S.C. § 507(a)(2) cannot be disbursed in full from the Plan payments due during the first twelve months of the Plan term, then the remaining unpaid balance of such fee shall be disbursed on a pro rata basis with any other priority and/or secured claims.<sup>1</sup>

5. All fees are subject to subsequent disgorgement upon an order of the court. No plan or confirmation order shall bar by res judicata or otherwise the subsequent review and potential disgorgement of the fee, upon objection or order to justify fee and notice thereof.

6. Full compliance with Federal Rule of Bankruptcy Procedure 2016(b) is required, including the filing of a Supplemental Disclosure on Local Form E-2 of additional funds received from any person, other than distributions from the Trustee under a confirmed plan. Counsel shall state in the Disclosure of Compensation filed pursuant to Federal Rule of Bankruptcy Procedure 2016(b) whether the fee arrangement is one of the flat fees described in subparagraphs A, B or C of paragraph 4 above, and, if so, which such fee arrangement applies.

7. Nothing in this Appendix F shall preclude, restrict, or prohibit counsel from entering into fee arrangements different from those arrangements described in Paragraph 4 above. Counsel must file an application for compensation in accordance with the Bankruptcy Code, Bankruptcy Rules, and the Rules of this Court for any fee arrangement that is different from the fee arrangements described in Paragraph 4 above.

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<sup>1</sup> Nothing in subparagraph 4.D is intended to alter or amend any obligation counsel may have under nonbankruptcy law concerning escrowing, administering or accounting for any funds disbursed to counsel pursuant to these procedures.