

PRESUMPTIVELY REASONABLE (“NO-LOOK”) FEES IN CHAPTER 13 CASES

The bankruptcy judges in this district have determined that for Chapter 13 cases filed on or after November 1, 2017, the presumptively reasonable fee for an attorney representing the debtor, through at least plan confirmation, will be \$4,500 (including costs, but not including the Chapter 13 filing fee). The presumptively reasonable fee will be \$5,000 if the case includes a motion to participate in the Court’s MMM program. The presumptively reasonable fee does not include fees for representing the debtor in adversary proceedings.

Generally, this fee will compensate the debtor’s attorney fairly for all ordinary, necessary and reasonably foreseeable pre-confirmation services and routine post-confirmation services. The services deemed covered by this fee include, without limitation:

1. Preparation and amendment of the petition, schedules, statement of financial affairs, applicable means test forms and Chapter 13 plan.
2. Attendance at the meeting of creditors, including adjournments, unless attendance at an adjournment is excused by the Trustee.
3. Preparation of motions to continue or extend the automatic stay, including appearing at hearings scheduled on those motions.
4. Addressing objections to confirmation and modifying the plan to conform it to claims filed, objections or other requirements of the Code. Serving all amended and modified plans on all creditors.
5. Appearing at all hearings in the bankruptcy case through confirmation of the plan, including all confirmation hearings, whether preliminary or evidentiary.
6. Addressing motions for relief from stay; appearing at hearings as scheduled; and resolving contested stay relief motions as appropriate.
7. Reviewing and objecting to claims.
8. Assisting the debtor with filing the certificate of completion of the financial management course and the certifications for completion of the case.

In the event a chapter 13 case is dismissed before plan confirmation, the Court will approve and allow an administrative priority claim for the debtor’s counsel of up to \$1,000 payable from the funds held by the Chapter 13 trustee before funds are refunded to the debtor. Within 14 days after the dismissal order, any interested party may file an objection to this fee, or the debtor’s counsel may file a fee application to the extent that services rendered by the debtor’s attorney exceed \$1,000. In the event there are any other unpaid administrative expenses awarded under 11 U.S.C. § 503(b), the trustee must pay these expenses along with the balance of the fee award on a pro rata basis from plan payments in the trustee’s possession.

The presumptively reasonable fees described above are just that – presumptions. Where the presumptions apply, the Court will not require the attorney to file an application for compensation if the attorney is requesting the presumptively reasonable amount or less, as long as no party objects to the fee. Nothing precludes the trustee, creditors or the Court itself, however, from questioning the reasonableness of an attorney’s fees in any particular case. It is not reasonable, for example, for a

debtor's attorney to charge the \$5,000 presumptively reasonable fee for a case in which the debtor does not qualify for participation in the MMM program, or for one in which the debtor's attorney does not file a MMM motion.

If a party in interest objects to the presumptively reasonable fee, or asks the judge to determine the reasonableness of the attorney's actual fee, the attorney requesting the fee must submit an application for compensation in accordance with the requirements of Local Rule 2016. The Court then will schedule a hearing to determine the reasonableness of the fee, and the burden of proving that the actual fee is reasonable shall be on the attorney requesting the fee.

The Court also understands that particular circumstances may entail significantly more work than is covered by the presumptively reasonable fees. Negotiating a successful mortgage modification, for example, may, on occasion, entail more than \$500 in debtor's attorney's fees. A particularly complex Chapter 13 case may entail more than \$4,500 in debtor's attorney's fees to get the case to confirmation. If counsel's fees in a particular case exceed the presumptively reasonable fee, counsel may file and serve an itemized fee application in accordance with Local Rule 2016, giving interested parties notice and an opportunity to object.