

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF FLORIDA**

**In Re:**

**Chapter 13 Attorneys Fees, Adequate Protection Payments,  
Annual Statements, Form Plan, and Tax Returns**

**Standing Order No. 19  
AMENDED**

This Order pertains to all Chapter 13 cases in the Northern District of Florida filed on and after June 1, 2013. In order to fairly compensate attorneys providing competent representation of debtors in cases filed under Chapter 13, to provide fair treatment to creditors receiving payments under Chapter 13 plans, and to limit the administrative burdens placed on the Court, the Chapter 13 Trustee and attorneys, the following guidelines and procedures are hereby adopted:

**1. ATTORNEYS FEES**

a. Attorney's fees, excluding costs, in the amount listed on the court's website as of the date of filing the Chapter 13 Petition shall be considered "normal and customary" in "routine" cases under chapter 13 and may be paid by pre-petition retainer, through the plan, or through a combination of the two, without further application to the Court.

b. A "routine" case will normally be one in which the attorney has prepared and filed the petition, lists, schedules, plan and all other required documents; attends the 11 U.S.C. §341 meeting of creditors; attends the hearing on confirmation; prepares and serves notices of valuation pursuant to Local Bankruptcy Rule 3012-1 B; prepares and serves motions to avoid liens pursuant to 11 U.S.C. §522(f); negotiates adequate protection agreements, if necessary, for one automobile and for the homestead; and files uncontested objections to claims.

c. An attorney seeking fees in excess of the amount listed on the Court's website shall file an application in accordance with 11 U.S.C. §330 and Local Bankruptcy Rule 2016-1 B(2). The application shall be supported by contemporaneous time records and shall specifically identify services required to comply with the provisions of BAPCPA and any other factors to justify a departure from the presumptively reasonable fee. Applications for additional fees of less than \$1,000.00 in excess of the presumptively reasonable fee may be considered by the Court without a hearing pursuant to this Court's Local Rules on 21 days negative notice to the trustee and parties in interest. Additional fees may be awarded upon order of the Court; attorneys' fees will not be awarded based on excessive time caused by inefficient use of the attorney's time.

d. The United States Trustee or Chapter 13 Trustee may object to payment of the normal and customary fee in any case in which it appears that such fee is excessive based on the amount of income available to fund a plan, the nature and amount of debt dealt within the plan or for other cause shown. The Court may, *sua sponte* or at the request of the Chapter 13 Trustee, reduce the fees to be paid to the attorney under a plan if confirmation is delayed due to lack of diligence by the attorney in preparation for confirmation.

e. Attorney's fees may be paid by the Chapter 13 Trustee ahead of payments to other creditors except for payments of regular mortgage payments on the Debtor's homestead if

provided for under the plan and payments of adequate protection to creditors holding automobile liens, or as otherwise ordered by the Court.

## **2. ADEQUATE PROTECTION PAYMENTS**

Pursuant to 11 U.S.C. §1326(a)(1):

a. Adequate protection payments required to be made by the Debtor pursuant to 11 U.S.C. §1326(a)(1)(C) shall be paid by the Chapter 13 Trustee from plan payments paid by the Debtor to the Trustee;

b. Within 15 days of the filing of the order for relief, the Debtor shall file a Notice of Adequate Protection (“Notice”) with this Court. The notice should include how each pre-confirmation adequate protection payment was calculated, the amount of the adequate protection payment, the creditor’s name, the creditor’s payment address, and account number, if known (the Debtor may redact any account number as permitted by applicable law);

c. Each Notice of Adequate Protection shall be sent via U.S. Mail, postage prepaid, to the creditor at the address listed in the Notice;

d. For the purposes of this Order, unless the parties agree otherwise, adequate protection for motor vehicles shall equal:

(1) at a minimum, the retail value of said motor vehicle pursuant to 11 U.S.C. §506 without interest, divided by 60; or

(2) in the alternative, the Notice may designate the monthly plan payment as adequate protection if it is at least equal to the designated monthly payment in subsection (1);

e. Notwithstanding any other provision in the Order, an affected creditor may file a motion pursuant to 11 U.S.C. §1326(a)(3) for an order changing said adequate protection payments;

f. Notwithstanding any other provision in this Order, the parties may stipulate to a different payment amount for the adequate protection payments to be made pursuant to 11 U.S.C. §1326. For purposes of these stipulations, a stipulation entered into prior to the filing of the petition shall be effective if filed with the Court within 15 days of the order for relief;

g. Upon the filing of the Notice of Adequate Protection described above, the Chapter 13 Trustee shall be authorized to commence making adequate protection payments to the creditor(s) named in each Adequate Protection Notice as provided in each such Notice; and

h. The Chapter 13 Standing Trustee shall be allowed to collect a percentage fee from all payments received by such individual under plans in the cases under chapter 13 of title 11 for which such individual serves as standing trustee. The rate shall be determined by the Attorney General through the Office of the United States Trustee. Provided, however, if the Trustee does not take the percentage fee on the receipt, then the Trustee shall be allowed to collect compensation and expenses at the rate determined by the Attorney General through the Office of the United States Trustee.

### **3. ANNUAL STATEMENTS**

The Chapter 13 Trustee's standing request for annual statements pursuant to 11 U.S.C. §521(f) is granted. Except as otherwise provided in this Order:

a. The Chapter 13 Debtor shall file with the Court an annual statement of the income and expenditures of the Debtor during the tax year most recently concluded before such statement is filed. Debtors shall also file a statement of their monthly income that details how income, expenditures, and monthly income are calculated using an annual statement worksheet that substantially complies with the form found on the Court's website.

b. The annual statement shall be filed on the date that is either 90 days after the end of the most recent tax year or one (1) year after the date of the commencement of the case, whichever is later, if the plan is not confirmed before such later date; and annually after the plan is confirmed and until the case is closed, no later than the date that is 45 days before the anniversary of the confirmation of the plan.

c. The annual statement shall disclose:

(1) the amount and sources of the income of Debtor(s);

(2) the identity of any person responsible with the Debtor(s) for the support of any dependent of the Debtor(s); and

(3) the amount of contributions made for the household in which the Debtor resides; and

(4) the identity of the persons who made such contributions made for the household in which the Debtor resides.

d. Upon the Debtor's compliance with paragraphs a, b and c of this Section, the Chapter 13 Trustee shall be authorized to disburse to the Debtor's attorney, if funds are available, the amount then shown on the Court's website as compensation for the "normal and customary" fee for this service in "routine" cases.

e. Upon entry of an Order modifying the Plan to increase the Plan base as a result of increased income shown by the annual statement, where the Plan contains a provision for additional attorney's fees in the amount shown on the court's website on the date of modification, the Trustee shall be authorized to disburse said sum to the Debtor(s)' attorney.

### **4. FORM PLAN**

The Chapter 13 Debtor shall file a Chapter 13 Plan conforming to the Court approved form Plan posted on the Court's website on the date of the original filing of the Chapter 13 petition.

## E. TAX RETURNS

Pursuant to 11 U.S.C. §1308:

a. **Pre-Petition Tax Returns** - The Debtor shall provide to the Chapter 13 Trustee their Federal income tax returns for all tax periods during the two (2) year period ending on the date of the filing of the Petition.

b. **Post-Petition Tax Returns** - The Debtor shall also provide to the Chapter 13 Trustee:

(1) at the same time filed with the taxing authority, a copy of each Federal income tax return required under applicable law (or at the election of the Debtor, a transcript of such tax return) with respect to each tax year of the Debtor ending while the case is pending under such chapter;

(2) at the same time filed with the taxing authority, each Federal income tax return required under applicable law (or at the election of the Debtor, a transcript of such tax return) that had not been filed with such authority as of the date of the commencement of the case and that was subsequently filed for any tax year of the Debtor(s) during the three (3) year period prior to the date of the commencement of the case;

(3) a copy of each amendment to any Federal income tax return or transcript provided to the Trustee under paragraph (1) or (2) of this Section.

DONE AND ORDERED in Tallahassee, Florida on Sept. 30, 2014.



Karen K. Specie  
United States Bankruptcy Judge

Date Amended: 9/30/14