

NOTICE OF STANDING TRUSTEE'S POSITION REGARDING FEE RULE

Revised: August 8, 2018

Highlights:

- Effective for Ch. 13 cases filed on or after 8/1/18 or converted on or after 8/1/18.
- Attorney must file *Disclosure of Ch. 13 Debtor's Attorney Compensation* form with filing of petition or within 14 days of conversion to elect either:
- \$4750 flat standard fee or hourly billing
- Regardless of the election, there will be no supplemental fee applications permitted for cases filed or converted on or after 8/1/18 with the exception of the three exclusions for those who elect the standard fee only. For those who elect the hourly fee, there is no allowance for any supplemental billing post-confirmation.
- Fee apps in excess of \$10,000 require the new form *Chapter 13 Debtor's Attorney Fee Application Cover Sheet*.

If Standard Fee is elected:

- \$4750 or less and no fee app is needed.
- Includes all fees and expenses need to confirm a plan and all administrative services required post-confirmation in order for debtor to receive a discharge. Includes but is not limited to the following:
- Service costs included for plan, new hearing dates etc. [does not include filing fee, amendment fee, credit counseling, financial mgmt. fee]
- Includes cost of doing business expenses such as tolls and parking.
- Application to pay filing fee in installments
- Adjournment requests
- PCC and submission of any documents post-petition
- Motions to extend time to file plan and missing schedules
- Filing of certifications or financial management documents at end of case
- Handling objections to confirmation
- Attending 341a and confirmation hearings – regardless of how many there are
- Pre-confirmation MFR, motion to reinstate stay and dismissal hearings
- Court's OSC hearings
- Claims review
- Amended schedules or plan pre-confirmation
- Providing all trustee required documents
- Retention of professionals
- Notice of Final Cure review and annual trustee report review
- Motion to cancel and discharge mortgage or lien

Not included in the standard fee are:

- Representing debtor in an adversary proceeding
- Representing debtor in loss mitigation and loan modification efforts
- Representing debtor in post-confirmation filings and matters brought before the court such as: motions for relief, trustee default or motions, motions to sell or refinance, motions to approve settlements/disbursements, contested notice of final cure, modified plans.
- Application for additional pre-confirmation fees and expenses: Counsel may file an application to seek additional compensation for pre-confirmation services only if counsel can demonstrate that the additional services were unforeseeable at the time of the filing of the Disclosure of Compensation.

If an hourly fee is elected:

- *Fee apps are due within 7 days of the order of confirmation.* At the Court's discretion, a late filed fee application may be barred.

Trustee position:

- For standard fee: Additional billing for the three allowable exclusions may be hourly or may be pursuant to a flat amount that is agreed upon between the debtor and attorney. The Court, however, no longer sets the fee in advance.
- For hourly fee: Since the fees application will be filed after confirmation, we may require language in the confirmation orders that clarify that any additional fee in excess of a certain amount will require an increase in plan payments. This will be handled on a case by case basis and with the knowledge of counsel.
- These positions may change as cases are ruled upon or further guidance is provided by the court. The position set forth herein is that of the Standing Trustee, Andrew B. Finberg, and not of the Court, Office of the U.S. Trustee, or other trustee.