

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF ILLINOIS
600 East Monroe Street, Springfield, Illinois 62701

**STANDING ORDER REGARDING ATTORNEY FEES FOR
DEBTOR'S COUNSEL IN CHAPTER 7 AND 13 CASES**

(Revised 1/1/14)

All attorneys representing individual debtors before this Court are reminded that they are “debt relief agencies” under the Code and, accordingly, must comply with the requirements for such agencies. *See* 11 U.S.C. §101(12A); 11 U.S.C. §528; *Milavitz, Gallop & Milavetz, P.A. v. U.S.*, 559 U.S. 229 (2010). Particular attention should be paid to the provisions of §528 which require written fee contracts and full disclosure of all anticipated charges. *See* 11 U.S.C. §528(a).

Since January 1, 2010, this Court’s “no-look” flat fee for representation of a Chapter 13 debtor has been \$3300. As of January 1, 2014, the “no-look” fee will become \$3500 until further order of this Court. Attorneys may certainly charge less than the “no-look” flat fee. Further, attorneys are not required to represent Chapter 13 debtors for flat fees. However, attorneys who have not agreed with their debtor clients to accept fees at or below the “no-look” flat fee amount must request approval of their fees by itemized application. All fee applications must be made in accordance with Rule 2016 of the Federal Rules of Bankruptcy Procedure and the guidelines established by this Court. *See* Fed. R. Bankr. P. 2016(a); *In re Vancil Contracting, Inc.*, 2008 WL 207533 (Bankr. C.D. Ill. Jan. 25, 2008); *In re Minich*, 386 B.R. 723 (Bankr. C.D. Ill. 2008).

Attorneys are reminded of their duty to file complete and accurate disclosures of their fee agreements with their debtor clients. *See* Fed. R. Bankr. P. 2016(b); *In re Jackson*, 401 B.R. 333 (Bankr. N.D. Ill. 2009); *In re Kowalski*, 402 B.R. 843 (Bankr. N.D. Ill. 2009). This Court will not approve any award of fees, including the “no-look” flat fee amount, unless the attorney’s own agreement with the debtor client provides for the payment of such fees.

Allowed attorney fees shall be paid through the plan. However, an attorney may receive all or part of the allowed fees prior to the filing of the case, provided those fees are deducted from the total allowed fees to be paid through the confirmed plan. The rate of payment of the fees through the plan shall not exceed the lesser of (1) 50% of the funds distributed by the trustee after payment of administrative expenses (including the trustee’s fee), or (2) \$350 per month, unless the Chapter 13 trustee recommends and the Court approves a larger monthly payment amount.

There may be instances where the allowed attorney fees in a case exceed 50% of the net funds to be distributed during the term of the plan and, therefore, at the rate of payment set forth

above, the entire fee would not be paid in full during the term of the plan. In such event, and only in such event, the trustee may, without further order of the Court, increase the percentage at which allowed attorney fees are paid each month so that the fees are paid in full in approximately equal monthly installments during the term of the plan. Additionally, there may be instances where confirmed plans provide for precise amounts to be distributed monthly to priority or secured creditors, leaving insufficient funds available to distribute attorney fees at the rates stated above. In such cases, the attorney who filed the plan shall be deemed to have waived the right to the maximum monthly distribution allowable under this Order and the trustee may, without further order of the Court, distribute the attorneys fees in such cases in whatever periodic amounts he determines are appropriate, consistent with all other terms of both this Standing Order and the confirmed plan.

The duties designated below are presumed to be included within the scope of services rendered by the attorney to the debtor. If an attorney fails to perform any required duty, the Court, upon notice and hearing, may order the attorney to disgorge all or part of any fees received. Upon request of an interested party or *sua sponte*, the Court may consider whether an attorney's fees should be limited to an amount less than \$3500 based on the circumstances of a particular case.

The debtor's attorney's duties in a Chapter 13 case include, but are not necessarily limited to, the following:

1. Consult with and advise the debtor about the differences and relative advantages and disadvantages of proceeding under Chapter 7 and Chapter 13.
2. Prepare and file the petition, statement of financial affairs, all schedules, and the creditor matrix.
3. Prepare and file a Chapter 13 plan.
4. Upon information received from the debtor, take all action necessary to avoid the termination of, or to require the reinstatement of, necessary utility services for the debtor.
5. File the necessary pleadings to obtain the return of repossessed vehicles proposed to be retained by the debtor under the plan.
6. In the event of pending state or federal court litigation, notify creditors' attorneys, and appropriate courts in which the litigation is pending, of the bankruptcy filing and the existence of the automatic stay.
7. Send out an information letter to the debtor reminding the debtor to attend the §341 meeting, specifying the date, time, and location of the meeting, and providing information advising the debtor as to all necessary preparations for the §341 meeting.

8. Collect from the debtor and deliver to the trustee all information required by statute to be provided prior to the §341 meeting.
9. Appear at the §341 meeting with the debtor.
10. Upon information received from the debtor, take steps necessary to terminate pending wage garnishments.
11. Attend all court hearings in the case.
12. Prepare all court mandated pre-trial statements, reports, briefs, etc.
13. Respond to objections to plan confirmation and, where necessary, prepare amended plans.
14. Prepare, file, and serve necessary amended statements and schedules, in accordance with information submitted by the debtor, provided the debtor pays any required filing fees.
15. Prepare, file, and serve necessary motions to buy, sell, or refinance real property and vehicles, when appropriate.
16. Review all claims promptly after the expiration of the claims bar date and file claims for creditors who failed to file claims, if it is in the debtor's best interest to do so.
17. Object to claims which should be disallowed in whole or in part.
18. Advise and represent the debtor with respect to motions for relief from the automatic stay, for adequate protection, to terminate the co-debtor stay, and other contested matters.
19. Prepare, file, and serve motions to avoid liens on real or personal property.
20. Upon information received from the debtor, contact creditors who continue to communicate with the debtor after filing.
21. Upon completion of plan payments, file a Certificate of Domestic Support Obligation if debtor was required to pay a domestic support obligation during the pendency of the case.
22. Provide such other legal services as are necessary for the administration of the case.

This Court will no longer set a “no-look” fee for Chapter 7 cases. However, this Court may,

sua sponte, require an itemized fee application where the fees disclosed exceed the apparent value of the services rendered. Further, the panel trustees, the United States Trustee, and other parties in interest including the debtor, may request the filing of an itemized application or may file other pleadings as allowed by the Code and Rules challenging the reasonableness of any fee charged or expense incurred by a debtor's attorney. Debtors' attorneys are reminded of their obligation to fully disclose all fees paid by their clients and of their obligation to promptly supplement their disclosure if additional fees are paid which have not been previously disclosed. *See* Fed. R. Bankr. P. 2016(b). Debtors' attorneys are further reminded that the post-petition collection of attorney fees is prohibited inasmuch as pre-petition debts for legal fees are subject to discharge. *See In re Bethea*, 352 F.3d 1125, 1129 (7th Cir. 2003)

This Standing Order shall be applicable to cases filed on or after January 1, 2014.

DATED this 30th day of December, 2013.

/s/ Mary P. Gorman

MARY P. GORMAN
CHIEF UNITED STATES BANKRUPTCY JUDGE