

UNITED STATES BANKRUPTCY COURT
District of Puerto Rico

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In the matter of:

Attorneys' Fees in Chapter 13
Consumer Cases

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Miscellaneous Proceeding No.: 01-01

General Order No.:



FILED & ENTERED

FEB 06 2001

ORDER U.S. BANKRUPTCY COURT
SAN JUAN, PUERTO RICO

Upon the request of several parties to increase the flat fee in Chapter 13 cases from one thousand one-hundred dollars [\$1,100.00] to one thousand five-hundred dollars [\$1,500.00], and pursuant to the order entered on January 12, 2001, the court held an *en banc* hearing on February 1, 2001. After considering the evidence presented and the argument by counsel, the Court hereby enters the following order establishing a cap on the flat fee for all Chapter 13 non business cases filed after February 5, 2001.

ATTORNEY'S FEES

The Court may approve attorney's fees in non business cases at the confirmation hearing without a detailed application if the fee, costs and expenses [excluding the filing fee] do not exceed \$1,500.00. Applications in excess of this limit shall be reviewed under the "loadstar" analysis to determine the reasonableness of the fee. In order that the disclosure of information be adequate and complete the debtor's attorney shall list in the Rule 2016 statement any fee paid in a prior Chapter 13 petition, and whether the plan was confirmed or the case dismissed.

When allowing the flat fee, the Court shall consider whether counsel for the Chapter 13 debtor has discharged the following responsibilities:

- (1) Meet with the debtor to review the debtor's debts, assets, liabilities, income, and expenses.
- (2) Counsel the debtor regarding the advisability of filing either a Chapter 7 or Chapter 13 case, discuss both procedures with the debtor, and answer the debtor's questions.
- (3) Explain which payments will be made directly by the debtor and which payments will be made through the debtor's Chapter 13 plan, with particular attention to mortgage and vehicle loan payments, as well as any other claims that accrue interest.
- (4) Explain to the debtor how, when and where to make the Chapter 13 plan payments.
- (5) Explain to the debtor how the attorney's fees and trustee's fees are paid and provide an executed copy of this document to the debtor.
- (6) Explain to the debtor that the first plan payment must be made to the Trustee within 30 days of the date the plan is filed.

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- (7) Advise the debtor of the requirement to attend the 341 Meeting of Creditors, and instruct the debtor as to the date, time and place of the meeting.
- (8) Advise the debtor of the need to file any due tax returns prior to the 341 Meeting of Creditors.
- (9) Advise the debtor of the necessity of maintaining liability, collision and comprehensive insurance on vehicles securing loans or leases.
- (10) Timely prepare and file the debtor's petition, plan, statements and schedules.
- (11) Appear at the 341 Meeting of Creditors with the debtor.
- (12) Respond to objections to plan confirmation, and where necessary, prepare an amended plan.
- (13) Prepare, file and serve necessary modifications to the plan which may include suspending, lowering or increasing plan payments.
- (14) Prepare, file, and serve necessary amended statements and schedules, in accordance with information provided by the debtor.
- (15) Prepare, file, and serve necessary motions to sell real property when appropriate.
- (16) Object to improper or invalid claims, if necessary, based upon documentation provided by the debtor.
- (17) Represent the debtor in motions for relief from stay and motions to dismiss.
- (18) If appropriate, prepare, file, and serve necessary motions to avoid liens on real or personal property.
- (19) Provide such other legal services as are necessary for the administration of the present case before the Bankruptcy Court.

**FORM AND CONTENT OF AN APPLICATION FOR AWARD
OF ADDITIONAL ATTORNEY'S FEES AND EXPENSES
IN A CHAPTER 13 PROCEEDING**

Applications in Chapter 13 cases for attorney fees and/or expenses, relating to post confirmation services shall comply with Bankruptcy Rule 2016(a), and in addition shall:

- (1) State separately the total amount of fees and expenses previously approved and the amount that has been disbursed by the trustee;
- (2) Identify the time period during which the services for which the award is sought were rendered;
- (3) Describe the services rendered, and state why the matter could not have been reasonably foreseen at or prior to the confirmation hearing;
- (4) Identify each specific instance in which an award is sought for the services of more than one attorney and paralegal and the justification for each such specific instance; and,
- (5) Attach an exhibit containing an itemized time record in chronological order of each specific service for which an award of compensation is sought. This exhibit shall:
 - (A) State the date each service was rendered;
 - (B) Identify the attorney(s) and paralegal(s) who performed the service;
 - (C) Describe with particularity the services rendered; and

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(D) State the time spent performing the service in increments of tenths of an hour.

An application that seeks allowance of fees and expenses totaling \$500.00 or less may be approved if it has the endorsed approval of the debtor and the Chapter 13 trustee. If the application lacks their approval, it shall be noticed to the debtor and Chapter 13 trustee. If no objections are filed within 20 days from the date of notice, the court may approve the application.

At the request of any party in interest, or at the court's own initiative, the failure to perform any act required by this order in a timely manner may result in a decrease or disgorgement of the reasonable attorney fee allowed by the Court for the services of the case attorney, or in an order for payment of fees subject to adequate protection payments.

ATTORNEY'S CONTINUING DUTY OF REPRESENTATION

An attorney who represents a debtor in the Bankruptcy Court at the time a petition under Chapter 13 is filed, or when a case under another chapter of the Bankruptcy Code is converted to Chapter 13, has a continuing duty to represent the debtor in all proceedings in the Bankruptcy Court until the occurrence of the earliest of: (a) dismissal of the case; (b) closing of the case; or (c) the entry of an order allowing the attorney to withdraw from further representation of the debtor.

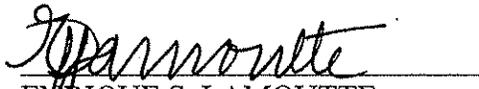
SO ORDERED

Dated at San Juan, Puerto Rico this 5 day of February 2001.



GERARDO A. CARLO
Chief, U.S. Bankruptcy Judge

LIZETTE FELIBERTI
DEPUTY CLERK



ENRIQUE S. LAMOUTTE
U.S. Bankruptcy Judge

FEB. 06 2001

by regular mail to:

- R. López - ch. 13 Trustee*
- J. Carrión - ch. 13 Trustee*
- Y. Thomas Stgo -*
- C. Pérez Pastrana -*
- R. Pérez Abregón - Pres. PR Bankruptcy Bar*
- L. Morales -*
- R. Figueroa -*
- A. Lora -*
- A. Suarez Cabo -*



SARA DE JESUS
U.S. Bankruptcy Judge