

The Ethics of Getting Paid, Part 2

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THE ETHICS OF GETTING PAID, PART II

A. The ground rules or parameters that generally govern payment of attorney fees in Chapter 7s and 13s in the N.D. of Illinois include:

B.R. 2014, 2016 and 2017

Code Sections 329, 330 and 331

Local Bankruptcy Rules, including the new disciplinary proceeding authority under Rules 9029-4A & 4B.

Standing Order dated Feb. 17, 2004

Illinois Supreme Court Rules of Professional Conduct, especially Rules 1.7 and 1.8

See also *In re Bethea*, 352 F.3d 1125 (7th Cir. 2003)(cert. denied)

B. Topics covered last year worthy of continued attention:

May an attorney accept payment for fees on a debtor's credit card?

May an attorney accept a cash payment for fees from the debtor if the source of the cash is a cash advance from a Debtor's credit card?

May an attorney use an a la carte system for billing for services? Are there limitations?

C. Additional issues involving payment of attorney fees:

Does the Court Approved Retention Agreement in Chapter 13 (no look fees) encourage attorneys to file Chapter 13s for debtors who would be better served by a Chapter 7?

When is it appropriate for an attorney to apply for additional compensation (in excess of the no look fee) in a chapter 13? Or, stated differently, how does the Chapter 13 trustee determine if a request for additional fees is reasonable?

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May an attorney represent a client in multiple or serial Chapter 13s while exercising rights as a creditor of the debtor and attempting to collect unpaid fees from the debtor's prior unsuccessful Chapter 13 cases?

May an attorney charge a full no look fee to a debtor upon the conversion of a case from a Chapter 7 to a Chapter 13? Does the analysis change if the case converted "voluntarily" in response to a motion or inquiry of the United States Trustee or a creditor but prior to a hearing on the motion?

Is there an impact on the analysis if the court grants a motion to dismiss for abuse but gives the debtors a brief time to convert?

May an attorney charge a "new case" fee for a conversion from a Chapter 13 to a Chapter 7? Does the answer to this change depending on how much the attorney was paid in the Chapter 13?

Is a "fee only" Chapter 13 plan confirmable? What are the considerations or circumstances that might justify such a plan?