

A Plan to Get Paid: Debtors' Counsel's Fees in Chapter 13

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I. INTRODUCTION

By definition, Chapter 13 debtors come to us because they have difficulty paying people that they owe money to. Aside from navigating confirmation issues, mortgage modifications, adversary proceedings and appeals, we must also determine how we will be compensated for the work that we do. In this era of declining filings, it is critical that we maintain the economic health of our practices, so that we can offer our clients the best possible representation.

II. BANKRUPTCY CODE, RULE PROVISIONS AND JUDICIAL AUTHORITY REGARDING ATTORNEY COMPENSATION

Unlike our colleagues on the creditors' side of the case, debtors' attorneys are required to disclose our fee arrangements to the court.¹ The court can require a debtor's attorney to disgorge fees which "exceed the reasonable value of such services."²

"In determining the reasonable amount of compensation to be awarded... the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including-

- (A) the time spent on such services;
- (B) the rates charged for such services;
- (C) whether services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;

¹ 11 U.S.C. § 329(a) and Fed. R. Bankr. P. 2016(b).

² 11 U.S.C. § 329(b).

- (D) whether the services were performed within a reasonable amount of time commensurate with the complexity importance, and nature of the problem, issue or task addressed;
- (E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and
- (F) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.”³

This is by no means an exhaustive list of the factors which the court will consider.⁴ Furthermore, the court will not allow compensation for services which were unnecessary or not reasonably likely to benefit the estate.⁵ However, the court may allow attorneys in Chapter 13 to be compensated for time spent which solely benefits the interests of the debtor.⁶

It is important to remember that “reasonableness” is not determined in hindsight.⁷ In other words, you do not have to prevail to be entitled to compensation. However, at the outset of the task, it must have at least appeared that the efforts would produce a beneficial result.

Attorneys may submit interim fee applications “no more than once every 120 days after the order for relief...or more often if the court permits”. While you may obtain approval of several interim applications along the way, it is important to remember that

³ 11 U.S.C. § 330(a)(3).

⁴ 11 U.S.C. § 102(3) (the use of the words “includes” and “including” are not limiting).

⁵ 11 U.S.C. § 330(a)(4)(A).

⁶ 11 U.S.C. § 330(4)(B).

⁷ *In re Blue Stone Real Estate*, 487 B.R. 573, 577 (Bankr. M.D. Fla. 2013); *Keate v. Miller (In re Kohl)*, 95 F.3d 713, 714 (8th Cir. 1996); *In re Collida*, 270 B.R. 209, 241 (Bankr. S.D. Tex. 2001); *In re Crown Oil, Inc.*, 257 B.R. 531, 541 (Bankr. D. Mont. 2000).

the court may take a second look at the total interim compensation awarded, in light of the “reasonableness standard”, and order disgorgement if the interim compensation is excessive.⁸

III. PAYMENT OF ATTORNEYS FEES

The manner in which attorneys are paid varies widely from district to district. It is critical that attorneys become familiar with the local rules regarding attorney compensation in their district, before agreeing to represent a debtor in a Chapter 13. Some courts restrict the amount of compensation an attorney can receive prior to the filing of the case.

A. Disbursement By Trustee

Attorneys fees awarded under 11 U.S.C. 330 are considered an administrative expense.⁹ They are entitled to second priority.¹⁰ Do not confuse second priority with the order in which the money will be disbursed by the trustee. The trustee is required to pay attorneys fees “Before or at the time of each payment to creditors under the plan...”¹¹ Unfortunately this could translate into 60 very small checks, depending on how you construct your plan. Given the plain language of Section 1326(b)(1) and (c), there is no reason why your plan cannot clearly provide for your attorneys fees to be paid before other creditors.

If you intend to depart from the local practice with regard to how you treat your fees in the plan, remember the three most important rules of bankruptcy: Notice, Notice, Notice. It is far easier to address this issue as a confirmation issue, rather than to bring it

⁸ 11 U.S.C. § 330(a)(5).

⁹ 11 U.S.C. § 503(b)(2).

¹⁰ 11 U.S.C. § 507(a)(2).

¹¹ 11 U.S.C. § 1326(b)(a).

back in front of the court because the trustee is not disbursing in accordance with the plan.

B. The Use Of “No-Look” Fees

Many districts have what is colloquially referred to as a “no-look” fee. This fee is often a flat-fee which is presumed reasonable based upon the services typically required in connection with a Chapter 13 case.¹² However, it is important to remember that despite the term “no-look”, any party in interest may request a hearing to review the reasonableness of the fees you have been (or will be) paid.¹³

Even if you decide to operate under your district’s “no-look fee”, you should maintain contemporaneous time records. Cases which may have seemed straight-forward at the outset can often take twists and turns that even the most experienced practitioner did not see coming. In those instances you should consider applying for additional compensation.¹⁴ You should anticipate that as part of the award of fees beyond the “no-look” fee, the court will likely consider all time spent on the case. Consequently, you may have to justify the services performed under the “no-look” fee as part of the application for compensation.

¹² See, e.g., United States Bankruptcy Court Southern District Of California Guidelines Regarding Chapter 13 Attorney Fees, available at http://www.casb.uscourts.gov/pdf/ch13atty_fee_guidelines.pdf and United States Bankruptcy Court For the Western District of Michigan, Memorandum Regarding Allowance of Compensation and Reimbursement of Expenses for Court-Appointed Professions, available at <http://www.miwb.uscourts.gov/CMS/assets/Home/Court-News/Fee-Guidelines.pdf>.

¹³ Fed. R. Bankr. P. 2017.

¹⁴ 11 U.S.C. § 328(a) (“... the court may allow compensation different from the compensation provided under such terms and conditions after the conclusion of such employment, if such terms and conditions prove to have been improvident in light of developments not capable of being anticipated at the time of the fixing of such terms and conditions.”)

IV. OBTAINING APPROVAL FOR FEES

The goal in submitting fee applications is to obtain painless approval. First and foremost, you should review your local rules to determine whether a hearing will be required, regardless of objection, or whether your court will approve the application under a negative notice (default or contingent hearing) procedure. Your district may also have a local form which you are required to submit as part of the application. You should also be familiar with the US Trustee Guidelines for Reviewing Applications for Compensation.¹⁵

In terms of the review of the application, the court's starting point for reasonableness of the fee is determined using the lodestar method.¹⁶ The lodestar method multiplies the number of hours reasonably expended on the litigation by a reasonable hourly rate.¹⁷ In determining a reasonable hourly rate, courts examine, "the prevailing market rates in the relevant community, regardless of whether plaintiff is represented by private or nonprofit counsel."¹⁸

Given that the Section 330(a)(3) does not contain an exhaustive list of factors the court must consider, courts have considered the following twelve factors in the analysis of fee applications:

- 1) the time and labor required;
- 2) the novelty and difficulty of the question;
- 3) the skill required to perform the legal services properly;
- 4) the preclusion of other employment due to the case;
- 5) the customary fee;

¹⁵ US Trustee Fee Guidelines can be found at http://www.justice.gov/ust/eo/rules_regulations/guidelines/docs/feeguide.htm.

¹⁶ *Coutin v. Young & Rubicam P.R.*, 124 F.3d 331, 337 (1st Cir. 1997).

¹⁷ *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983).

¹⁸ *Blum v. Stenson*, 465 U.S. 886, 895 (1984)..

- 6) the nature of the fee (fixed or contingent);
- 7) the time limitations imposed by the client or the circumstances;
- 8) the amount involved and the results obtained;
- 9) the experience, reputation and ability of the attorneys;
- 10) the undesirability of the case;
- 11) the nature and length of the professional relationship with the client; and
- 12) the size of awards in similar cases.¹⁹

A. Common Mistakes To Avoid

There is nothing more uncomfortable than to stand in front of your judge and have your fee application picked apart, line-by-line, while your colleagues snicker behind you. Below is a non-exhaustive list of common mistakes to help avoid an unpleasant hearing on your fee application.

- 1) “Lumping” – this occurs when many tasks are grouped together under a single time entry in such a way that it is not possible to determine how much time was spent on each task. The court will likely disallow the entire line-item if it is not clear how the time was actually spent.
- 2) Minimum time increments – Many firms utilize a minimum billing increment of a quarter-hour. Many tasks take well less than 15 minutes. Courts will generally not approve minimum time increments of greater than one-tenth of an hour.
- 3) Failing to identify the time-keeper – In firms where multiple individuals may be billing on the case, it is important to identify which individual is billing for each task so that the court can determine that the hourly rate charged by the individual performing the service is reasonable.
- 4) Billing at attorney rate for non-attorney work – Tasks which are routinely performed by non-attorney staff, cannot be billed at the attorney’s hourly rate, even if they are performed by the attorney. Paralegal time is compensable.²⁰ If the attorney performs paralegal tasks, those should be billed at a non-attorney hourly rate.

¹⁹ *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974).

²⁰ 11 U.S.C. § 330(a)(1)(A).

- 5) **Billing for your learning curve** – If the attorney is seeking compensation for researching an issue that an attorney should be reasonably familiar with, the court will likely disallow the time.
- 6) **Failing to adequately describe the task** – If the court cannot determine why the task was necessary, it is likely to be disallowed. For example, an entry which reads “telephone call to creditor attorney to determine mortgage arrearage for plan preparation” provides enough detail for the court to allow the fee, whereas “phone call to opposing counsel” does not.
- 7) **Billing full rate for travel time** – Generally courts only permit attorneys to bill at half their hourly rate for travel time.

B. Getting Paid For Getting Paid

Preparing a fee application that will withstand scrutiny can be time-consuming. It is important to remember that you are entitled to compensation for the preparation of your fee application.²¹ However, the result is less certain when it comes to defending a challenge to a fee application. The majority rule holds that compensation for defending a fee application is only proper when the defense of the fee application is successful.²²

V. GETTING PAID IN PROBLEM CASES

A. Unpaid fees in the event of dismissal

Often cases can limp along for many months prior to confirmation, only to be dismissed because the case is not confirmable. If you are lucky, your clients will have been making payments to the trustee during this time. To the extent that the trustee is holding money at the time the case is dismissed, the trustee is permitted to deduct

²¹ 11 U.S.C. § 330(a)(6).

²² *Big Rivers Elec. Corp. v. Schilling (In re Big Rivers Elec. Corp.)*, 252 B.R. 670, 675 (W.D. Ky. 2000); *In re DN Assocs.*, 165 B.R. 344, 352, 355 (Bankr. D. Me. 1994); *In re Courson*, 138 B.R. 928, 936 (Bankr. N.D. Iowa 1992); *In re Great Sweats, Inc.*, 113 B.R. 240, 245-46 (Bankr. E.D. Va. 1990); *In re Watervliet Paper Co.*, 109 B.R. 733, 735 (Bankr. W.D. Mich. 1989).

allowed claims under 11 U.S.C. 503(b) before returning funds to the debtor.²³ Thus, a prompt fee application may permit you to recover fees earned, before the money is returned to the debtor.

B. Plan Payments By Wage Order

There are instances where debtors with stable employment have found themselves in an emergency situation, without the means to retain counsel. In these very limited circumstances I have agreed to put a significant portion of my fee into the Chapter 13 plan. However, as a condition of representation I require the debtor to consent to a wage-order. The debtor is certainly under no obligation to do this, and is free to find other representation. From my perspective, extending credit to debtors in this situation without at least a wage-order in place is a recipe to filing my own bankruptcy.

Wage orders can also be an effective solution for debtors who repeatedly face Motions To Dismiss due to missed plan payments. A debtor's willingness to stipulate to a wage order may persuade a trustee to withdraw a Motion To Dismiss.

C. Fee-Shifting Opportunities

There are instances where you may be able to recover fees for your litigation directly from a creditor. Many states have reciprocal fee statutes.²⁴ If you are lucky enough to practice in one of these jurisdictions, you should become familiar with fee recovery under those statutes.

There are also fee-shifting opportunities within bankruptcy. They can be found in Section 523(d), Section 362(k) and Fed. R. Bankr. P. 3002.1(i)(2).

²³ 11 U.S.C. § 1326(a)(2).

²⁴ *See, e.g.*, NH RSA § 361-C.

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May 17, 2014

DELIVERED IN-HAND

Ms. Jennifer S. Lawrence
12 District Avenue
Worcester, MA 01602

Re: Bankruptcy Fee Agreement for Representation of Jennifer Lawrence (the "Client")

Dear Ms. Client:

This letter confirms that you have retained JAMES A. WINGFIELD, ESQ. of the LAW OFFICES OF JAMES WINGFIELD (the "Firm") to represent you in your bankruptcy proceeding under Chapter 13 of the United States Bankruptcy Code to be filed by the Firm on your behalf in the United States Bankruptcy Court for the Central District of Massachusetts. I am pleased to have the opportunity to work with you. It is the Firm's policy to enter into a written retention agreement regarding the rendition of services and our billing practices, fees and other related matters, which is set forth below. You must sign and initial where indicated.

FEES, SCOPE and LIMITATION OF REPRESENTATION

The fee for initial representation of you in a Chapter 13 case (through confirmation of a Chapter 13 plan) is \$3,500.00. In addition you will be responsible for paying to the Firm the filing fee of \$310.00 to be paid to the United States Bankruptcy Court. The total amount you will be required to pay to the Firm prior to filing your Chapter 13 bankruptcy petition is \$3,810.00 (the "Chapter 13 Retainer"). The Chapter 13 Retainer includes work done prior to confirmation of your Chapter 13 plan only, and does not include work done during the post confirmation phase of your case. Work done in the post confirmation phase is billed on an hourly rate and is payable through your Chapter 13 plan. The Firm's practice is to calculate an estimated fee of \$500.00 for post-confirmation work. To the extent necessary, the Firm will exercise its right to petition the Court for allowance of further fees and upon allowance to have those fees paid through your Chapter 13 Bankruptcy Plan. See MLBR Appendix I, Sections 3-7. This may increase the monthly plan payments if the excess income is insufficient to fund the Plan payments as approved and subsequently modified. **In the event that the Plan payments**

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do not satisfy in full the allowed fees, any sums due to the Firm as an allowed Chapter 13 administrative expense are not discharged by virtue of the Chapter 13 discharge. Counsel agrees to include such a provision in the Chapter 13 Plan if appropriate. Allowed Chapter 13 post-petition fees will not be discharged upon completion of the Bankruptcy Plan and the Client agrees to execute whatever documents that are necessary to accomplish this purpose. See In re Johnson, Wolf v. Loheit, 344 B.R. 104 (B.A.P. 9th Cir., 2006).

IN THE EVENT THAT THE CLIENT'S CHAPTER 13 IS DISMISSED, ANY PAYMENTS HELD BY THE CHAPTER 13 TRUSTEE EITHER BEFORE OR AFTER CONFIRMATION ARE ASSIGNED TO CLIENT'S COUNSEL TO SATISFY IN WHOLE OR IN PART ANY OUTSTANDING ALLOWED FEES AND THE CLIENT AGREES TO EXECUTE WHATEVER DOCUMENTS THAT ARE NECESSARY TO ACCOMPLISH THIS PURPOSE.

Client's Initials

You agree to pay an initial non-refundable deposit of \$500.00 within 30 days of this agreement. You agree to make additional payments of at least \$3,310.00 within 90 days of this agreement or prior to filing the Chapter 13 petition. In no case shall the Firm be required to file your Chapter 13 Petition until or unless you have paid the balance of the Chapter 13 Retainer to the Firm.

A. THE FIRM HAS AGREED TO UNDERTAKE ONLY THE FOLLOWING TASKS IN CONSIDERATION OF YOUR PAYMENT OF THE FLAT FEE:

1. The initial meeting and consultation;
2. Preparation and filing of the Bankruptcy Petition, Schedules, Statement of Financial Affairs, Means Test, Matrix, Statement of Intention and Declaration of Electronic Filing;
3. Preparation and filing of a Chapter 13 plan (Chapter 13 cases only);
4. Preparation of Suggestions of Bankruptcy, if necessary;
5. Telephone communications with your creditors, with regard to the status of your bankruptcy;
6. Preparation and assistance given to you in attending the initial Meeting of Creditors with the Chapter 13 Trustee and provision of follow-up documentary requests made at the Initial Meeting of Creditors or any subsequent Meeting of Creditors;
7. Any appearances at Court hearings which concern your Chapter 13 estate and other duties as outlined in the Official Chapter 13 Agreement Between Debtor and Counsel, which we will each sign and file with the Court.

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B. DEBTOR'S REQUIREMENTS

- You must provide us with your 2012 and 2013 IRS Tax Returns or Transcripts prior to filing your Chapter 13 Petition. **THIS IS A CONDITION PRECEDENT TO FILING.**
- You must provide us with six (6) months' worth of pay stubs issued prior to the filing of your Chapter 13 Petition within 20 days prior to your initial Meeting of Creditors and the same must be served on your Trustee seven (7) days prior to your Meeting of creditors.
- You must obtain a Certificate of Credit Counseling from a credit counseling agency approved by the U.S. Trustee and provide a copy of the same to the Firm prior to filing your Bankruptcy Petition. **THIS IS A CONDITION PRECEDENT TO FILING.**
- You must provide us with a "verifiable record" of any interest in an IRA, Keogh, 401k, 403(b), 457(b) or 529 Tuition program or other such retirement accounts.
- You must provide us with an independent valuation of all of your real estate (if any).
- You must provide us with photographic identification and proof of your Social Security Number from a source other than your Tax Returns, which proof must be provided to your Trustee at your Meeting of Creditors.
- You must provide us with bank statements from all of your accounts (checking, savings, money market, mutual funds, brokerage accounts, etc.) for the six (6) month period before the filing of your Bankruptcy Petition, inclusive of the filing date.
- Within 45 days after your initial Meeting of Creditors, you must obtain a Certificate of Debtor Education from a credit counseling agency approved by the United States Trustee and provide the same to the Firm in order to obtain a discharge. If such a Certificate is not obtained, your discharge will be denied. Further, your case may be dismissed if such a Certificate is not obtained in advance of the deadline.
- In addition to the above, you must provide the Firm with the documents listed on the "Checklist" provided to you, and complete the bankruptcy questionnaire. **THIS IS A CONDITION PRECEDENT TO FILING.**

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- **ADDITIONAL RESPONSIBILITIES IN CASE OF A CHAPTER 13 FILING:**

If you follow the rules imposed by the Chapter 13 process strictly, there is every likelihood that the fees to be charged by the Firm will be less than if you do not comply. I cannot stress strongly enough the vital importance of complying with all Court orders. It is my experience that Chapter 13 Debtors fail for two primary reasons:

- (1) Overly optimistic projections of income and underestimating expenses
- (2) Failure to make required Chapter 13 Plan payments and payments to mortgagees.

IN VIEW OF THESE CONSIDERATIONS, YOUR ADDITIONAL CHAPTER 13 RESPONSIBILITIES ARE AS FOLLOWS:

- **You MUST pay the Chapter 13 Trustee on time.**

Client's Initials

- **You MUST pay all Mortgages and Vehicle Loans that are to be paid outside the Plan on time.**

Client's Initials

- **Failure to make these payments will cause your Mortgagee to move for relief from the automatic stay, your vehicle lender to repossess your vehicle and/or the Trustee to move to dismiss your case.**

Client's Initials

- **Your mortgagee may be entitled to attorneys' fees in conjunction with such actions. I will be entitled to attorney's fees for defense of such matters as well as their seeking to foreclose on your mortgage.**

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- **YOU MUST HAVE INSURANCE ON ANY REAL ESTATE THAT YOU OWN AND THE INSURANCE MUST NOT ONLY COVER THE INTEREST OF THE MORTGAGEE (MERE FORCED PLACED INSURANCE IS INSUFFICIENT) BUT YOUR EQUITY IN THE REAL ESTATE AND PROVIDE FOR LIABILITY INSURANCE. (COPIES OF THE SIGNED DECLARATION PAGE MUST BE GIVEN TO ME.) THIS POLICY MUST BE IN EFFECT ON THE DAY THAT YOU FILE YOUR CHAPTER 13 PETITION AND IF IT IS NOT, WE RESERVE THE RIGHT NOT TO FILE YOUR PETITION WHICH MAY RESULT IN YOUR REAL ESTATE BEING FORECLOSED UPON.**

Client's Initials

- **If you communicate with us ahead of time as to any expected defaults in these obligations, we may be able to deflect actions to be taken by your creditors without the necessity of incurring needless additional attorneys' fees in court appearances.**
- **In order to ensure an accurate record of payments to the mortgagee and the Chapter 13 Trustee, we insist that you use certified checks or money orders drawn on your personal bank account.**

In that way there are at least three (3) records of your complying with the Court orders on payment:

- (1) Your returned check and/or a copy of the money order;
- (2) A copy of the certified check or money order indicating that it had been dedicated to either the mortgagee or Chapter 13 Trustee; and/or
- (3) Absent both of those, the Bank record showing the withdrawal and the certified check fee or money order will demonstrate that these checks were at least cut and sufficient funds were then available to cover the check.

C. SPECIFICALLY EXCLUDED FROM THE SCOPE OF REPRESENTATION UNDER THE AND THE CHAPTER 13 FLAT FEE

- Representation of the Client in any adversary proceeding initiated by any party against the Client or related parties.

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- Representation of the Client in any matter which requires filing of an adversary proceeding on behalf of the Client or any other party.
- Representation of the Client in conjunction with a Motion under Rule 2004 and in any examination under Rule 2004 of the Federal Rules of Bankruptcy Procedure.
- Representation of the Client in any motion related to a dismissal of the case under 11 U.S.C. § 707, or for any other reason, excluding informal or formal investigation by the Office of the United States Trustee or the United States Attorney.
- Representation of the Client on any appeal of any nature by any party including the Client.
- Legal Services relative to the preparation and filing of any Reaffirmation Agreement(s).
- Preparation, filing and attendance at any proceeding seeking to redeem personal property under 11 U.S.C. § 722.
- Preparation and filing of a motion under 11 U.S.C. § 522(f)(1), Rule 4003 of the Federal Rules of Bankruptcy Procedure and Massachusetts Local Bankruptcy Rule 4003-1 to avoid any judicial liens and/or any other liens filed pre-petition.
- Preparation and filing of any amendment to your schedules, statements and/or creditor matrix which is caused by your failure to provide us with adequate information.
- Representation of the Client at any motion for relief from the automatic stay.
- Representation of the Client in any post-confirmation proceedings (Chapter 13 case).

Client's Initials

In the event that the Client requires and requests representation with respect to any of the proceedings outlined above in Paragraph C, inclusive, or any other matter outside of Section A above, the Client will be billed pursuant to the Billing Procedures below, and the Firm may seek allowance of such fees (if necessary) from the Bankruptcy Court and such fees may be paid through the Chapter 13 Plan.

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BILLING PROCEDURES

It is understood that the hourly time charges for the work done referenced above in Paragraph C, includes, but is not limited to:

1. Telephone conferences;
2. Office conferences;
3. Court appearances;
4. Alternative dispute resolution;
5. Legal research;
6. Review of file materials and documents sent or received by any party;
7. Preparation for conferences and court hearings;
8. Drafting pleadings, contracts, stipulations, motions and/or instruments; and
9. Correspondence and office memoranda.

For the items listed above in Paragraph C, inclusive, you will be billed at a rate of \$200.00 per hour. This rate is subject to periodic review and increase as circumstances warrant with advance notice of no less than 30 days.

You additionally agree to pay for all out-of-pocket disbursements and expenses reasonably incurred by the Firm in connection with this matter, as and when billed, such as, but not limited to:

1. Filing fees;
2. Travel and related costs;
3. Mailing and delivering charges;
4. Telephone charges;
5. Research services;
6. Commercial photocopy charges;
7. In-office photocopy charges @ \$0.10/page;
8. Facsimile charges;
9. Electronic access to public records charges;
10. On-line computer research charges; and
11. Other incidental expenses.

Certain of these charges are governed by the Massachusetts Local Bankruptcy Rules.

The Firm agrees to obtain the Client's prior approval before incurring any single disbursement or expense in excess of \$500.00. All deposition expenditures will be paid directly by the Client.

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ATTORNEY'S FEES PAYABLE BY THE OPPOSING PARTY

In certain proceedings, a Court awards counsel fees to one party and orders the other party to pay the amount awarded; this is solely in the discretion of the Court and cannot be relied upon with any certainty. Also, in some cases, if there is a settlement agreed to by both parties thereby avoiding a contested matter, the settlement contract may provide that one of the parties will contribute an agreed amount toward the other party's legal expenses. In some cases, the award or agreed-upon amount will be based on factors other than the time expended by counsel and will exceed the amount billed by the Firm. In the initial stages of a case, it is impossible to predict whether any of the above situations will materialize and, therefore, no representation is made in this Agreement or otherwise that any contribution by any other party will be obtained toward the Client's legal expenses. In the event, however, that one of such contributions is received for the benefit of the Client, the amount in question will be credited against the firm's final bill to the Client. In the event that a settlement or award of legal fees exceeds the Firm's final bill, any excess shall be retained as additional fees by the Firm.

TERMINATION

We hope and expect to continue our relationship with you. However, as our client, you retain the right to replace us at any time. We also retain the right to cease to represent you if we have serious differences regarding basic matters, or if potential or actual conflicts arise which would prevent us from effectively or professionally representing you. By signing below you consent to our withdrawal from representing you in the event any of these circumstances arise. We will comply with the legal and ethical obligations upon attorneys terminating representation of a client to ensure successor counsel is fully informed.

IN THE EVENT THAT THE CLIENT DOES NOT FOLLOW THE FIRM'S ADVICE ON ANY MATTER DEEMED MATERIAL BY COUNSEL, THE CLIENT UNDERSTANDS THAT THIS CONSTITUTES A BREACH OF THE WITHIN AGREEMENT AND THE CLIENT CONSENTS TO THE FIRM'S DISCRETIONARY EXERCISE OF ITS RIGHT TO FILE WITH THE COURT AN IMMEDIATE REQUEST, ON EITHER AN EXPEDITED OR EMERGENCY BASIS, FOR WITHDRAWAL FROM REPRESENTATION AND TO SEEK A STAY OF ANY MATTER WITHOUT AUTHORIZATION TO ALLOW COUNSEL TO OBTAIN COURT PERMISSION TO WITHDRAW.

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WITHDRAWAL FROM REPRESENTATION

THE CLIENT AGREES AND UNDERSTANDS THAT THE FIRM MAY WITHDRAW FROM THE ABOVE-REFERENCED REPRESENTATION IF THE CLIENT FAILS TO PAY FEES AND/OR REPLENISH RETAINERS WHEN THEY BECOME DUE. THE CLIENT ACKNOWLEDGES THAT A FAILURE TO PAY FEES AND/OR REPLENISH THE RETAINER IN A TIMELY FASHION CONSTITUTES A SUBSTANTIAL FAILURE TO FULFILL AN OBLIGATION TO THE FIRM RETARDING THE FIRM'S SERVICES. THE CLIENT HEREBY ACKNOWLEDGES THAT THIS PROVISION CONSTITUTES A REASONABLE WARNING THAT THE FIRM WILL WITHDRAW FROM REPRESENTATION AND/OR THE UNDERTAKINGS OUTLINED BELOW.

GOVERNING LAW AND CONSENT TO JURISDICTION

This agreement shall be governed by, and construed in accordance with the laws of the Commonwealth of Massachusetts. You hereby submit to the jurisdiction of any Massachusetts State or Federal Court sitting in Worcester, Massachusetts over any action or proceeding arising out of this agreement.

WARRANTIES and COVENANTS THAT THE FIRM RELIES UPON

The Client covenants and warrants that during the initial meeting with the Firm the Client provided the Firm with truthful answers to all questions relative to the Client's financial circumstances, including complete disclosure of the Client's assets and liabilities. The Client acknowledges that the Firm relied upon the information so provided by the Client in determining the amount of the initial fee. In the event that it is discovered that the information the Client provided is materially incorrect the Client will be billed and is responsible for payment to the Firm for the amount of time actually spent by the Firm in representing the client under Paragraphs A and B. Furthermore, the Firm is entitled to seek an addition retainer or fee prior to continuing to represent the Client. In the alternative, the Firm has an absolute right to file a motion to withdraw and disclose the reasons for such a withdrawal if called upon by the Court.

The Client acknowledges that they have provided the Firm with information sufficient to allow the Firm to make certifications consistent with 11 U.S.C. § 707(b)(4)(c), specifically the Firm:

- Performed a reasonable investigation into the circumstances giving rise to the petition, pleading or other written motion;
- Determined that such document is well-grounded in fact;
- Determined that such document is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and

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- Determined that the document does not constitute an abuse under 11 U.S.C. § 707(b)(1).

Further it is also specifically understood and agreed that the Firm has not advised you to incur more debt in contemplation of filing a bankruptcy, nor to pay this office the fees or charges for services performed as part of preparing for or representing you in your bankruptcy from such further incurred debt.

TIME OF ENGAGEMENT

The Firm is not responsible to represent the Client in any respect under Paragraph A on this Fee Agreement until such time when the Fee is paid in full. In the event the client provides partial payment of the Flat Fee and then decides to terminate the engagement of the Firm, the Firm shall be entitled to charge against the portion of the fee paid for the amount of time actually spent by the Firm on consulting the client during the initial meeting with the Client described in Paragraph A above or any work performed subsequently.

ENTIRE AGREEMENT

This agreement contains the entire agreement between the parties; there are no representations, inducements, promises, agreements or undertakings, oral or written, between the parties other than those set forth herein. This agreement supersedes all prior correspondence, conversations and negotiations. No agreement of any kind relating to the matters covered by this agreement or any amendment or modification of this agreement shall be binding upon either party unless and until the same has been made in writing and executed by all interested parties. No waiver of compliance with any provision or conditions hereof and no consent provided for herein shall be effective unless evidenced by an instrument in writing duly executed by the party heretoforth to be charged with such waiver or consent.

WE WILL NOT CONSIDER THE FIRM TO BE ENGAGED UNTIL THIS AGREEMENT IS SIGNED AND RETURNED TO THE FIRM TOGETHER WITH FULL PAYMENT OF THE REQUIRED FEE.

DO NOT SIGN THIS AGREEMENT UNDER YOU READ AND FULLY UNDERSTAND THIS AGREEMENT, HAVE ASKED ALL QUESTIONS PERTINENT HERETO, AND HAVE RECEIVED ADEQUATE ANSWERS TO YOUR QUESTIONS.

Please note, the Law Offices of James Wingfield is not affiliated with Deirdre Healy, Esq., Corine Claxton, Esq., Reeves Lavallee, P.C. or any other entity.

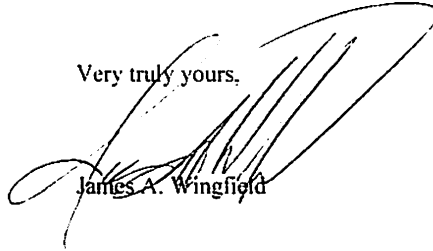
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If I do not receive a copy or copies of this letter signed by you, along with your check, within 30 days I shall assume that you have obtained other counsel, and shall mark my file "closed" and do nothing further.

Very truly yours,

A handwritten signature in black ink, appearing to read "James A. Wingfield", is written over the typed name. The signature is stylized with large loops and a long horizontal stroke at the end.

James A. Wingfield

AGREED AND ACCEPTED:

BY: _____
Jennifer S. Lawrence

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CHAPTER 13
FEE AGREEMENT

This fee agreement is entered into this ____ day of _____, 2014, by and between _____ and _____ of _____, Maine, and **LAW OFFICES OF RICHARD M. GOLDMAN, P.A.** (hereinafter for convenience referred to as "law firm") of Augusta, Maine, for services provided, and to be provided, in the filing and prosecution of a Chapter 13 bankruptcy as follows:

1. **AMOUNT OF FEES.** This law firm has agreed to represent you in a Chapter 13 Bankruptcy proceeding. The amount of the fee is based upon our experience in these matters and the complexity of your case.

The minimum fee for a Chapter 13 case is \$3,000.00. A retainer of \$2,025.00 has been paid for us to start the case. Of the retainer amount of \$2,025.00, \$1,602.00 will be applied toward the \$3,000.00. The remaining amount will pay for costs explained in paragraph 2. We will charge you on an hourly basis, and the hourly charge will be at the rate of the attorney providing the service at the time the service is provided, currently \$250.00. We will include in your Chapter 13 plan the sum of \$1,398.00 for attorney's fees and further include an administrative reserve of \$3,000.00-\$4,000.00 to cover additional fees and costs which may be incurred, depending upon the number and complexity of problems that could occur in your case. If your case requires more attorney's fees than included in the plan and reserve noted above, your Chapter 13 plan may be extended (up to a total of 60 months) to accommodate payment of these fees. You may also be charged for paralegal fees at the hourly rate (currently \$75.00) of the paralegal at the time the services are provided.

Finally, you may be charged for the fees and costs of outside services and assistance such as real estate appraisers or brokers, expert witnesses, investigators, title abstractors, associate counsel, accountants or other financial analysts, or surveyors. If any such fees, costs or expenses for outside services and assistance are to be incurred, it will be by prior agreement with you, and you will be responsible for payment.

2. **COSTS.** Under a Chapter 13, there are costs incurred by this law firm, part of which your retainer will cover. The \$2,025.00 retainer includes the following costs: The filing fee to the Court for a Chapter 13 petition which is currently \$310.00, the credit report fee of \$53.00, and the credit counseling and debtor education fee of \$60.00. The filing fee for amendments to schedules to add on additional creditors is currently \$30.00 and is an additional cost to be paid if and when that cost is necessary.

You will also be charged, as costs, the following services at the following rates pursuant to the Standard Maine Expense Level List (appended to the Local Maine Bankruptcy Rules):

Service	Cost
Facsimile	<i>\$0.50 per page</i>
Long distance telephone	Actual cost
Photocopying	<i>\$0.10 per page</i>
Postage	Actual cost
Travel	<i>\$0.40 per mile</i>
Credit report	Actual cost
Mandated credit counseling	Actual cost

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3. **SCOPE OF SERVICES.** In Chapter 13 cases, our services include analysis of your financial situation and rendering advice to you in determining whether to file a petition in bankruptcy; preparation of any petition, schedules, statement of affairs and plan which may be required; representation of you at the meeting of creditors and confirmation hearing, and any adjourned hearings thereof; exemption planning; negotiations with creditors; defending you in dischargeability actions, motions to dismiss or motions for relief from stay; representation in contested matters or adversary proceedings and related appeals; objection to claims; representation regarding sale of property and lien avoidance actions; prosecution of stay violations; representation regarding other matters associated with the advancement of your Chapter 13 case toward a successful conclusion within the bounds of good faith and in adherence with my legal and ethical obligations to the Court and to you.

4. **CONVERSION.** If you convert your case to a Chapter 7, there will be additional fees and costs assessed. You will be advised of these fees and costs prior to conversion.

5. **WITHDRAWAL OR TERMINATION OF SERVICES.** You have the right to terminate the services of this law firm at any time and for any reason. If you terminate the services of this law firm, you will be responsible to pay for fees, costs and services the law firm has provided in this case.

The law firm has the right to request permission from the Court to withdraw its representation of you in this case if:

- a) the law firm is unable to effectively communicate with you;
- b) nonpayment of fees and costs;
- c) you request that the law firm engage in unethical or illegal actions;
- d) you refuse to assist or cooperate with us in the prosecution of your case; or
- e) you and the law firm have irreconcilable differences of opinion regarding the prosecution of your case.

In the event the law firm requests Court permission to withdraw its representation of you in this case, you will be responsible to pay the law firm's fees and costs for services it has provided you in this case.

6. **MISCELLANEOUS.** You understand that the law firm does not guarantee any result to you, but the law firm will provide its best efforts on your behalf. The law firm agrees to be bound by the terms of this agreement for 90 days from the date of the agreement.

LAW OFFICES OF RICHARD M. GOLDMAN, P.A.

By: _____
Richard M. Goldman, Esquire

Client:

Client:

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5. In return for the above-disclosed fee, I have agreed to render legal service for all aspects of the bankruptcy case, including:

- (a) Analysis of the debtors' financial situation and rendering advice to the debtors in determining whether to file a petition in bankruptcy;
- (b) Preparation of any petition, schedules, statement of affairs and plan which may be required.
- (c) Representation of the debtors at the meeting of creditors and confirmation hearing and any adjourned hearings thereof.
- (d) Exemption planning; negotiations with creditors; defending the debtors in dischargeability actions, motions to dismiss or motions for relief from stay; representation in contested matters or adversary proceedings and related appeals; objection to claims; representation regarding sale of property and lien avoidance actions; prosecution of stay violations; representation regarding other matters associated with the advancement of the debtors' Chapter 13 case toward a successful conclusion with the bounds of good faith and in adherence with my legal and ethical obligations to the Court and the debtors.

CERTIFICATION

I certify that the foregoing is a complete statement of any agreement for payment to me for representation of the debtors in this bankruptcy proceeding.

Dated: _____, 2014

Richard M. Goldman, Esquire
Bar No: 819, Attorney for Debtors
Law Offices of Richard M. Goldman, P.A.
37 Green Street, P. O. Box 806
Augusta, ME 04332-0806
Telephone: (207) 623-8460
E-mail: Rich@rgoldmanlaw.com

Dated: _____, 2014

Client:

Dated: _____, 2014

Client:

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THE LAW OFFICE OF
BONNIE C. MANGAN, P.C.
WESTVIEW OFFICE PARK
1050 Sullivan Avenue, Suite A3
South Windsor, Connecticut 06074

Bonnie C. Mangan

Telephone (860) 644-4204

Facsimile (860) 644-4934

TTY (860) 648-5803

e-mail: bonnie.mangan@manganlaw.com

Date:

Client Name and address

Re: Chapter 13 Bankruptcy

Dear Client:

Thank you for the opportunity to evaluate your financial difficulties and respond to your request to have our office represent you for the purpose of filing a Chapter 13 bankruptcy petition. We have agreed to undertake representation of you for a fee of \$_____ plus the court filing fee of \$_____. The Client(s) acknowledges that Bonnie C. Mangan has been paid or they have agreed to pay in installments the sum of \$_____ to date. While we have agreed to initiate your file upon payment of the retainer amount, the petition cannot be filed unless all fees associated with your case are paid in full.

We cannot proceed to represent you in any matter until all required statements, disclosures, and documents have been signed and provided to our office, including your return of this Agreement, signed as requested. If you do not provide us with your full and prompt cooperation, we will be unable to properly help you, which will affect your case and thus make our legal representation impossible; in which case, we reserve the right to withdraw our representation. That cooperation also includes that our fees be paid on a timely basis.

The fee charged will cover the initial interview and consultation, phone calls, the drafting and compilation of Schedules, a Chapter 13 Plan, and their review. It will also cover discussions with creditors and attendance at the First Meeting of Creditors and the Confirmation Hearing. This fee presumes that you have given our office accurate information and prompt cooperation, as is required to vigorously pursue your case. If you fail to give our office prompt and accurate information, we reserve the right to increase our fees or withdraw our representation.

With respect to the bankruptcy I have advised you of several important issues. While these have been discussed orally, I believe it appropriate to review them again. Under the new bankruptcy law, you will need to complete a credit counseling requirement in order to file your case or receive a Discharge of your debts. You will also be required to provide historical documentation of your assets, bills, income and expenses. Your list of creditors must be complete. Each and every creditor must have a proper name and address. It is less important to have exact amounts. You are responsible for all the names and addresses. If you do not list a creditor or misidentify his name or address, that creditor's claim may not be discharged, and they would be free to collect from you by suit or otherwise.

If you neglect to name a creditor whose debt occurred prior to your petition date, you may file an amendment to add that creditor within 50 days from your first meeting of creditors for a filing fee of \$_____. If amendments are not filed within that time frame, it may not be possible to include them and would, if possible, result in additional charges, including costs and attorney fees. Please keep this in mind as petitioners often seek to add additional creditors.

Every asset that you own must be disclosed on the schedules. This includes all possible claims, property that has recently been transferred, or property that you are using or benefits you within the past four (4) years. It is most important that these assets be described in as great detail as possible.

The fee does not cover, and you will be charged additional sums for filing or defending Motions, Adversary Proceedings, Special Proceedings, Reaffirmation Agreements, Motions to Assume a Lease or Executory Contract, Motions to Extend your Discharge Date, 2004 Examinations by creditors or the Trustee(s), or lawsuits in your bankruptcy case. These additional charges include, but are not limited to Motions for Relief from Stay (for example, there are Motions which result from your failure to make timely car loan or mortgage payments) and Complaints objecting to your overall discharge, or the discharge ability of a specific debt, (for example, charges wrongfully incurred by misrepresentation or fraud), or inquiries into possible abuse of the Bankruptcy Code, (for example, excess income over expenses).

These additional matters, Motions, Adversary Proceedings, Special Proceedings, Examinations or lawsuits typically relate to complaints for the avoidance of liens, objections to discharge, preference actions or motions relating to fraudulent conveyances or transfers and motions seeking relief to sell property. We do not defend Motions for Relief from Stay unless we have agreed to do so in writing and for an additional fee to be determined if and when such Motions may arise. In the adversary proceeding or special proceeding there will be additional costs for services rendered which you will be responsible for if we agree to represent you. These charges will be at the rate of \$_____ per hour for Bonnie Mangan's time and \$_____ per hour for associates' time and \$_____ per hour for paralegal time in addition to the retainer. This

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would also specifically relate to matters presently being handled by other counsel. Law Offices of Bonnie C. Mangan P.C. retains the right to refuse further representation of you in this matter, other than the filing of the petition and attendance at the first meeting of creditors.

Once a bankruptcy has been filed, the automatic stay is in effect. This automatic stay prevents any further action to recover a pre-petition debt. If a creditor continues to take action, you should notify the creditors of the bankruptcy and notify me of the collection effort. Please save any correspondence.

The filing of your bankruptcy will discharge personal obligations to creditors with dischargeable debts. However, this will not discharge or remove any liens that may be present on either personal property or real estate. Therefore, the bankruptcy in and of itself does not remove mortgages or liens, or clear the title with respect to these assets. This may become an issue in the future if you attempt to sell collateral, or otherwise transfer the property. Additionally, the creditor may have the rights to foreclose, repossess or otherwise liquidate the property after the bankruptcy. It may be possible to remove these liens by the filing of a separate action in the Bankruptcy Court or under a separate Chapter of bankruptcy, but that is not contemplated in the fee charged to you and will only be commenced at your direction for a fee to be determined by our mutual agreement separate from the fee for the filing of your bankruptcy as indicated in the first paragraph of this retainer letter.

You may presently be the defendant in a number of lawsuits including, but not limited to, a foreclosure action affecting property which presently belongs to you. This office does not represent you in those legal matters or disputes, but instead, represents you strictly for the purpose of filing a bankruptcy petition. Also, bankruptcy does not transfer ownership of property. Therefore, if you own property you must maintain insurance beyond the bankruptcy date. If you are not paying your mortgage, the bank may not be paying your insurance and therefore, you must make alternative arrangements. As such, you should keep us informed of these matters as they are extremely important, but you should not rely in any way on this office to defend your rights or monitor these files on your behalf. While I would be pleased to speak with you or make an appointment, the office does not represent you beyond your Discharge date. This firm makes no representations to you regarding the tax implications of a bankruptcy filing and suggests that you contact an accountant if you have any tax concerns.

If any substantial payments have been made to creditors on antecedent debts within 90 days of the bankruptcy, these payments are recoverable by the trustee. Moreover, if any debts to family members have been repaid within one year of the petition in bankruptcy or if any property of any kind has been transferred in the last four years, these transfers are also recoverable and reversible by the Trustee, by suit or otherwise. It is your responsibility to

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inform us of any transfers of property, real or personal, over \$200 in the past four (4) years before your bankruptcy.

Please pay close attention to the asset values that have been listed. All assets must be disclosed. After consultation with you, you have indicated that these asset values are accurate. In addition, if your income exceeds your expenses, the court could require that the surplus income needs to be dedicated to future monthly payments on a portion of your bills under Chapter 13 or the court could deny your Chapter 7 in full and prevent you from discharging your bills. This has been discussed with you carefully and you have decided to proceed knowing this possibility. In the event that you and/or your family is over the median allowable income, you may be subject to and/or your family is over the median allowable income, you may be subject to means testing.

This firm has not agreed to represent you under that circumstance without future arrangements under terms not yet determined or agreed to.

We highly value the trust and faith that you have put in our office. We will use our best efforts to provide prompt, competent and diligent services on your behalf to seek results that are the best available under existing law. While we promise you our best, recent changes in the Bankruptcy law and the interpretation of those changes make it impossible to warrant or guarantee the final outcome of your case. Nonetheless, under the terms of this Agreement and with your cooperation and assistance, we do promise you the best available representation.

If you have any questions, I am available to discuss them with you by telephone or in person.

Sincerely,

LAW OFFICES OF BONNIE C. MANGAN

BY: _____
Attorney Bonnie C. Mangan

UNDERSTOOD, AGREED & ACCEPTED:

_____ DATE: _____

Vermont's Presumed Reasonable Fees in Chapter 13

- Structure - 3 tiers
 - "simple" chapter 13
 - No real estate
 - Plan essentially just pays credit card debt
 - Direct Mortgage Payment Plan
 - Conduit Mortgage Payment Plan
 - Direct and Conduit Mortgage Payment Plans have presumed reasonable fees for pre- and post-confirmation activities

Where did the numbers come from?

- 13 respondents to the fee survey
- Average attorney hourly rate - \$202.00
- Average paralegal hourly rate - \$71.25

"Simple" Chapter 13

- Average Attorney Time – 10.95 hours
- Average Paralegal Time – 5.03 hours
- New Presumed Reasonable Fee for "Simple" Chapter 13 cases - \$2,500.00

Direct (Non-conduit) Mortgage Payment Plans

- Average Attorney Time
 - Pre-confirmation – 14.31 hours
 - Post-confirmation – 4.69 hours
- Average Paralegal Time
 - Pre-confirmation – 3.47 hours
 - Post-confirmation – 1.88 hours
- Presumed Reasonable Fee for Direct Mortgage Payment Plans
 - Pre-confirmation services - \$2,700.00 or less
 - Post-confirmation services - \$800.00 or less

Conduit Mortgage Payment Plans

- Average Attorney Time
 - Pre-confirmation – 15.53 hours
 - Post-confirmation – 3.47 hours
- Average Paralegal time
 - Pre-confirmation – 4.69 hours
 - Post-confirmation – 1.88 hours
- Presumed Reasonable Fee for Conduit Mortgage Payment Plans
 - Pre-confirmation - \$3,700.00 or less
 - Post-confirmation - \$600.00 or less

Additional “presumed reasonable” fees

- Motion To Modify Chapter 13 Plan - \$350.00
- Motion For Relief From Stay
 - Without hearing - \$350.00
 - With hearing - \$500.00

Myths about
“presumed reasonable fees”

- I don't have to keep time records
- If I have to justify my fee I can go back and construct my time records
- I can charge the presumed reasonable fee in every case
 - Rule 1.5(a)(4)
- As long as I don't charge more than the presumed reasonable fee, I don't have to worry about justifying the fee charged.
 - Rule 1.5(a)(1), (4) and (7)
