

**TO: ALL ATTORNEYS REPRESENTING CHAPTER 13 DEBTORS
IN THE CORPUS CHRISTI, BROWNSVILLE AND MCALLEN
DIVISIONS**

**FROM: CINDY BOUDLOCHE, STANDING CHAPTER 13
TRUSTEE**

DATE: September 26, 2006

*NOTICE OF CHANGES TO CHAPTER 13 PRE-CONFIRMATION PAYMENT
PROCEDURES AND NEW LIMITS FOR ATTORNEYS FEES*

Payment Procedures

In accordance with our Court's interpretation of BAPCPA and the new local rules, the Trustee's pre-confirmation payment procedures are being changed to provide for adequate protection payments on vehicles. Interim payments will no longer be made prior to confirmation except as follows in the order noted:

1. On-going monthly home mortgage payments.
2. Adequate protection payments to vehicle lien holders in the amount of 1.5% of the value of the vehicle each month. Value will be determined by the amount stated on the Debtor's Schedule B unless otherwise ordered.
3. Debtor's attorney's fees for those being paid pursuant to the fixed fee agreement only, up to the first \$1,000.00 less any pre-petition retainer exclusive of the filing fee. The remaining balance will be paid in the amount of \$200.00 per month.
4. Domestic support obligations (to be paid at the same time as the remaining balance of the attorney fees).

All other funds paid by the Debtors will be reserved until the case is confirmed. In the event the case is dismissed prior to confirmation, all amounts that have not been disbursed for the above claims will be returned to the Debtors.

New Fixed Fee Limits

Judge Schmidt announced this week that he will immediately implement the changed amounts to the fixed fee agreement decided, but not yet ordered by the Judges in the Southern District including the "no look" fees for certain services provided through 120 days from confirmation.

\$3,085.00 – fixed fee for all services required through 120 days after the case is confirmed.

\$2,700.00 – maximum fixed fee paid for all services until the case is confirmed.

If a fixed fee agreement is filed, the following fixed supplemental fees will apply after 120 days from the date of confirmation:

- \$ 275.00 – for motions for relief resolved by agreement
- \$ 275.00 – for Trustee’s motion to dismiss resolved by agreement
- \$ 450.00 – for a motion to modify the plan

Fees requested in accordance with the fixed fee agreement will be paid upon the filing of the agreement. If a fixed fee agreement is filed, no supplemental fees will be awarded within 120 days of confirmation of the case and will be limited to the above amounts after 120 days from confirmation for the matters described.

Debtor’s attorneys may request fixed fees in the new amounts by using the current “Bankruptcy Rule 2016(b) Disclosure and Application for Approval of Fixed Fee Agreement” located at the Southern District of Texas website, and changing the maximum amounts in paragraphs 3.A., 4.A., B. and C. (txs.uscourts.gov/bankruptcy/ and click on New Forms for Chap 13 Procedures)

The Judge commented that Debtor’s counsel should know before the case is filed whether there will be contested matters requiring services which are extraordinary in the context of Chapter 13 cases. In that event, Debtor attorneys may elect to charge and collect fees on an hourly basis by filing a fee application for the initial fee and all supplemental fees. Both initial and supplemental fee applications must be supported with detailed time and expense records. No fees will be paid through the plan until the fee application is approved.

Attorneys are reminded that no fees may be charged and collected for bankruptcy services, whether or not paid through the plan, without full disclosure and approval of the Court. Fee applications should not be submitted prior to the conclusion of the services for which compensation is sought.

cc: Hon. Richard S. Schmidt