

## **RIGHTS AND RESPONSIBILITIES OF CHAPTER 13 CLIENTS AND ATTORNEYS**

It is important for clients who file a bankruptcy case under Chapter 13 to understand their rights and their responsibilities. It is also important that the clients know what their attorney's responsibilities are, and understand the importance of communicating with their attorney to make the case successful. Clients should also know that they may expect certain services to be performed by their attorney. The below guidelines are hereby agreed to by the clients and their attorneys.

### **CLIENT**

The attorney and client acknowledge that they have discussed the obligations of the client to:

#### **Before the case is filed:**

1. Provide the attorney with complete and accurate financial information. This should include all debts owed, all property owned, an accurate current budget, a projected budget, copies of all required tax returns or transcripts from the IRS, and 6 months of pay stubs, and any other proof of income.
2. Inform the attorney of any prior bankruptcies (in all jurisdictions) and the outcome of those proceedings.
3. Discuss with the attorney the client's reasons and objectives for filing the case.
4. Carefully review the completed bankruptcy petition (including all schedules and statements) prior to signing it, and promptly advise the attorney of any errors, omissions, or changes which need to be made to ensure its accuracy.
5. Review the proposed Chapter 13 Plan with the attorney and understand what the proposed payments will be, when they are to be made, and how they are to be made. The client should understand what payments to creditors are to be made through the Chapter 13 Trustee's office.

#### **After the case is filed:**

1. Begin making the proposed plan payments to the Trustee so that the Trustee receives the first proposed plan payment within 30 days of filing.
2. Keep the Trustee and attorney informed of the client's address, telephone number, and employment status.
3. Inform the attorney of any wage garnishment or attachment of assets which occurs or continues after the case is filed.
4. Prior to attending the virtual Meeting of Creditors, client is required to watch the Chapter 13 videos hosted by the Chapter 13 Trustee and read the "Red Booklet" sent out by the Chapter 13 Trustee and ask the attorney about any questions/concerns they

have about them.

5. Client will attend the virtual Meeting of Creditors (341 Meeting) by using Zoom. While participating in the virtual Meeting of Creditors, client will conduct themselves in a manner that is respectful to the proceedings, i.e. appropriate dress, location, behavior, not driving, etc. and will discuss what constitutes appropriateness with attorney prior to the meeting.
6. Review the Confirmation Order when received, and advise the attorney if the client has questions about their obligations under the plan or how creditors are getting paid.
7. Review the Trustee's Notice of Intent to Pay Claims when received and advise the attorney of any filed claims that appear to be improper or excessive and also advise the attorney if there are any creditors who have not filed a proof of claim but the client wants to pay.
8. Insure all property of the estate, including maintaining liability, collision, and comprehensive insurance on vehicles securing loans or leases.
9. Contact the attorney promptly if the client experiences any event that would render them unable to make their scheduled plan payment, such as loss of job, serious illness/injury, unexpected large expense, etc.
10. Inform the attorney if any tax refunds the client would be entitled to are seized or not returned to the client by the IRS.
11. Provide any documentation/information requested by attorney for the attorney to file any necessary post-petition motions (i.e. tax returns, pay stubs, amended budget).
12. Contact the attorney prior to attempting to buy, sell, or refinance any real estate or employing any real estate agents or listing real estate for sale. Contact the attorney prior to attempting to buy, sell, or refinance any motor vehicle or other asset.
13. Contact the attorney immediately if the debtor receives an inheritance or believes they may receive an inheritance in the future.
14. Contact the attorney if the client is sued or involved in any serious legal proceeding during the case, including criminal matters and divorces.
15. Contact the attorney if the client has any potential lawsuits against another person or company that arise after the bankruptcy is filed.
16. Attend a financial management workshop before the due date of the last scheduled plan payment.
17. Open and read all correspondence from the attorney, Trustee, and Bankruptcy Court.
18. Listen to any voice messages left by the attorney and promptly return any missed calls from their attorney.

19. If the client is involved in a joint case, client should inform attorney if they separate from their spouse or if they are seriously contemplating divorce.

## **ATTORNEY**

\_\_\_\_\_The attorney certifies they are certified in consumer bankruptcy by the American Board of Certification. (Mark if applicable)

The attorney has agreed to accept a flat fee (referred to in Administrative Order 23-1 as the “No App Fee”) of \$ \_\_\_\_\_ for all aspects of the bankruptcy case, except for services excluded from the No App Fee (described below). For some of the excluded services, the attorney has agreed to limit the fees to amounts set by the Bankruptcy Court for the specific services. For the remaining excluded services, the attorney may request additional fees on an hourly basis in accordance with the agreement between the attorney and the client.

Fees shall be paid by the Trustee through the plan unless otherwise ordered. The attorney may not receive fees directly from the client, other than the initial retainer, unless paid by a third party, in which event such payment must be fully disclosed to the Bankruptcy Court. Any fee relating to the bankruptcy case must be agreed upon by the client and the attorney as well as being disclosed to and approved by the Court.

### **Services included in the No App Fee:**

The services the attorney agrees to provide for the No App Fee include:

1. Meet with the client to review the client’s debts, assets, liabilities, income, and expenses. Request, as appropriate to the case, financial information, including credit reports and information on any mortgage debt or support obligation.
2. Conduct necessary due diligence regarding any prior bankruptcies involving the client.
3. Counsel the client regarding the advisability of filing a bankruptcy and whether filing either a Chapter 7 or Chapter 13 case would assist in meeting the client’s objectives.
4. Explain what payments will be made directly by the client and what payments will be made through the client’s proposed Chapter 13 plan.
5. Explain to the client how, when, and where to make the Chapter 13 plan payments, including advising the client that the first plan payment must be received by the Chapter 13 Trustee no later than 30 days after the case is filed.
6. Explain to the client how the attorney’s fees and Trustee’s fees will be paid and providing the client a signed copy of any contract between the client and the attorney and a copy of this Rights and Responsibilities Agreement to the debtor.
7. Advise the client of the requirement to attend the virtual 341 Meeting of Creditors by Zoom, take necessary steps to verify the client is prepared to participate in the 341 Meeting of Creditors, and instruct the client as to the date, time, and login procedure for

the meeting.

8. Advise the client of appropriate dress, location, and behavior for Court appearances and the 341 Meeting of Creditors (i.e. not wearing bedclothes, walking, driving, smoking/vaping, or calling from work). Advise the client to have a copy of the petition and the schedules and statements with them as they attend the virtual 341 Meeting of Creditors and to participate from a location free of distractions.
9. Advise the client of the necessity of maintaining liability, collision, and comprehensive insurance on vehicles securing loans or leases and advise the client of the duty to insure all property of the estate.
10. Timely prepare and file the client's petition, plan, statements, and schedules.
11. Ensure that if the plan includes a motion to void liens, that the collateral is identified in detail and an applicable exemption is claimed.
12. Ensure proper notice and service of the plan.
13. Prior to the scheduled virtual 341 Meeting of Creditors, verify that Attorney and client will have adequate internet connections to appear virtually and will have prepared for the meeting.
14. Review all documents filed in the case and review all communications received concerning the case.
15. Respond to objections to plan confirmation and, where necessary, prepare an amended plan, and appear at the confirmation hearing.
16. Explain to client that a plan may be modified after confirmation in certain circumstances and, where appropriate, prepare, file, and serve necessary proposed modifications to the plan which may include suspending, lowering, or increasing plan payments.
17. Prepare, file, and serve any necessary amended statements/schedules as appropriate.
18. Review the confirmation order and the Trustee's notice of intent to pay claims.
19. If necessary, object to improper or invalid claims based upon information provided by the client.
20. File claims for creditors when the client's goals and interests are served by such filing.
21. Respond to client communications in a timely manner. Attorney should advise the client of the best and most efficient means of communication.
22. File any notices of change of employment or change of address for the client.
23. Represent the client in connection with all motions filed in the bankruptcy case, other than those listed in the excluded services below.
24. Where appropriate, prepare, file, and serve necessary motions to avoid liens on real or personal property.

25. Monitor the case at regular intervals to review the client's compliance with the plan and applicable Court orders, as appropriate to the case based upon: the circumstances of the case, prior Court activity, and the history of the Debtor. Attorneys should utilize resources such as PACER, [www.13network.com](http://www.13network.com), the Chapter 13 Trustee's website, or any commercially available software to help them monitor the case status efficiently.
26. After conducting a regular, periodic review of the case, communicate with the client to discuss any problems discovered and take steps to address any problems as appropriate to best represent the interests of the client.

**Additional services requiring additional limited fees.** The following services are not included in the No App Fee, but the attorney has agreed to provide these services, when necessary and appropriate for the case, for additional compensation based on a fee schedule approved by the Court. The maximum additional fee for work performed in connection with obtaining the necessary Court approval for certain activities is indicated below:

1. A completed mortgage loan modification of the claim secured by the debtor's principal residence – up to \$500.
2. A motion and order authorizing the use of insurance proceeds and/or substitution of collateral arising out of a loss covered by insurance– up to \$400.
3. A motion and order regarding retention of a realtor, auctioneer or other professional relating to the sale of property or representing the interests of the estate – up to \$200.
4. A motion and order regarding the sale of property and disposition of the proceeds, resulting in the closing of such sale and the filing of any necessary report of the sale – up to \$300.
5. A motion and order regarding the retention of special counsel by the debtor relating to collecting or pursuing a cause of action in a different judicial forum and that results in the filing of a motion and order authorizing the approval of a settlement of such litigation – up to \$300. (When the special counsel is receiving a contingency fee, it is anticipated that such contingency fee will typically be reduced by the amount paid by the bankruptcy estate to the bankruptcy counsel to engage special counsel and to obtain settlement approval so that the cumulative fees incurred by the bankruptcy estate to complete a settlement does not exceed the agreed upon contingency fee. If the litigation is tried to a conclusion and does not require a settlement approval process in bankruptcy, the fee enhancement solely for obtaining approval of special counsel will be up to \$200.00, again typically reducing the total contingency fee paid.)

**Additional services on an hourly basis.** The following services are not included in the No App Fee and are not covered by any specific cap on fee, but the attorney has agreed to provide these services, when necessary and appropriate for the case, but may charge an hourly rate for the

work performed – subject to Court approval:

1. Motions for sanctions or contempt.
2. Representation at a Rule 2004 examination.
3. Representation of the debtor(s) in any adversary proceeding (or certain contested matters placed on an “adversary track” by order of the Court), unless such representation is an integral part of the attorney’s obligations under the Rights and Responsibilities Agreement.

**Services the attorney has not agreed to provide.** The attorney has not agreed to represent the client in any adversary proceeding or certain contested matters placed on an “adversary track” by order of the Court, unless such representation is an integral part of the attorney’s obligations under the Rights and Responsibilities Agreement or unless the separate litigation representation is spelled out in an addendum to the agreement or in a separate supplemental contract. The client will be fully apprised of any such anticipated litigation that would not be covered by this agreement.

Effective Date: \_\_\_\_\_

DEBTOR LAW FIRM NAME

\_\_\_\_\_  
CLIENT

By: \_\_\_\_\_

\_\_\_\_\_  
CLIENT (*if joint*)

The best way to reach the attorney is:	The best way to reach the client(s) is:
The best time to call the attorney is:	The best time to call the client(s) is: