

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA

In re:)
)
Compensation of Chapter 13 Debtor's)
Attorney in Student Loan Dischargeability)
Actions) Administrative Order No. 2024-03
)

COMPENSATION OF CHAPTER 13 DEBTOR'S ATTORNEY
IN STUDENT LOAN DISCHARGEABILITY ACTIONS

This order provides presumptively reasonable fees for (1) conducting due diligence on behalf of a chapter 13 debtor with respect to the potential pursuit of an adversary proceeding to discharge student loan debt (an "Student Loan Undue Hardship Proceeding") and (2) prosecuting a Student Loan Undue Hardship Proceeding to a consensual resolution.

Therefore, it is ORDERED that:

1. With respect to any fees sought pursuant to this order, if the case has not been confirmed, debtor shall file a motion for additional compensation using the CM/ECF event "Application for Compensation" and request that the additional fee be paid along with other fees pursuant to local administrative order. The preconfirmation motion must be served on all creditors as listed on the most recent creditor matrix. If the case has already been confirmed, the debtor shall file a motion using the CM/ECF event "Motion to Modify Confirmed Chapter 13 Plan to Pay Additional Fees for Student Loan Legal Work." The postconfirmation motion must be served in accordance with Local Bankruptcy Rule 3015-2 (e) and (f). The postconfirmation motion to modify shall specify the amount of additional fees sought and how debtor proposes to pay them. The additional postconfirmation fees shall be paid over a term of at least twelve months (or the remaining term of the plan if less than twelve months).

2. A fee of \$500.00 (the “Pre-Litigation Fee”) is presumed to be the maximum reasonable compensation that may be awarded for an attorney’s due diligence on behalf of a debtor to determine whether a Student Loan Undue Hardship Proceeding is advisable. The services to be provided in connection with the Pre-Litigation Fee include, without limitation:

- a. Facilitating the debtor’s recovery of the debtor’s National Student Loan Data System file;
- b. Reviewing the National Student Loan Data System file and gathering any other information pertaining to the debtor’s student loan balances;
- c. Assessing the debtor’s current and future ability to repay the student loans;
- d. Evaluating the debtor’s past efforts at repaying or managing the student loans;
- e. Obtaining supporting documents, including income and expense documentation; and
- f. Providing guidance to the debtor regarding prospects for success in a Student Loan Undue Hardship Proceeding.

3. If the debtor decides to move forward, a fee of \$2,000.00 (the “Consensual Litigation Fee”) is presumed to be the maximum reasonable compensation that may be awarded for an attorney’s representation of a debtor in a Student Loan Undue Hardship Proceeding through the entry of a stipulation and entry of a consent judgment discharging all or part of the debtor’s student loan debts. The services to be provided in connection with the Consensual Litigation Fee include, without limitation:

- a. Commencing the Student Loan Undue Hardship Proceeding by filing and properly serving a complaint;


- b. Submitting an attestation in a form acceptable to the Department of Justice, the United States Attorney for the district in which the complaint is filed, and the United States Department of Education;
- c. Providing any additional supporting documentation requested by the United State Attorney;
- d. Reviewing, editing and submitting a joint stipulation as to the facts supporting a full or partial discharge of the debtor's student loan debt;
- e. Attending all scheduled hearings in the Student Loan Undue Hardship Proceeding through the entry of a consent judgment fully or partially discharging the debtor's student loan debt; and
- f. If the Department of Education will not stipulate to the dischargeability of the student loan debt or the debtor refuses to accept a stipulation of partial discharge, preparing a joint stipulation for dismissal of the complaint and termination of the Student Loan Hardship Proceeding, unless the debtor chooses to proceed with the litigation and enters into a separate agreement for continued representation on a basis agreeable to the debtor and the debtor's attorney.

4. Counsel may seek additional compensation by separate application attaching contemporaneous time records for extraordinary services provided prior to and during the Student Loan Undue Hardship Proceeding.

5. The bankruptcy administrator, the debtor, any party in interest, or the court – *sua sponte* – may in any case challenge the reasonableness of compensation awarded under this order

and for this purpose may request the filing of an application pursuant to 11 U.S.C. § 330 and Fed. R. Bankr. Proc. 2016.

Done this 16 day of July, 2024.



Jerry C. Oldshue
Chief U.S. Bankruptcy Judge



Henry A. Callaway
U.S. Bankruptcy Judge