

In the United States Bankruptcy Court

for the Northern District of Iowa

MARGARET BAILS
Debtor(s).

Bankruptcy No. 98-02717-C
Chapter 13

ORDER RE APPLICATION FOR ALLOWANCE OF SUPPLEMENTAL FEES AND EXPENSES

This matter came before the undersigned on November 20, 2001 on Application for Allowance of Supplemental Fees and Expenses filed by counsel for Debtor, David N. Nadler. This is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(A).

FINDINGS OF FACT

Attorney Nadler seeks allowance of additional fees of \$270.00 and expenses of \$3.82. The Court has previously approved payment to Mr. Nadler of \$1,000 in fees on January 29, 1999, with \$600 of that amount payable through the plan. Mr. Nadler also received approval for \$1,540 in fees and \$29.10 in expenses on August 10, 1999, also payable through the plan. Trustee has disbursed to Mr. Nadler all of the attorney fees and expenses approved to date. She reports the plan will remain feasible if the Court approves the new fees and expenses requested and orders them paid to Mr. Nadler through the plan.

The itemization of services Mr. Nadler filed shows total time of 2.7 hours spent by Mr. Nadler on this case from 6/29/01 through 8/1/01. These services include reviewing correspondence from Trustee and others and corresponding with Debtor. Expenses of \$3.82 are from photocopies and postage.

CONCLUSIONS OF LAW

The Court may award an attorney reasonable compensation for services rendered. 11 U.S.C. §330(a)(1)(A). It may on its own motion award less than the amount of compensation that is requested. 11 U.S.C. §330(a)(2). Subsection (4)(B) of §330(a) provides that in a chapter 13 case in which the debtor is an individual, the court may award reasonable compensation to the debtor's attorney for representing the interests of the debtor in connection with the bankruptcy case based on a consideration of the benefit and necessity of such services to the debtor and the other factors set forth in §330(a). In re Rothman, 206 B.R. 99, 110 (Bankr. E.D. Pa. 1997).

Local Rule 2016-1(b) provides for payment of a base amount of attorney fees without application and hearing. The base amount applicable in Chapter 13 cases is a maximum of \$1,000. In re Digman, No. 98-00220-C, slip op. at 4 (Bankr. N.D. Iowa Aug.17, 1998). This base amount was determined to be sufficient to compensate for basic services rendered by debtors' attorneys in Chapter 13 cases. These

include counseling the debtors; preparing and filing the petition, schedules and plan; attending the creditors' meeting and the confirmation hearing; reviewing claims and objecting to claims where necessary; and filing amendments and motions. Id.

The base amount in Local Rule 2016-1(b) is a total amount which includes retainers and amounts to be paid through the plan. As Mr. Nadler seeks fees which exceed that amount, the requirements of §330 (a) and Fed.R.Bankr.P. 2016 must be followed. Mr. Nadler must, under a lodestar analysis, prove that the amount of compensation he seeks is reasonable. In In re Apex Oil Co., 960 F.2d 728, 732 (8th Cir. 1992), the Eighth Circuit adopted the lodestar approach for calculating appropriate compensation under §330(a). The lodestar amount is the number of hours reasonably expended multiplied by a reasonable hourly rate. Id.

The Court has reviewed Mr. Nadler's two previous applications for compensation as well as the entire file in this case. Mr. Nadler has already received more than twice the \$1,000 base amount for representing Chapter 13 debtors. The Court finds the amount already approved and paid to Mr. Nadler adequately compensates him for his work in this case.

Prior to confirmation, an issue arose regarding whether a certain expense was appropriately listed on Debtor's Schedule J. Services Mr. Nadler performed in that regard were beyond "ordinary chapter 13 representation" as Mr. Nadler described in his application for supplemental compensation filed June 15, 1999. That matter is no longer an issue and Mr. Nadler's current itemization of fees does not demonstrate any continuing need for representation out of the ordinary for a Chapter 13 case. Compensation for Mr. Nadler's recent services are included within the description of services to be rendered in his first application for compensation filed September 8, 1998. That application includes legal services including "assisting the Debtor concerning changes of circumstance during the plan period including seeking modification of the plan, conversion, or dismissal" and "assisting the Debtor in obtaining a discharge of [her] debts."

The Court has broad discretion in determining the appropriate compensation for services performed by a debtor's attorney. Mr. Nadler has been paid for his attorney fees to date in full. Unsecured creditors holding total claims of \$36,113.63 will receive only a 25.46% dividend on their claims. In these circumstances, the Court declines to further compensate Mr. Nadler for the services he itemizes in his application.

WHEREFORE, the Application for Allowance of Supplemental Fees and Expenses filed by Attorney David Nadler on September 12, 2001 is DENIED.

FURTHER, Mr. Nadler's attorney fees of \$270.00 and expenses of \$3.82 are disallowed.

SO ORDERED this 12th day of December, 2001.

Paul J. Kilburg
Chief Bankruptcy Judge