

## **Pay the filing fee in installments???** **How could that go wrong???**

I.

- A) If a debtor ever asked to pay the filing fee in installments (in the Northern District of Georgia)
- B) and then defaulted on that obligation
- C) then the Court will deny any new application to pay in installments
- D) and the debtor will have 10 days to pay all of the filing fee or the case will be dismissed
- E) and the stay will be void from the beginning.

A – to determine this you will need to see every docket for every case the debtor filed. If you pull up a really old case on ECF and the docket is available to you, remember the Clerk can sometimes see old dockets when we cannot. In the past, the Chapter 13 Trustee used to fund the filing fee out of the debtor's plan payment, so the receipt would show on the docket *after* dismissal.

B – that DOES NOT mean 'if the debtor still owes the clerk money.' It means exactly what it says. Paying a years-old filing fee does not make you now eligible to pay in installments.

C – If you cannot assure yourself that the debtor *is eligible* to pay in installments, then you should presume they are *not eligible*.

D – How long do you suppose it will take for our client to receive this notice? If the Order denying is entered on a Thursday, the service might be done on Saturday at 4:45 p.m. So it would leave Virginia in the mail on Monday. The client would probably have it by Wednesday. Do you think the debtor will have the filing fee in full? And do you think they will mail it to the right address in the right form with their case number on it on time?

E – If the case gets dismissed the stay is voided *ab initio*. Meaning it never existed. Meaning if the creditor sells the car or forecloses the house, it is a valid sale.

## II.

We cannot accept any attorney fees until the filing fee is paid. Stated simply, we cannot take any money up-front prior to filing if the debtor does file for \$75. BUT – that also means that if we are converting to 7, we cannot take any attorney fees until the debtor pays the balance of the filing fee. And, should you find yourself concerned about the firm's income, it means the distribution of money from the Trustee will be delayed until the Debtor pays. And that, if the debtor does not pay it, the funds on hand which would have gone to pay our fees will go to the clerk instead.

## III.

When someone pays in installments they are declaring under penalty of perjury that they are unable to pay more than \$75. But they are also saying that, 30 days from now, they will be able to afford their trustee payment PLUS another \$100; and then the same again the next month. But the month after that, all they can afford to pay is the trustee payment. And how much money will show up on Schedule B as 'cash on hand' when the case gets filed? What is the penalty for filing a false affidavit?

## IV.

If, after all of this, you determine that paying the filing fee in installments is wise, we will send them one letter stating

- that they should NOT to send the installments to us, or to their trustee, or to the US Trustee;
- that they should send the full installment amount, not just what they can afford;
- which clerk to send it to – Gainesville or Atlanta; and
- that they can pay only in cash or money order

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