

D. SIMS CRAWFORD
CHAPTER 13 STANDING TRUSTEE

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MEMO

To: Chapter 13 Bankruptcy Attorneys Who Practice Before the U.S. Bankruptcy Court for the Northern District of Alabama, Southern Division

From: D. Sims Crawford, Chapter 13 Standing Trustee

Re: Administrative Order 11-01 effective in Certain Chapter 13 Cases Filed On or After March 1, 2011

Date: February 18, 2011

The following comments are provided by D. Sims Crawford, Chapter 13 Standing Trustee, based upon his review of Administrative Order 11-01, which has been posted on the "Announcements" section of the U.S. Bankruptcy Clerk's website, www.alnb.uscourts.gov.

The Trustee's comments are intended to assist practitioners in drafting plans and plan modifications and to avoid the Trustee's opposition of same. These comments may change due to factors such as Bankruptcy Court rulings, statutory changes, or administrative changes.

Only the debtor may propose a plan in a Chapter 13 case. The Trustee will not propose a Chapter 13 plan although he may make recommendations to the Bankruptcy Court regarding plan confirmation.

These comments are unrelated to any creditor or any other party in interest and these comments have no binding effect upon the position that a creditor or other party in interest may take regarding a proposed Chapter 13 plan or proposed plan modification in this Division.

1. Administrative Order 11-01 applies only to Chapter 13 cases assigned to the Honorable Tamara O. Mitchell or the Honorable Benjamin Cohen. Administrative Order 11-01 does not apply to Chapter 13 cases assigned to the Honorable Thomas B. Bennett, Chief Judge.
2. Administrative Order 11-01 applies only to **Chapter 13 cases filed on or after March 1, 2011.** It does not apply to any Chapter 13 case filed before March 1, 2011. For any case filed before March 1, 2011, the Trustee will continue to disburse funds per the confirmed plans and will utilize the distribution sequence that has been in effect since February 2006 for cases assigned to Judge Mitchell and Judge Cohen.

3. Trustee distributions pursuant to Administrative Order 11-01 will be made from available funds held by the Trustee. In other words, plan distributions are dependent upon the Debtor making plan payments as required by the Confirmation Order or other Order of the Court. This includes regular plan payments as well as lump sum payments to the Trustee.
4. The plan or plan modification proposed by the debtor must work mathematically. For example, if the debtor's plan proposes plan payments of \$100 monthly but proposes an attorney fee fixed payment of \$500 monthly, the Trustee would object to that plan.
5. Administrative Order 11-01 does not change the Trustee's position regarding the proposal of postconfirmation adequate protection payments for up to 6 months from the petition date in cases assigned to Judge Mitchell or Judge Cohen. Attorneys may continue to propose attorney fee step-payments for the distribution of attorney fees in conjunction with said adequate protection payments as long as the proposal complies with Administrative Order 11-01 and the applicable sections of the Bankruptcy Code.
6. Paragraphs V. and VI. of Administrative Order 11-01 use the word "Proportionately." "Proportionately" is defined as: Properly related in size, degree, or other measurable characteristics; Being in Proportion; Corresponding; Having the same or a constant ratio.
7. The proposed plan or proposed plan modification must include language that incorporates Administrative Order 11-01 and provides adequate notice to all parties in interest regarding the distribution of attorney fees to debtors' attorneys.

Example: "Attorney fees for Debtor's Attorney shall be paid with monthly fixed payments pursuant to Administrative Order 11-01."

8. The terms of Administrative Order 11-01 are not automatic or binding without notice. Unless the proposed plan or proposed plan modification includes the appropriate language and notice to all parties in interest, the Trustee will apply the distribution sequence that has been in effect since February 2006 to disburse funds per the confirmed plans for cases assigned to Judge Mitchell and Judge Cohen.