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CLERK U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

In re:	)	Administrative Order 05-4
	)	
SELF-PAY ORDERS	)	Judge Randolph Baxter
	)	Judge Pat E. Morgenstern-Clarren
	)	Judge Arthur I. Harris

ORDER DISCONTINUING SELF-PAY ORDERS IN CHAPTER 13 CASES

The purpose of this order is to change the court's policy regarding self-pay orders in Chapter 13 cases and to explain the reasons behind the change. The change will be effective June 15, 2005.

Under Bankruptcy Code § 1326(a)(1), a debtor is required to start making payments to the Chapter 13 trustee within 30 days after the plan of reorganization is filed. A debtor who fails to maintain regular payments will face a motion to dismiss, either under § 1307(c)(1) ("unreasonable delay by the debtor that is prejudicial to creditors"), § 1307(c)(4) ("failure to commence making timely payments"), or § 1307(c)(6) ("material default by the debtor with respect to a term of a confirmed plan").

Traditionally, payments in the Cleveland bankruptcy court have been either through a wage order or a self-pay order. The wage order directs the debtor's employer to withhold a stated amount from the debtor's wages each pay period and pay it over to the trustee. *See* 11 U.S.C. § 1325(c). The self-pay order requires the debtor to make payments directly to the trustee. Self-pay to the trustee is appropriate only where the debtor's income is not derived from wages or earnings, but is instead from sources such as social security, pension and/or retirement benefits, other government assistance, or if the debtor is self-employed. In many instances, however, a debtor who is employed will ask to pay the trustee directly rather than have an employer be alerted to the bankruptcy filing.

Regular Chapter 13 payments are the bedrock of a successful plan. The existence of a wage order increases the chances that the payments will be timely made, the case will move smoothly through the judicial system, and the debtor will receive a discharge. A debtor is protected from retaliation by an employer by other bankruptcy law provisions. Accordingly, the court's policy is that a debtor who is employed should make payments through a wage order rather than through self-pay. To effectuate that policy, effective June 15, 2005:

(1) This court will no longer issue self-pay orders.

(2) A debtor whose Chapter 13 payments are to be deducted from wages and remitted to the trustee should continue the use of the wage order.

(3) A debtor who wishes to make direct payments to the trustee should submit no order at all. If the debtor's circumstances are other than described above justifying the debtor paying the trustee directly, the trustee is to file a motion to require a wage order which will be heard at the confirmation hearing. Any opposition to the motion is to be filed seven days before the hearing. Under § 1325(c), the debtor is at all times required to make timely payments as described above even if a motion is pending.

(4) Counsel and pro se debtors should no longer send letters to the court requesting that the debtor be allowed to make direct payments to the trustee or explaining the circumstances behind the request.

(5) Self-pay orders issued before June 15, 2005 shall remain in effect.

RANDOLPH BAXTER
UNITED STATES BANKRUPTCY JUDGE

PAT E. MORGENSTERN-CLARREN
UNITED STATES BANKRUPTCY JUDGE

ARTHUR I. HARRIS
UNITED STATES BANKRUPTCY JUDGE