



**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA**

**STANDING ORDER REGARDING "NO-LOOK" FEES AND
ADDENDUMS IN CHAPTER 13 CASES**

The Bankruptcy Court in the Western District of Louisiana ("WDLA") has historically relied on a "no-look" fee procedure for awarding reasonable compensation to attorneys representing debtors in cases filed under Chapter 13 pursuant to 11 U.S.C. §330(a)(4)(B). Under the no-look procedure applied in the WDLA and elsewhere, attorneys were allowed to elect the no-look fee in lieu of filing a formal fee application. In extraordinary cases, counsel could seek a larger fee where the time and expense required by the case exceeded the no-look fee. On the other hand, the fee in a particular case could be reduced where the work performed by counsel did not justify the no-look fee. Historically, in this District, the no-look fee was last adjusted in 2005, following enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. The caseload dropped significantly following the effective date of BAPCPA, but the caseload in this District has risen and nearly exceeded the pre-BAPCPA levels. Bankruptcy Courts have adopted a fixed or presumptively fair rate of compensation in Chapter 13 cases in lieu of more intense and independent review of each and every fee application in Chapter 13 cases. The Fifth Circuit has recognized that the use of a pre-calculated lodestar amount pursuant to a bankruptcy court's general order addressed the need for both flexibility and efficiency in handling large numbers of cases, anticipating, however, that traditional fee applications would continue to be reviewed on a case-by-case basis to ensure that the lodestar amount in an atypical case is adjusted to reflect the specifics of the same. *In the Matter of Cahill*, 428 F.3d 536 (5th Cir. 2005). Over time, the maximum no-look fee has erroneously been viewed as an entitlement.

The no-look fee in the WDLA has traditionally been set by each judge, and has differed among Divisions. In order to promote uniformity of fee practices in Chapter 13 cases, the Judges of the WDLA have decided to adopt uniform rules governing no-look fees awarded in Chapter 13 cases.

IT IS THEREFORE ORDERED THAT:

- (1) A no-look fee not to exceed \$2800 will apply throughout the WDLA for Chapter 13 cases, subject to the adjustments set forth below. Any advances made by debtor's counsel for filing fees or expenses pre-confirmation will be considered included in the no-look fee of \$2800.
- (2) This no-look fee encompasses the following services to a debtor:
 - (A) all services required to prosecute the debtor's case through confirmation including, but not limited to, counseling provided to the debtor pertaining to the debtor's obligations under the Code, preparing and filing all schedules, plans, and pre-confirmation plan modifications, representation of a debtor at a 341 meeting, services provided in connection with plan confirmation, all pre-confirmation claims objections, any services provided in connection with a pre-confirmation motion to lift stay and the filing of a motion to extend the automatic stay (if applicable);
 - (B) all services rendered within 120 days after plan confirmation;
 - (C) one post-confirmation plan modification regardless of when filed; and
 - (D) all pleadings necessary to obtain the discharge on completion of plan payments, or if necessary, to seek a hardship discharge.
- (3) The no-look fee does not include the representation of a debtor in an adversary proceeding.
- (4) The no-look fees for services provided beyond 120 days after confirmation ("post-confirmation services") are set forth as follows:
 - (A) the fee for the defense of a motion for relief from stay, the fee for the defense of a motion to dismiss, or a plan modification is not to exceed \$450;

- (B) the combined fee for the defense of a motion for relief from stay or motion to dismiss and for a plan modification resulting from the defense of a motion for relief or motion to dismiss is not to exceed \$650; and
 - (C) the fee for post-confirmation motions to sell or objection to claims shall not exceed \$250.
- (5) In cases where the monthly plan payments to the trustee are less than \$200 per month, the no-look fee will be reduced to the higher of:
- (A) 10x the monthly plan payment paid to the Chapter 13 trustee; or
 - (B) If the Plan provides for specific monthly disbursements under the plan to creditors/claimants by both the Trustee and the Debtor, then 10x the total amount to be disbursed on a monthly basis to such creditors/claimants by both the Trustee and the Debtor under the Plan and in no event to exceed \$2800.
- (6) No compensation provided for under the no-look fee procedure may be awarded pre-confirmation. This does not prohibit debtor's counsel from filing a "formal" fee application as set forth in (7) below and requesting compensation therein pre-confirmation.
- (7) In any case where the total compensation and expenses requested, including but not limited to the filing fee, credit counseling costs and other charges advanced by debtor's counsel, exceed \$2800, the no-look fee shall not apply, and counsel must file a separate application for compensation and expenses, which must be noticed for a hearing pursuant to 11 U.S.C. §330, F.R.B.P. 2016, LBR 2016-1, and the United States Trustee Guidelines. At the discretion of the presiding judge, such applications for compensation and expenses may be heard at the confirmation hearing or subsequent to such hearing, but in no event shall any request for compensation or reimbursement of expenses be considered prior to the date a plan is actually confirmed, or the case is converted or dismissed. In the event of the dismissal or conversion of any case prior to confirmation, counsel for debtor or the trustee may request that administrative expenses,

including compensation and expenses for debtor's counsel, not to exceed \$2800, be paid from funds on hand.

IT IS FURTHER ORDERED THAT:

Nothing in this Standing Order should be viewed as barring an objection to a presumptive fee request by a party in interest (for example, the Court, the United States Trustee, the Standing Chapter 13 Trustee, or a creditor). In the event of such an objection, after notice and a hearing, the Court may determine the reasonableness and/or appropriateness of a particular fee. See Kennedy, David S., Lantin, Vanessa A. and Heilig, Brent, 13 J. Bankr. L. & Prac. 6 Art 1, "Attorney Compensation in Chapter 13 Cases and Related Matters," 2004. Moreover, the Court reserves the right to periodically review the fees in Chapter 13 cases on its own motion, or on the request of a standing chapter 13 trustee, or the United States Trustee.

IT IS FURTHER ORDERED THAT:

This Standing Order supersedes the following orders and rulings on fees: (1) Standing Order Regarding Utilization of a "No Look Fee with Sliding Scale" for Chapter 13 Cases Filed in the Shreveport and Monroe Divisions of the Western District of Louisiana by Judge Callaway, dated November 27, 2009, and entered on November 30, 2009; (2) Standing Order Regarding Reimbursement of Fees or Expenses Advanced by Debtor Counsel from Chapter 13 Bankruptcy Estate for Chapter 13 Cases Filed in the Shreveport and Monroe Divisions of the Western District of Louisiana by Judge Callaway, dated November 28, 2009, and entered on November 30, 2009; (3) In Re: Standing Order Regarding Utilization of a "No Look Fee with Sliding Scale" for Chapter 13 Cases Filed in the Shreveport and Monroe Divisions of the Western District of Louisiana and Standing Order Regarding Reimbursement of Fees or Expenses Advanced by Debtor Counsel from Chapter 13 Bankruptcy Estate for Chapter 13 Cases Filed in the Shreveport and Monroe Divisions of the Western District of Louisiana by Judge Hunter, dated and entered November 30, 2009; and (4) Reasons for Decision on Objections to Compensation in Chapter 13 Cases, consolidated ruling rendered and entered on December 23, 2009, by Judge Hunter in the following cases: *In re Bradford, DeSelle & Moreland*, Nos. 09-81251, 09-81270, and 09-80600, to the extent that same is inconsistent with this order. As stated above, this Standing Order supersedes the above-reference orders and ruling, AND same are hereby rescinded retroactive to the date of their entry by this Standing Order.

IT IS FURTHER ORDERED THAT the effective date of this Standing Order shall be:

- (A) Where this Standing Order supersedes and rescinds retroactively previously entered Orders or Rulings, the effective date of this Standing Order shall be the effective date of the Orders or Rulings that were hereby rescinded;
- (B) For all other purposes this Standing Order will apply to all cases filed on or after April 1, 2010.

THUS DONE AND SIGNED:



Robert R. Summerhays
Chief U. S. Bankruptcy Judge

3/3/2010
Date



Stephen V. Callaway
U. S. Bankruptcy Judge

5 March 2010
Date



Henley A. Hunter
U. S. Bankruptcy Judge

3/5/2010
Date