

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA

In re:

Chapter 13 Attorneys' Fees

General Order 2021-2

**GENERAL ORDER REGARDING CHAPTER 13
FIXED ("NO-LOOK") FEES
(Effective August 1, 2021)**

The Bankruptcy Court for the Western District of Louisiana has undertaken a review and evaluation of the fixed fees payable to attorneys representing Chapter 13 debtors in this District. In conducting this review, the Court considered the following: (i) the Bankruptcy Code and applicable jurisprudence governing the Court's authority to establish fixed fees in Chapter 13 cases; (ii) the history of fixed fees in this District; (iii) fixed fees allowed by other districts within the Fifth Circuit; and (iv) formal and informal evidence and other information available to the Court. Based on the Court's review and evaluation of these factors, the court finds that the Standing Order Regarding "No-Look" Fees in Chapter 13 Cases ("2017 Fee Order"), which is currently operative in this District, should be terminated, and that a new order should be entered that will govern the payment of fees to attorneys representing Chapter 13 debtors.

Accordingly, it is **ORDERED** that:

- A. The 2017 Fee Order is revoked and rescinded for all cases filed in this District on or after August 1, 2021;
- B. The fixed fee payable to the debtor's attorney in Chapter 13 cases filed on or after August 1, 2021 is \$4,000, except in cases in which the total amount to be paid-in to the Trustee by the debtor under a confirmed Chapter 13 plan is \$7,200 or less, in which case the fixed fee is capped at \$2,250. For purposes of determining whether the fixed fee is to be capped at \$2,250, if the confirmed plan provides for specific monthly disbursements to creditors and/or claimants by both the Trustee and the debtor, then the "total amount to be paid-in to the Trustee" includes both the amounts paid to the Trustee by the debtor and the amounts paid directly by the debtor to creditors and/or claimants ("disbursements" under this paragraph shall not include payments for expenses covered by the expense categories in Schedule J other than home mortgage payments, payments on

secured claims or payments on leased motor vehicles; nor shall “disbursements” include residential or non-residential real property rental payments even if they may be categorized as payments on secured claims);

- C. In addition to the fixed fee provided in ¶ B. of this Order, the debtor’s attorney may elect to be paid a one-time administrative expense of \$250 to reimburse the attorney for costs and expenses incurred throughout the entirety of a debtor’s case, including, without limitation, (i) the costs of serving the Chapter 13 plan, and to cover the costs of serving any and all amendments or modifications to the plan from inception of the debtor’s Chapter 13 case until the case is closed, dismissed, or converted; (ii) all other copying and noticing expenses the attorney may incur during the pendency of the case; and (iii) computer research, long-distance expenses, video-conferencing costs and other similar expenses; it is provided, however, that this one-time administrative expense of \$250 is not payable in cases in which the fixed fee provided in ¶ B. of this Order is capped at \$2,250;
- D. The fixed fee authorized by this Order in ¶ B. is inclusive of any advances made by the debtor’s attorney to cover the following expenses of the debtor: (i) the statutorily mandated filing fees, (ii) the costs for Code mandated credit counseling, and (iii) credit report costs;
- E. If the debtor’s attorney elects to accept the fixed fee, it must be disclosed in the Bankruptcy Rule 2016(b) Disclosure and Application for Approval of Fixed Fee Agreement, which must be signed by both the attorney and the debtor and filed at the time the debtor’s schedules are filed (a copy of the Rule 2016(b) Form is attached hereto and incorporated herein for all purposes as Attachment “1”) (effective August 1, 2021, the Rule 2016(b) Form attached to and incorporated into this Order as Attachment 1 hereby supersedes and replaces the Rule 2016 (b) Form that is attached to this Court’s Local Bankruptcy Rules as Appendix “H”);
- F. If the debtor’s attorney elects to accept the fixed fee, an irrevocable election must be made in the debtor’s initially filed Chapter 13 plan;
- G. The fixed fee covers the usual, customary and ordinary services involved in representing a debtor during a Chapter 13 case, which

include, but not limited to, the services delineated in Section I of the Rule 2016(b) Form entitled "Attorney Services for Fixed Fee";

H. Services not included and covered by the fixed fee set forth in ¶ B. of this Order ("Additional Services") include all services rendered more than 120 days following the entry of an order of confirmation, as set forth below, along with the compensation deemed presumptively reasonable and allowable for such Additional Services:

1. Defense of Motions for Relief from Stay (\$350);
2. Defense of Motions to Dismiss (\$350);
3. Motions to Approve Mortgage Modification (trial or permanent) or to Refinance a Mortgage (\$350);
4. Motions to Approve Settlement/Allow use of Settlement (\$275);
5. Motions to Distribute Insurance Proceeds (\$275);
6. Motions to Substitute Collateral (\$350);
7. Motions to Incur Debt, including any required amendments to Schedules I & J (\$250);
8. Motions to Retain Tax Refund (\$250);
9. Motions to Suspend Plan Payments (\$250);
10. Motions to Sell (\$350);
11. Motions to Vacate Order of the Court (\$250);
12. Objections to Proofs of Claim (\$250);
13. Obtaining Confirmation of Amended Plan (\$350);
and
14. With Hearing (when any of items 1-13 of this ¶ H. require a hearing during which evidence is adduced) (additional \$200);

I. If a request for the fixed fee for Additional Services described in ¶ H. is included in the pleading seeking relief, such compensation shall be allowable upon the final resolution of the matter, unless otherwise ordered by the Court; however in its discretion, the Court may depart from the stated fixed fee amount as may be reasonably warranted;

J. If two motions are made on the same factual predicate, such as a Motion to Distribute Proceeds and a Motion to Incur Debt, the relief may be requested in a combined motion and the fixed fee and allowable aggregate compensation for the related motion, whether combined or not, shall be the higher of the fixed fees for


the related motions, except that if in the defense of a motion for relief from the stay or motion to dismiss, the debtor must obtain confirmation of an amended plan, the debtor's attorney is entitled to the fixed fee designated for each of those services;

- K. The fixed fee, if elected, is not an entitlement, and nothing in this Order should be viewed as barring an objection by any party in interest or the Court to a fixed fee request;
- L. For any legal services rendered by the debtor's attorney more than 120 days following the entry of an order of confirmation that are not covered by a fixed fee in ¶ H. of this Order, the attorney may provide such services based on the attorney's hourly rate as disclosed in the Rule 2016(b) Form, or based on a proposed fixed fee for the service, provided that all such hourly fees, or any proposed fixed fee, are subject to approval by the court after the filing and service of a proper fee application;
- M. The fixed fee does not include the following services: (i) representation of the debtor in an adversary proceeding, either as plaintiff or a defendant; (ii) representation of the debtor in a contested matter, the subject of which is extraordinary in the context of Chapter 13 cases in the United States Bankruptcy Court for the Western District of Louisiana; and (iii) representation of the debtor in any matter in which the Court orders fee shifting pursuant to which fees are to be paid to a person other than the Debtor;
- N. Notwithstanding the availability of the fixed fee, in any case, the attorney for the debtor may elect not to seek compensation under this Order, in which case, this Order shall not apply;
- O. The fixed fees which may be awarded to a debtor's attorney under the terms of this Order shall be readjusted utilizing the timeline and methodology set forth in § 104(b) of the Code for cases filed on or after the effective date of the adjustment under § 104(b);
- P. Notwithstanding anything in this Order to the contrary, the presiding judge of a division may enter additional standing orders governing the award and payment of fixed fees in the judge's division, including the treatment and payment of fixed fees in dismissed cases or cases that are converted to Chapter 7; and

- Q. This Order shall be effective August 1, 2021 and shall apply to and govern (i) all Chapter 13 cases filed on or after August 1, 2021; and (ii) all post-confirmation pleadings filed in any Chapter 13 case pending at the time this Order is entered and filed in such case on or after August 1, 2021.

Lafayette, Louisiana, July 7, 2021.

FOR THE COURT:



JOHN W. KOLWE, JUDGE
UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA

ATTACHMENT NO. 1 TO GENERAL ORDER 2021-2

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA

In re:

Debtor(s)

Case No: _____
(Chapter 13)

**BANKRUPTCY RULE 2016(b) DISCLOSURE AND
APPLICATION FOR APPROVAL OF FIXED FEE AGREEMENT**

[NAME OF ATTORNEY] files this Fed. R. Bankr. P. 2016(b) Disclosure and Application for Approval of Fixed Fee Agreement (the "Application"). (Within this Application, "Debtor" means the undersigned sole debtor or, in the case of a joint bankruptcy, the debtor and the joint debtor. "Attorney" means the undersigned counsel for the Debtor. "Fixed Fee" means the "no-look" or fixed attorney fee or fees as established by General Order 2021-2 of the Bankruptcy Court for the Western District of Louisiana.)

- I. Attorney Services for Fixed Fee. The Attorney agrees to provide the following services to the Debtor on a Fixed Fee basis:
 - A. Counsel and advise the Debtor with respect to the above captioned matter on an as needed basis throughout the entirety of the proceeding. This includes without limitation the following: (i) meeting with the Debtor to review and discuss the Debtor's objectives in filing a bankruptcy case (including rendering advice with respect to whether and under which chapter to file a petition for relief (ii) meeting with the client to review the Debtor's assets, debts, income and expenses, and (iii) fielding routine phone calls and questions.
 - B. Assist the Debtor in obtaining and/or preparing, and filing, the documents required by 11 U.S.C. § 521 and any required amendments to those documents. The Attorney, or his or her paralegal or assistant as appropriate, shall personally review all such documents with the Debtor and make all necessary changes and additions to such documents, prior to obtaining the Debtor's signature and filing them with the court.
 - C. Obtain from the Debtor and timely submit to the Chapter 13 Trustee properly documented proof of income for the Debtor, including business

reports (i.e, profit and loss statements) for self-employed Debtors.

- D. Advise the Debtor with respect to the necessity of filing and providing to the Chapter 13 Trustee any and all tax returns required under 11 U.S.C. § 1308. Assist the Debtor in obtaining such returns and providing them to the Chapter 13 Trustee.
- E. Promptly prepare a Chapter 13 plan on behalf of the Debtor and review that plan with the Debtor prior to obtaining the Debtor's signature and filing the plan with the court.
- F. Explain to the Debtor how, when, and where to make all necessary payments under the plan, including both payments that must be made directly to creditors and payments that must be made to the Chapter 13 Trustee, with particular attention to housing and vehicle payments.
- G. Advise the Debtor of the need to maintain appropriate insurance.
- H. Advise the Debtor of the requirement to attend the § 341 meeting of creditors, and notify the Debtor of the date, time, and place of the meeting. Inform the Debtor that he or she must be punctual and, in the case of a joint filing, that both spouses must appear at the same meeting.
- I. Attend the § 341 meeting of creditors and any rescheduled meeting and/or continuances of the meeting.
- J. Prepare and file any and all pleadings that are necessary to protect the Debtor's interest in the case and/or that are required to confirm the Chapter 13 plan.
- K. Attend the confirmation hearing (and any continuances of the hearing) if required under the circumstances (such as if there are unresolved objections), or as required by court order or local rules and/or customs.
- L. Prior to confirmation, prepare, file and serve any and all amended or modified plans required under the circumstances. To the extent an amended plan is filed in response to an objection to confirmation, such amended plan must address all then pending objections to confirmation of the plan, or the court must consider and rule on any pending objections prior to filing the amended plan. For purposes of clarity, if the Chapter 13 Trustee has filed more than one objection and/or a creditor or creditors have objected to the plan, the Attorney must obtain a ruling from the court on those objections to which the parties cannot reach agreement before filing an amended plan to address other objections to which the Attorney has obtained agreement.
- M. Review, and when necessary in order for initial plan confirmation, object to, any and all filed claims.
- N. Represent the Debtor in any and all motions and other matters filed in

this bankruptcy case within 120 days after confirmation of the plan.

- O. Advise the Debtor concerning his/her/their obligations and duties pursuant to the Bankruptcy Code, Bankruptcy Rules, applicable court orders, and the provisions of the confirmed Chapter 13 plan.
- P. Represent the Debtor regarding any services required after the Debtor makes the final payment required under the Chapter 13 plan, including the preparation and filing of any document, to assist the Debtor in obtaining a Chapter 13 discharge. There will be no additional charge imposed for these services unless the services are extraordinary, in which event counsel may apply for additional fees. Counsel may collect a filing fee if reopening the case is required.

II. Excluded Services. The Fixed Fee does not include the following services:

- A. Representation of the Debtor in an adversary proceeding, either as a plaintiff or a defendant.
- B. Representation of the Debtor in a contested matter, the subject of which is extraordinary in the context of Chapter 13 cases in the United States Bankruptcy Court for the Western District of Louisiana.
- C. Representation of the Debtor in any matter in which the Court orders fee shifting pursuant to which fees are to be paid by a person other than the Debtor.

III. Fixed Fees and Reimbursements. The Attorney agrees to the following fees and reimbursements (check applicable boxes):

- A. *Fixed Fee.* A Fixed Fee (i.e., the “no-look fee”) in the amount of \$_____ (insert amount not to exceed \$4,000). Prior to or at the time this matter was filed, Attorney received \$_____ for representing the Debtor in this case. Accordingly, the balance due from the Chapter 13 Trustee as an administrative expense in this matter is \$_____.
- B. *Advances.* I have advanced the fee for the Debtor to obtain the credit counseling required by 11 U.S.C. § 109(h) in the amount of \$_____; I have advanced the costs of a credit report on behalf of the Debtor in the amount of \$_____; and/or I have advanced the filing fee and any other fee required to be paid under 28 U.S.C. § 1930 in the amount of \$_____ (to the extent the Attorney has not advanced any of these costs, insert \$0). The Attorney acknowledges and agrees that the Fixed Fee provided in Sections III.A. and III.D. of this Application is inclusive of any and all Advances set forth in this Section III.B.
- C. *Reimbursements.* Reimbursement for noticing the plan and any amendments thereto, and for any and all other expenses incurred after filing of the case (such as copying costs, computer based research costs, telephone expenses, facsimile charges, mail (including overnight and

express mail services, etc.) in the amount of \$_____ (insert amount not to exceed \$250). Thus, in addition to the amounts set forth in Section III.A. of this Application, the Chapter 13 Trustee shall reimburse the Attorney the sum set forth in this Section III.C. as an administrative expense of the estate.

- D. Notwithstanding Section III.A. and III.C. of this Application, if the total amount to be paid-in to the Chapter 13 Trustee by the debtor under a confirmed Chapter 13 plan is \$7,200 or less, then the fixed fee is capped at \$2,250, subject to any relevant provisions set out in General Order 2021-2 of the Bankruptcy Court for the Western District of Louisiana governing the Fixed Fee. Prior to or at the time this matter was filed, Attorney received \$_____ for representing the Debtor in this case. Therefore, the balance due from the Chapter 13 Trustee as an administrative expense in this matter is \$_____.
- E. Unless otherwise ordered by the court, the Fixed Fee is compensable by the Chapter 13 Trustee without fee application upon confirmation of the plan or upon dismissal pre-confirmation.

IV. Additional Services. The following services will also be provided, if needed, on a Fixed Fee basis [check applicable boxes]. Payment may be made directly by the Debtor or through the confirmed plan:

- A. The Fixed Fee for Defense of Motions for Relief from Stay shall be \$_____ (insert an amount not to exceed \$350);
- B. The Fixed Fee for Defense of Motions to Dismiss shall be \$_____ (insert an amount not to exceed \$350);
- C. The Fixed Fee for Motions to Approve Mortgage Modification (trial or permanent) or to Refinance a Mortgage shall be \$_____ (insert an amount not to exceed \$350);
- D. The Fixed Fee for Motions to Approve Settlement/Allow use of Settlement shall be \$_____ (insert an amount not to exceed \$275);
- E. The Fixed Fee for Motions to Distribute Insurance Proceeds shall be \$_____ (insert an amount not to exceed \$275);
- F. The Fixed Fee for Motions to Substitute Collateral shall be \$_____ (insert an amount not to exceed \$350);
- G. The Fixed Fee for Motions to Incur Debt, including any required amendments to Schedules I & J shall be \$_____ (insert an amount not to exceed \$250);
- H. The Fixed Fee for Motions to Retain Tax Refund shall be \$_____ (insert an amount not to exceed \$250);
- I. The Fixed Fee for Motions to Suspend Plan Payments shall be

\$_____ (insert an amount not to exceed \$250);

- J. [] The Fixed Fee for Motions to Sell shall be \$_____ (insert an amount not to exceed \$350);
- K. [] The Fixed Fee for Motions to Vacate Order of the Court shall be \$_____ (insert an amount not to exceed \$250);
- L. [] The Fixed Fee for Objections to Proofs of Claim shall be \$_____ (insert an amount not to exceed \$250);
- M. [] The Fixed Fee for Obtaining Confirmation of Amended Plan shall be \$_____ (insert an amount not to exceed \$350); and
- N. [] The Fixed Fee for attending a hearing on any of the above matters (when any of items listed in Section IV.A. through IV.M. of this Application require a hearing during which evidence is adduced) shall be an additional \$_____ (insert an amount not to exceed \$200).
- O. Any legal services rendered that are not covered by an agreed Fixed Fee in Section IV.A. through IV.N. of this Application may be provided on an hourly fee basis at a rate not to exceed \$_____, or based on a proposed fixed fee for the service. All such hourly fees or proposed fixed fees are subject to approval by the Bankruptcy Court after the filing and service of a proper fee application.

V. Debtor Agreements and Certifications.

A. *Debtor Agreements.* The Debtor agrees to:

1. Provide the Attorney with accurate financial information concerning the Debtor's assets, liabilities, income, and expenses;
2. Discuss with the Attorney the Debtor's objectives in filing the case;
3. Keep the Attorney informed of the Debtor's contact information, including physical and mailing address, phone number(s), and email, if applicable;
4. Inform the Attorney of wage garnishments, lawsuits, or attachments (sequestrations) that occur or continue after the commencement of the case;
5. Make the required payments to the Chapter 13 Trustee and to those creditors being paid directly, or, if required payments cannot be made, notify the attorney immediately;
6. Appear punctually at the meeting of creditors (called the § 341 meeting) with recent proof of income and a picture identification card and the Debtor's Social Security Card; the Debtor must be present in time for check-in and when the case is called for actual examination;

7. Inform the Attorney if any tax refunds to which the Debtor is entitled are seized or not received when due from the IRS or the Louisiana Department of Revenue;
 8. Promptly provide the Attorney and the Chapter 13 Trustee with signed, dated, and filed copies of all tax returns filed while the case is pending;
 9. Inform the Attorney promptly of any change in the Debtor's financial circumstances, including any change in wages/salary or change in employer; and
 10. Inform the Attorney if the Debtor desires to buy or sell property of any kind whatsoever or incur new indebtedness or refinance any loan during the case.
- B. *Debtor certifications.* The Debtor certifies that:
1. The Debtor has reviewed this Application with the Attorney and understands his or her responsibilities to the Court and to the Attorney;
 2. The Debtor understands the services to be provided and the fees to be paid as set forth in this Application; and
 3. The Debtor has met in person with the Attorney (or another attorney supervised by the undersigned Attorney and who is licensed to practice law) for not less than one (1) hour. (The Debtor understands that time spent exclusively with a paralegal or other person not licensed to practice law may not be included in the one (1) hour.)
- VI. *Attorney Certification.* The Attorney certifies that:
- A. This Application sets forth a true and correct statement of the compensation that the Attorney has been paid or that has been agreed to be paid to Attorney;
 - B. The Attorney (or another attorney supervised by the Attorney and who is licensed to practice law) met in person with the Debtor for not less than one (1) hour. The Attorney understands that time spent exclusively with a paralegal or other person not licensed to practice law may not be included in the one (1) hour;
 - C. The Attorney has obtained the Debtor's "wet" signature to this Application and provided a copy of this fully executed Application to the Debtor, and, upon request, the Attorney agrees to provide the original copy of this Application to the Chapter 13 Trustee or the Court; and

D. The Attorney has not shared or agreed to share any of the compensation paid or to be paid. The following sets forth all of the compensation that is being paid by any person or entity other than the Debtor. Describe:

Dated: _____

Debtor

Dated: _____

Joint Debtor (if applicable)

Dated: _____

Attorney for the Debtor(s)