

JAN 23 2018

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF TENNESSEE

IN RE:

STANDING ORDER RELATING
TO ATTORNEY FEES
IN CHAPTER 13 CASES

ADMINISTRATIVE ORDER 18-1

This Order pertains to all Chapter 13 cases filed in the Middle District of Tennessee on and after March 1, 2018. In order to fairly compensate attorneys providing competent representation of debtors in cases filed under Chapter 13, to provide fair treatment to creditors receiving payments under Chapter 13 plans, and to limit the administrative burdens placed on the Court, the Chapter 13 Trustee and attorneys, the Court has determined under what circumstances it will consider attorney fees being awarded without the necessity of a formal fee application.

Nothing in this Order is intended to limit the flexibility of attorneys agreeing to less than the maximum fees allowed under this arrangement, and any attorney may choose instead to agree with a client to have fees handled pursuant to a fee application. This order is intended only to set amounts that are the maximum fees that will be considered presumptively reasonable (“No App Fee”) as provided herein. Regardless of the method used to seek the award of fees, attorney fees are always subject to review by the Court.

Absent objections, a Chapter 13 debtor’s attorney can comply with the requirements of 11 U.S.C. § 330 and Rule 2016(b) of the Federal Rules of Bankruptcy Procedure by charging the debtor the No App Fee pursuant to the following guidelines and procedures:

1. A debtor's attorney may be awarded the No App Fee for services rendered in connection with the filing, administering and closing of a Chapter 13 case, without the necessity of filing a detailed lodestar application if the attorney's compensation is a presumptively reasonable amount as defined below. Any attorney may elect to apply for award of attorney's fees other than the No App Fee by making application in accordance with FED. R. BANKR. P. 2016(b), and *Boddy v. U.S. Bankruptcy Court, W.D. Ky. (In re Boddy)*, 950 F.2d 334 (6th Cir. 1991), and by so indicating on Bankruptcy Form B2030.
2. To qualify for the No App Fee, the following requirements must be met:
 - a. The amount of compensation sought must not exceed \$4,250, including any amounts paid prior to the filing of the petition (plus additional amounts as listed in paragraph 3 below).
 - b. No more than \$3,850 of the total compensation may be paid before completion of the plan, and the remaining amount of the No App Fee may be paid when the plan has been completed ("Success Incentive"). The Trustee shall retain the Success Incentive and pay this to the attorney only when the notice of plan completion is filed.
 - c. The No App Fee, excluding the Success Incentive, and any amount paid prior to the filing of the petition, shall be paid to the attorney in accordance with the terms of the debtor's plan.
 - d. The debtor and the attorney shall execute the Rights and Responsibilities Agreement as found on the Court's website, without alteration or modification.
 - e. The debtor's attorney shall file a complete Bankruptcy Form B2030 which references the attorney's request for the No App Fee and attaches the fully executed Rights and Responsibilities Agreement.

3. Certain services are compensable in addition to and separate from the No App Fee, and also without the necessity of a fee application. The following services will be compensated through an enhancement in the No App Fee in the amounts indicated:
 - a. A completed mortgage loan modification of the claim secured by the debtor's principal residence – up to \$500.
 - b. A motion and order authorizing the substitution of collateral – up to \$400.
 - c. A motion and order authorizing the retention of a realtor, auctioneer or other professional by the debtor relating to the sale of property or representing the interests of the estate – \$200.
 - d. A motion and order authorizing the sale of property and disposition of the proceeds, resulting in the closing of such sale and the filing of a report of sale – up to \$300.
 - e. A motion and order authorizing the retention of special counsel by the debtor relating to collecting or pursuing a cause of action in a different judicial forum and that results in the filing of a motion and order authorizing the approval of a settlement of such litigation – \$300. (When the special counsel is receiving a contingency fee, it is anticipated that such contingency fee will typically be reduced by the amount paid by the bankruptcy estate to bankruptcy counsel to engage special counsel and to obtain settlement approval so that the cumulative fees incurred by the bankruptcy estate to complete a settlement does not exceed the agreed upon contingency fee. If the litigation is tried to a conclusion and does not require a settlement approval process in bankruptcy, the fee enhancement solely for

obtaining approval of special counsel will be up to \$200, again typically reducing the total contingency fee paid.)


4. Any debtor's attorney seeking fees as set forth in paragraph 3 above shall file with the Court a certification, in the manner prescribed on the Court website, certifying the services performed, the fee requested, and that payment of the fee will not impact the feasibility of the plan. This additional fee shall be paid in accordance with the confirmed plan.
5. Certain services, which may be required under the Rights and Responsibilities Agreement, will not normally be covered by the No App Fee under paragraph 2 or an enhancement under paragraph 3. The following fees may be compensated in addition to the No App Fee but must be sought under appropriate circumstances by motion pursuant to FED. R. BANKR. P. 2016(b):
 - a. Motions for Sanctions or Contempt.
 - b. Representation at a Rule 2004 examination.
 - c. Representation of the debtors in any adversary proceeding (or certain contested matters placed on an "adversary track" by order of the Court), unless such representation is an integral part of the attorney's obligations under the Rights and Responsibilities Agreement.
6. The allowable portion of the No App Fee for a case that is dismissed prior to confirmation will not exceed \$500 (less any amounts paid to the attorney prior to the filing of the petition). To the extent an attorney seeks an amount in excess of \$500 from funds held by the Trustee in a dismissed case, an appropriate motion must be filed.

7. Any objection to the No App Fee request of an attorney may subject that request to review as set forth in *Boddy v. U.S. Bankruptcy Court, W.D. Ky. (In re Boddy)*, 950 F.2d 334 (6th Cir. 1991).


This Order amends all previous local practices related to presumptively reasonable Chapter 13 debtor's attorney fees.

SO ORDERED.

Dated: 1/23/18


MARIAN F. HARRISON, CHIEF JUDGE


RANDAL S. MASHBURN, JUDGE


CHARLES M. WALKER, JUDGE