

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

In Re: Oil Spill by the Oil Rig “Deepwater Horizon” in the Gulf of Mexico, on April 20, 2010	*	MDL No. 2179
	*	SECTION: J
	*	
	*	JUDGE BARBIER
This Document Relates to:	*	
12-970, 15-4143, 15-4146, 15-4654	*	MAG. JUDGE WILKINSON

ORDER

[Capping Individual Attorneys’ Fees in the HESI and Transocean Punitive Damages and Assigned Claims Settlement Agreements]

On February 15, 2017, the Court granted Final Approval to the HESI and Transocean Punitive Damages and Assigned Claims Settlement Agreements (collectively, the “HESI/TO Settlements”). (Order & Reasons, Rec. Doc. 22252). During the Fairness Hearing on these settlements, the Court announced its intent to cap contingent fee agreements for attorneys representing claimants that settle claims in HESI/TO Settlements at 25% plus reasonable costs (Minute Entry, Rec. Doc. 21899; Transcript at 68-69, Rec. Doc. 21928), similar to what it had previously done with the Economic and Property Damages Settlement and the Medical Benefits Settlement (*see* Rec. Doc. 6684, hereinafter “Individual Attorneys’ Fees Order”). The Claims Administrators for the HESI/TO Settlements report they are nearing the point at which eligibility determinations will be made. (Rec. Doc. 24425). As such, the Court addresses the outstanding issue of placing a cap on individual attorneys’ fees in relation to the HESI/TO Settlements.

For the same reasons provided in the Individual Attorneys' Fees Order,¹

IT IS ORDERED that contingent fee arrangements for all attorneys representing claimants/plaintiffs that receive a payment through the HESI/TO Settlements (whether as part of the Old Class, New Class, or both) will be capped at 25% plus reasonable costs.

The court emphasizes that 25% is only a ceiling for contingent fees. Attorneys and their clients are free to agree to amounts lower than 25%. Attorneys have an ethical responsibility to charge only reasonable fees. Particularly in the circumstances of the HESI/TO settlements, in instances where a claimant receives a payment without having to file a new claim and based entirely on information already provided to the Economic and Property Damages Settlement, it likely will be the case that a reasonable fee is less than 25%. This Order is not intended to allow or encourage attorneys to charge more than a reasonable fee.

Furthermore, because certain rare or exceptional cases might exist which could warrant a departure from the imposed cap on contingent fees,

IT IS FURTHER ORDERED that an individual attorney who believes an upward departure from the 25% cap is warranted will be permitted to object and submit evidence to the Court for consideration. Attorneys must serve the objection on the involved client, who will be permitted to submit opposing argument and evidence. The Court may choose to appoint a special master to take evidence and make a recommendation to the Court. If, after considering the evidence and arguments submitted, the Court determines that a departure is warranted in a particular case, the Court will determine a reasonable fee, either upward or downward, based on

¹ See also *In re World Trade Ctr. Disaster Site Litig.*, 754 F.3d 114, 126 (2d Cir. 2014) (“In mass tort cases, district courts have routinely capped attorneys’ fees *sua sponte*.”); *In Re: Nat’l Football League Players’ Concussion Injury Litig.*, MDL No. 2323, 2018 WL 1658808, at *2 (E.D. Penn. April 5, 2018).

the unique circumstances presented after deducting from the attorneys' fee the costs associated with this process.

A copy of this Order will be posted on the Court's public website, www.laed.uscourts.gov/oilspill. The Claims Administrators for the HESI/TO Settlements are instructed to post this Order on the HESI/TO Settlements website, www.gulfspillpunitiveclaimsettlement.com, and to provide attorneys with actual notice of this Order when sending eligible claim notices.

New Orleans, Louisiana, this 18th day of May, 2018


United States District Court