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February 24, 2006

Honorable Glen E. Clark
Chief United States Bankruptcy Judge
350 South Main Street, Room 369
Salt Lake City, UT 84101

RE: Chapter 13 Attorney's Fees

Dear Judge Clark,

I agree that an increase in Chapter 13 attorney's fees is necessary due to the new requirements under BAPCPA. The new requirements place the burden on debtors counsel to address an extraordinary number of new tasks not found in the previous statute. I believe that a reasonable increase in the presumptive fee, to perhaps \$2,500.00 would adequately compensate debtors counsel in the vast majority of consumer cases. If at the beginning of a case, debtors counsel anticipates that the fees will be higher, debtors counsel should have the option of filing a fee application detailing time spent subject to a Court determination of the reasonableness. The Court should be sensitive, however, to the fact that all clients require different levels of service depending on their situation.

Of greater concern to me than the amount of the presumptive fee is the current practice of (1) reducing the presumptive fee if a Court appearance is required and (2) the inclusion in the presumptive fee of work to be performed during the 6 months following Confirmation.

1. Reducing Presumptive Fee on Contested Matters. Originally, this practice was developed to provide an incentive to debtors counsel to work to get a case on the "consent calendar." Unfortunately, there have been a number of unintended consequences associated with this offering this incentive. There have been many times in which I have had a case heard on the contested calendar simply to resolve an issue in which the Trustee and I disagree as to a legal argument, to resolve a creditor's objection, or to address my client's delinquent payments. In these situations debtor's counsel's fees are reduced for no reason other than the attorney's desire

to work diligently on behalf of the client. The attorney does more work for the client and receives less.

Further, the threat cutting into the attorney's fees if the matter is "contested" becomes a bargaining tool used by creditors to attempt to force a settlement. Many times the creditor filing an objection does not even attend the hearing to prosecute the objection. The attorney is placed in a conflict situation where a settlement "must" be reached or the fees will be reduced. The attorney should be compensated for performing additional services, and the fee distinction between contested and uncontested matters should be eliminated.

2. Inclusion 6 Months of Fees. I believe that including 6 months of post-confirmation services in the presumptive fee should also be eliminated. Although this procedure was put into place to motivate attorneys to perform post-confirmation work, I believe it has just the opposite effect. The procedure does not allow attorneys to charge reasonable fees for reasonable services during the 6 months following Confirmation. This only encourages the attorney to spend the majority of his/her time on new cases to the exclusion of post-confirmation cases. Attorneys should be allowed the freedom to apportion their time depending on the needs of the client and be compensated for the services. If the Court wishes to include 6 months of post-confirmation services in the presumptive fee, the fee should be substantially higher. Further, there should be a provision to provide for payment for "unusual" services, by application, which could not have been anticipated at Confirmation.

I appreciate the opportunity to submit my views and your time and consideration to these matters.

Very Truly Yours,

Jennifer L. Neeleman

