

L. PHILLIP DEW

Attorney at Law
Utah State Bar Member #4308
7660 S. 800 W. (Holden St.)
Midvale UT 84047
Telephone 801-566-3322
Fax Number 801-566-2422

To the
Honorable United States Bankruptcy Court Judges
District of Utah

Response to the Memorandum regarding
Attorney's Fees in Chapter 13 cases.

February 24, 2006

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DISTRICT OF UTAH
CLERK

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CLERK OF THE
DISTRICT OF UTAH
BANKRUPTCY COURT

Considering the increases in the cost of doing business, and the additional work required by the new bankruptcy laws, setting \$2750.00 as the "default rate" for attorney's fees in a Chapter 13 not only easily defensible, but totally justifiable.

Though I hate to "break ranks", I think that allowing \$1000.00 for a motion to extend or impose the automatic stay is much less defensible. And allowing \$1500 for the motion if a hearing is held is even less so. I have done two such motions, together with the hearings. This is a very "lawyer-intensive" motion, not delegatable to secretaries. Nevertheless, the time I spent interviewing the clients, and preparing the motions and affidavits for each case did not exceed 3 hours per case. Even when you add travel & hearing times, it does not approach the \$1000 or \$1500 level. But the extra time spent should certainly receive reasonable compensation, and a "default" amount should be set for it. After all, there is a tough standard of proof, and if the court grants the motion, the court certainly thinks that the debtor's motion has merit. The debtor is being greatly benefitted, and therefore it is fair to pay the bringer of the motion.

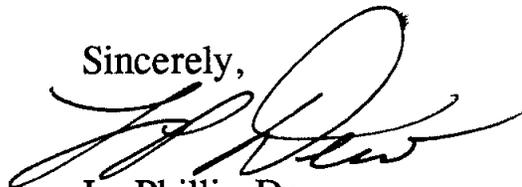
The proposed increase to \$2750.00 is for a "basic Chapter 13". It is also proposed that if the case is a business case, that \$3750.00 be allowed. "Business case" is defined as "more than 20% of a debtor's gross income if derived from self-employment or similar business activity".

I would purely love to get all the money that I could get. But being officers of the court, we must talk "reasonable fees" here. The \$2750.00, which I strongly agree is fair, is a "default" amount. In other words, it is expected that some cases will require less work, and some more work. We have all had some dream cases, where the clients actually do everything they are supposed to do on a timely basis, and no creditors cause problems. I have had some cases where I weep and wail and gnash my teeth that I ever took the case, because of all of the unexpected work and/or lack of cooperation. In my mind, the reasoning for a default amount is to set some kind of average, for the sake of simplicity and so that we can make a quote to the prospective debtor as to how much we are going to sock him. Many clients would fear an open-ended deal where the client could be liable for much larger amounts. I believe that for the sake of that simplicity, \$2750.00 should be set as the default amount. Some self-employment doesn't automatically mean that it is going to require extra work. If there is a tough business case or other reasons for a lot of extra work, an attorney could opt out of the default amount, and would still have the recourse to file an affidavit of attorney's fees proving that extra work.

I face situations where a case is all ready for consent, but an objection comes in and wrecks it. There are times when I feel the creditors' attorneys know that I can either accept their higher interest rate or higher, unjustified collateral values, and get more attorney's fees for consent, or fight them and get the lower attorney's fees. For this reason, docking attorney's fees for failure to go by consent causes problems.

I assume that the justification for the blanket "6-month" rule with no additional attorney's fees is to keep attorney's from postponing some work until after confirmation so as to grab more fees later. That has a semblance of fairness. But some post-petition work doesn't fit the mold of what is needed to be done in a normal case. Motions to sell, buy, or refinance property or cars, motions to abate, & motions to keep tax refunds all come immediately to mind. At the very least, the 6-month rule needs some modifications.

Sincerely,



L. Phillip Dew