

# Law Office of Davis & Jones, P.C.

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Lee J. Davis  
Tony G. Jones

Attorneys at Law  
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Salt Lake City, Utah 84107

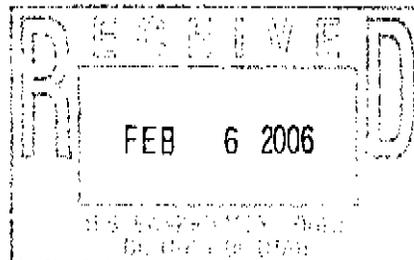
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Of Counsel  
Craig S. Trenton\*

\*Licensed in Utah,  
Arizona, California  
and Texas

February 6, 2006

Honorable Glen E. Clark  
350 South Main Street, Room 369  
Salt Lake City, Utah 84111



**Re: Attorney's fees in Chapter 13 cases.**

Dear Judge Clark:

Please find attached a memorandum regarding attorney's fees in Chapter 13 cases. We apologize for the delay. We have had a difficult time wrapping our arms around the requirements of the new bankruptcy laws and the effect those requirements will have on time spent for each Chapter 13 case.

We appreciate your consideration of the matters addressed in the memorandum. Please do not hesitate to contact any of us regarding questions or concerns you may have. We look forward to your response.

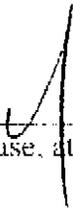
Sincerely,

LAW OFFICE OF DAVIS & JONES, P.C.

  
\_\_\_\_\_  
Lee J. Davis, attorney

  
\_\_\_\_\_  
David Berry, attorney

  
\_\_\_\_\_  
Justin Burton, attorney

  
\_\_\_\_\_  
Jory Trease, attorney

## Attorney's Fees in Chapter 13 Cases

I. A Subcommittee formed by the Early Confirmation Committee has been asked to make a recommendation concerning the allowance of attorney's fees in Chapter 13 cases. The subcommittee members are David Berry, Lee Davis, Jory Trease and Justin Burton. Chapter 13 Trustee J. Vincent Cameron contributed significant amounts of information and assistance. The committee examined the Bankruptcy Code and Rules, Local Rules, Standing Orders, recent case law and other information from around the country.

II. The Current Fee Structure.

II.A. On January 8, 2001 the following memo was released by the Office of the Court Clerk (copy taken from the Court's web site):

January 8, 2001

Dear Chapter 13 Practitioners:

In an effort to improve Chapter 13 practice and success for all concerned, the Court has approved a new fee structure. For all cases filed after November 1, 2000, the standard attorney fees, including costs, without a fee application will be as follows:

Cases confirmed by consent: Two thousand dollars (\$2,000) with one thousand five hundred dollars (\$1,500) being granted at confirmation with the remaining balance paid at seventy-five dollars (\$75) a month or one-half of the plan payment, whichever is less.

Cases confirmed at the contested hearing: One thousand six hundred dollars (\$1,600) with one thousand two hundred dollars (\$1,200) being granted at confirmation with the remaining balance paid at seventy-five dollars (\$75) a month or one-half of the plan payment, whichever is less.

This does not relieve counsel of the obligation to charge no more than a reasonable fee. The Court will rebuttably presume no fee applications will be necessary and no requests for fees post confirmation will be filed for work performed during the time the balance of fees is being paid through the trustee. While Utah currently has the highest percentage of distributions (14.42 percent) paid to debtor's counsel in confirmed cases nationwide, the Court is confident that these new fees are representative of the work necessary to bring Chapter 13 cases to successful confirmation.

Effective for all Chapter 13 filings after the date of this letter, the Court establishes a bar date for filing required tax returns as 90 days after the initial 341 meeting date (the first claims bar date). This should give the debtor sufficient time to prepare tax returns prior to the governmental claims bar date and the confirmation hearing.

If the debtor fails to file the required returns by the first claims bar date, the trustee or any taxing authority may file a motion to dismiss which would give the debtor twenty days to file a response and calendar the matter. If this is not done, the Court will enter an automatic order of dismissal.

With Chapter 13 filings increasing 13 percent last year, it is essential that all parties work together to improve the system. It is hoped that these changes will improve the Chapter 13 practice in our district.

## II.B. NEED FOR CHANGE.

Fees have remained static since the current fee structure was put into place. The aftereffects of September 11, 2001 alone have greatly increased counsel costs for all aspects of practice, including health, malpractice and business insurance. Although not set forth in the memo, the Court has allowed the \$1,600 - \$2,000 in fees and has found that such fees cover work performed up to six months post-confirmation. During the same 5 year period from January 8, 2001 to the present Utah attorneys have dealt with increasing rent, increasing employee wages, increasing insurance and advertising costs, and general increases in overhead. These increases in costs have been exacerbated by significant technology changes and decreased overall filing rates in the District. The overall cost of living increase (based on information obtained from the Department of Labor Bureau of Labor Statistics) has been more than 13% over the last four years.

At the same time, the 2001 fee structure, which contemplated payment of \$1,600.00 to \$2,000.00 in fees has resulted in lower per-case fees collected. According to the Chapter 13 Trustees, for example, the average per case disbursement in 2004 by the chapter 13 trustees for attorney's fees was just \$900.

## III. Problems With the Existing Fee Structure.

One of the major complaints Chapter 13 practitioners have about the current fee structure is the \$1,600.00 / \$2,000.00 fee split for consent confirmations and contested confirmations. Many practitioners are uneasy with the conflict created when they must inform a client that the attorney earns a higher fee if the client performs quickly, but a lower fee if the client delays the production of documents or the verification of pleadings or amendments. In fact, many attorneys have found that a number of clients have learned how to play the system and intentionally drag their feet to save \$400.00 of attorney's fees.

Debtor's attorneys have also found that creditors have been able to use the current fee structure as a club to obtain more favorable claim treatment. Creditor's counsel can do this by delaying withdrawal of the creditor's objection to confirmation. They may do this knowing that if the Debtor's attorney does not agree to more favorable treatment, debtor's attorney not only has to attend a contested confirmation hearing (incurring more time and costs on the case) but also loses \$400.00 in fees for trying to protect his/her client's best interests.

The current fee structure penalizes attorneys for clients whose cases are more complicated and need more work. Often, more work is required on cases that don't or can't meet "consent" confirmation standards even though the case is ultimately confirmable. There are also an increasing number of cases that the Trustees are unable to place on the current "uncontested" confirmation calendars because they want "to get a ruling from the Court." The price of the extra time and effort on these more complicated hearings is having to attend a "contested" confirmation hearing and accepting a \$400.00 reduction in fees.

Finally, under the early confirmation system adopted in this District in July, 2005

“consent” and “contested” confirmations have been eliminated. One of the reasons behind the \$400.00 reduction in fees contained in the 2001 memo was that Debtors and their attorneys had 6 months to resolve Trustee’s and creditor’s objections. It made sense to require attorneys who routinely file budgets and pay stub analysis the evening before or even at the time of confirmation to accept lower fees. However, the Court must realize that the occasional late filing of necessary information is often the result of a client failure to provide documents timely to the attorney. The diligent attorney should not be punished by rewarding the delinquent debtor. The worst scenario is to deprive the debtor’s counsel of fees because the debtor has failed to timely pay the plan payment. Not only has the Court reduced fees for the counsel and rewarded the delinquent debtor, but the attorney has incurred extra time and expense by the need to attend the confirmation hearing.

Under the early confirmation system the time between filing and confirmation has been reduced to approximately 2 months. It is not unusual to have a confirmation hearing before a Debtor’s second payment has even come due! Under such a short time line it is more difficult to overcome obstacles that may exist in a case, and debtor’s counsel is required to do more work in a shorter 2 month period of time. A Debtor who loses a job the day before a 341 Meeting, for example, will not likely find new work and have enough hours on a pay stub to allow a new budget to be filed before confirmation. Similarly, taxes filed the week before the 341 Meeting probably will not be processed by the date of the confirmation. It is not unusual that a creditor will file a claim just before the confirmation hearing leaving insufficient time to amend and renotice a Plan. It would be unfair to penalize attorneys for the larger number of factors outside the attorney’s control which may prevent a case from being confirmed without objection.

#### IV. Fee structures in other jurisdictions.

Although the fees awarded in other jurisdictions may not apply to Utah, Vince Cameron has provided the following information regarding adjustments to fee structures in other jurisdictions (for pre and post-BAPCPA Chapter 13 cases). The information is helpful as a guide for the extra work which must be performed in post-BAPCPA Chapter 13 cases.

<u>District</u>	<u>Old Fee</u>	<u>New Fee</u>	<u>Comments</u>
E.D. Tex,	\$2,000	\$2,500	No automatic stay litigation
	\$2,000	\$3,000	Automatic Stay litigation (impose or extend?)
S.D. OH	\$1,500	\$3,000	
W.D. La.	\$1,850	not determined	
S.D. LA.	\$1,500	\$2,000	
N.D. Cal.	\$2,500	\$3,500	consumer cases
	\$4,000	\$4,500	business cases
D. Or.	\$2,500	\$2,500	Through Conf. add fees permitted
	\$4,000	\$4,000	life of case, no add fees

W.D.N.Y	\$1,350	\$1,950	individual –plus ala carte menu
	\$2,500		not determined business cases
W.D. PA	\$2,000	\$2,500	
N.D. Ohio	\$1,750	\$2,250	typical case
	\$1,250	\$1,750	(less than 10% & \$10,000 to unsec.)
N.D. IL	\$2,200	\$2,500	through confirmation
	\$2,700	\$3,000	through conclusion
W.D. Mich,	\$1,800	\$2,400	
		\$2,600	if atty attended 2 BAPCPA seminars
		\$2,900	if atty is board certified
Hawaii	\$3,000	\$3,350	individual
	\$4,000	\$4,350	business

these figures (for Hawaii) are the maximum under an ala carte menu for various issues

#### V. Additional work required in post-BAPCPA Chapter 13 cases.

In addition to the general increase in expenses since 2001, attorneys filing Chapter 13 cases under BAPCPA are required to perform a number of additional tasks in every Chapter 13 case, and have also incurred significant new liabilities. Until a ruling is obtained saying otherwise, attorneys must provide and explain the "Debt Relief Agency" disclosures to potential clients before a case is filed. Attorneys must establish a procedure for keeping proof that the Disclosures were delivered for two years after meeting with a potential client. Prior to filing a Chapter 13 case an attorney must counsel and assist his clients regarding pre-filing credit counseling. The attorney must examine 6 months of income prior to filing and complete the "means test." The attorney must assemble additional pay stubs, tax returns and bank statements and make sure the information provided by a Debtor is accurate. The attorney must complete and file a report of claims review after confirmation and file objections to claims which must be set for hearings after and separate from the confirmation hearing. Attorneys must process tax returns for the first three years of a case. Attorneys must follow up with clients regarding post-filing budget management and file additional certifications with the Court. Attorneys must have an additional meeting with clients and prepare and file a declaration concerning the client's readiness to receive a discharge.

There is more work required of attorneys over shorter time frames with higher penalties for failure to act. Outside of the Chapter 13 bankruptcy community the increased amount of work and the higher risk of failure can be compensated by higher hourly rates and increased billable hours. In Chapter 13 attorneys are limited by the nature of the clients they serve and the required review and award of fees by the Bankruptcy Court.

Furthermore, the risk to counsel for debtor is higher as 75% or more of all of the work that used to be performed over a 7 month period is now performed in the first 60 days. The attorney has no "out" (i.e. lack of need to prepare the case for confirmation) if the debtor fails to pay plan payments after the §341 Meeting. Confirmation now often occurs before the second Plan Payment is even due.

## VI. Recommendations.

In order to fairly compensate attorneys for the work required to properly prosecute a Chapter 13 case under the new Code, and to avoid the time and expense which would be incurred by all parties if a fee application were required in every case we would recommend the following fee structure:

**For a basic Chapter 13 case:           \$2,750.00.**

(including all work performed through confirmation, and including the claims review process, budget management certification and final certification of readiness for discharge)

**If the case is a business case:       \$3,750.00**

(a case is a business case if more than 20% of a Debtor's gross income is derived from self-employment or similar business activity)

**If the case requires a motion to extend or impose the Automatic Stay, then an additional \$1000.00 should be allowed, and if the case requires a hearing on the motion then an additional \$1500 should be allowed.**

(This additional fee would include the additional time spent with a Debtor regarding the effect of section 362( c), the desirability of filing a motion to extend or impose, the drafting of a motion with supporting affidavit, noticing the motion for hearing, preparing for the hearing with an additional client meeting, attending the hearing and drafting the order resulting from the hearing.)

There is no distinction between fees awarded for confirmation without objection and fees awarded for confirmation obtained at a contested hearing.

The fees are based on the attached fee application example. The fees for a basic Chapter 13 case, with no motions to dismiss or motions for relief pre-confirmation ranged from \$2,106.00 to \$4,720.50 for services performed through confirmation, the claims review process and the discharge process. The basic fee also includes the myriad tasks associated with client phone calls, creditor phone calls and other general hand-holding and babysitting through the life of a Chapter 13 case. There are still several unknown factors. We have not been through an entire case with the claims review process and discharge process. Additionally we do not know the costs associates with promised case audits.

The fees proposed are lodestar-based: a reasonable hourly rate multiplied by a reasonable number of hours expended on a typical Chapter 13 case. The fees comport with the requirements of Section 330(a). The time estimated for the services rendered is reasonable. The rates charged are average for this geographical area and probably lower than practitioners in other areas of the law charge. The tasks are necessary to the administration of the case, or beneficial at the time the services are rendered. The tasks listed are completed in a reasonable amount of time. The task times assume that an attorney and his or her staff is reasonably skilled with experience in the

bankruptcy field. The tasks do not unnecessarily duplicate services. The tasks set forth provide reasonable and necessary benefit to the Debtor's estate.

VII. Sample fee application

AVERAGE "BASIC" CHAPTER 13 CASE

<u>Task</u>	<u>Attorney Time</u>	<u>Paralegal Time</u>	<u>Legal Asst. Time</u>	<u>Other Staff Time</u>
Initial Consultation	.5 - 1.0 hours			
Follow-up / pre-filing meeting	.5- 1.0 hours			
Initial Data Entry from Questionnaire			1 - 4 hours	.2 hours
Prep. Pay stub analysis		.2 - .5 hours		
Prep. Tax returns and Declaration		.5 hours		
Prepare Means Test	.5 - 1.0 hours			
Draft Plan	.5 hours	.5 - 1 hours		
Meet w/client to rev. & sign paperwork	.7 - 2.0 hours			
file case electronically			.3 hours	
Special Creditor Contacts (garnishment, repossession, etc.)	.2 - .5 hours		.2 - .5 hours	.5 hours
Rec/Rev 341 Notice mail reminder ltr				.2 hours

<u>Task</u>	<u>Attorney Time</u>	<u>Paralegal Time</u>	<u>Legal Asst. Time</u>	<u>Other Staff Time</u>
Prep and attend 341 Meeting	.4 - .7 hours			
rev file and write 341 follow-up letter		.3-.5 hours		
follow up to comply with Trustee directives	.2 - .5 hours	.5 - 1 hours		
Negotiate values/ claim treatment	.5 hours	.5 hours		
Amend to add creditors and mail notices			.5 - 1.5 hours	.5 - 1.5 hours
Review Trustee obj. contact w/ client to resolve	.2 - 1.5 hours	.2 - 1.5 hours		
Meet / phone calls w/clients to prep for confirmation	.5 - 1.5 hours	.5 - 1.0 hours		
Attend conf. Hrng	.2 - .5 hours			
Letter to client re: confirmation	.2 hours		.2 hours	
resolve confirmation issues and follow up	.5 - 1 hours	.5 - 1 hours		
Reminder letter to client re: post-filing education and followup			.3 hours	

<u>Task</u>	<u>Attorney Time</u>	<u>Paralegal Time</u>	<u>Legal Asst. Time</u>	<u>Other Staff Time</u>
File post-filing education certificate			.2 hours	
Meet with client to prepare declaration of readiness for discharge	.5 - 1.0 hours			
File Declaration of readiness for discharge			.2 hours	
<b>Total Time</b>	6.1 - 13.4 hours	3.7 - 7.5 hours	2.9 - 7.2 hours	1.4 - 2.4 hours
times rate	x\$220 / hour	x\$75 / hr	x\$25 / hr	not billed
<b>Total Fee</b>	\$1,342 - \$2,948	\$277.50 - \$562.50	\$72.50 - \$180	
Plus costs \$100 to \$250				
				<b>= \$1,792 to \$3,940.50</b>

#### CLAIMS REVIEW

<u>Task</u>	<u>Attorney Time</u>	<u>Paralegal Time</u>	<u>Legal Asst. Time</u>	<u>Other Staff Time</u>
rev file and write ltr for client to rev claims		.3 hours		
meet with client to rev. claims and prep claims objection and report	.5 - .75 hours	.5 - 1.0 hours		
prepare notice of hearing for claims objections			.5 hours	
mailing claims objections and hearing notices				.5 hours
Review Trustee Report of claims, respond if needed	.2 - 1.5 hours	.5 - 1.0 hours		

Total Time	.7 - 2.25 hours	1.3 - 2.3 hours	.5 hours	.5 hours
times rate	x\$220 / hour	x\$75 / hr	x\$25 / hr	not billed
Total Fee	\$154 - \$495	\$97.50 - \$172.50	\$12.50	
Plus costs \$50 - \$100				
				= \$314 to \$780.00

**Total: \$2,106.00 to \$4,720.50**

**for all services through confirmation plus claims review process.**

As additional support for and examples of the time requirements behind the proposed fee structure we have also attached fee applications filed in pending post-BAPCPA Chapter 13 cases.

#### VIII. Additional Considerations

We would also like the Court to consider (at a later time if appropriate) the establishment of standardized fees for matters not included above, including matters for which fee applications are routinely filed now such as objections to dismissal, motions to modify, motions to buy and sell property, etc. More importantly we would like to explore the establishment of a simplified fee process for those matters in which attorneys usually do not file fee applications (because they don't come before the Court or because attorneys are discouraged from bringing a fee application by itself for hearing) such as administrative requests to abate, objections to motions for relief and workouts of stay relief motions, etc.

While it is important to consider the impact of rising fees of the limited means of Chapter 13 Debtors we feel that it is just as important to consider the value of the services rendered to keep Debtors in their Plans and to help them successfully conclude their cases. Over the last 8 years consumer bankruptcy has become an increasingly specialized field. The passage of the new bankruptcy laws has made it even more difficult for a pro se litigant or an attorney without bankruptcy experience to navigate successfully. The number of reputable, competent attorneys fleeing the bankruptcy battlefield further highlights the need to fairly compensate attorneys who continue to strive to serve the needs of unfortunate and often unsophisticated debtors who are honestly trying to pay back even a small portion of their debts.

We thank you sincerely for your consideration. If you feel the matter warrants further discussion, or if you have additional questions, please do not hesitate to contact any of the committee members. We look forward to your reply.

David Berry  
Justin Burton  
Lee Davis  
Jory Trease

Lee J. Davis (#7501)  
Tony G. Jones (#9181)  
Law Office of Davis & Jones, P.C.  
470 East 3900 South, Suite 105  
Salt Lake City, Utah 84107  
801/261-2244

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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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In re	)	CHAPTER 13
	)	
CHRISTOPHER A. SWARTZ	)	Case no. 05-80134
SHERIE L. SWARTZ,	)	
Debtors.	)	
	)	Judge Judith A. Boulden

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**APPLICATION FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES**

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Under penalty of perjury, the undersigned respectfully represent as follows:

1. Applicant firm, Law Office of Davis & Jones, P.C., is counsel for the above named Debtors and makes this application for professional services rendered and for reimbursement of costs necessarily incurred by the applicant and representation of said Debtors. This application is sought pursuant to Section 330 of the Bankruptcy Code. The applicant seeks fees and costs in an amount of \$2,500.00 more particularly described in Exhibit "A" attached hereto.
2. All professional services for which allowance of compensation is hereby requested, were actually performed by the applicant firm for and on behalf of the Debtors. The applicant has exercised reasonable diligence and judgment in billing procedures and situations, and hereby seeks compensation for the same.

3. If any other services have been performed by other staff members of the applicant firm, these costs are separately enumerated.

4. Applicant, Lee J. Davis, has had continuous experience in bankruptcy matters for over nine (9) years and spends the vast majority of his billable hours representing clients in Chapter 7 and Chapter 13 cases, billing at \$200.00 per hour.

5. Applicant, Tony G. Jones, partner / attorney with the firm of Law Office of Davis & Jones, P.C., billing at \$180.00 per hour.

6. Legal staff with the Law Office of Davis & Jones, PC billing as follows: Lisa Jones, paralegal with more than 9 years bankruptcy experience billing at \$75.00 per hour; Jen Hansen, legal assistant with more than 8 years bankruptcy experience billing at \$25.00 per hour; Shanna Petersen, legal assistant with 2 years bankruptcy experience billing at \$25.00 per hour.

7. Other than in connection with this matter, the applicant firm has had no relationship with the Debtors, nor does it expect to have post-petition relationships, except as otherwise required by these proceedings.

WHEREFORE, the applicant firm prays the Court to enter it's Order authorizing as an expense of administration to Law Office of Davis & Jones, P.C. a total amount of \$2,500.00.

DATED this 3rd day of February, 2006.

\_\_\_\_\_/s/\_\_\_\_\_  
Lee J. Davis  
Law Office of Davis & Jones, P.C.  
Attorney for Debtor(s)

Copy of the foregoing delivered this February 3, 2006 to:

J. Vincent Cameron (electronic notice)  
Chapter 13 Trustee

\_\_\_\_\_/s/\_\_\_\_\_  
Lee J. Davis

**EXHIBIT "A"**

<b>DATE</b>	<b>TIMEKEEPER</b>	<b>DESCRIPTION</b>	<b>HOURS</b>
11/15/05	- TGJ -	initial consultation re: disclosure information, bankruptcy alternatives, budget	1.0
11/21/05	- JH -	review paperwork, prepare petition statements, schedules, tax declaration	2.2
11/21/05	- TGJ -	review income and profit /loss info. Revise schedules and work on Means Test	1.5
11/21/05	- LJD -	meet w/clients to review, revise and sign Chapter 13 paperwork, discuss value of Suburban, potential objections	2.0
11/21/05	- LJD -	polish paperwork, prepare and file via ECF	.3
12/2/05	- TGJ -	meet with clients to review business questionnaire, profit and loss, tax issues	1.5
12/6/05	- LJ -	review court docket, prepare Certificate of Service fo Plan, prepare and file tax declaration, rev. profit and loss and prepare business budget. Fax to Trustee	.8
12/6/05	- TGJ -	rev documents prepared by LJ	.3
12/7/05	- SP -	rec/rev notice of 341 Meeting, calender and send letter to client	.3
12/12/05	- LJD -	rec/rev. fax from Citifinancial re: value of Suburban. Call with client, they want to Stick with value listed in Plan	.4
12/13/05	- SP -	rec notice of rescheduled confirmation, calender and send letter to client	.3
12/30/05	- LJD -	travel for 341 Meeting (billed at 1/2 time)	.5
12/30/05	- LJD	review file (.2); attend meeting of creditors (.3); meet with clients before and after meeting (.2)	.7
1/5/06	- LJ -	rev business questionnaire, taxes, profit and loss, bank statements, proof of charitable contributions, call client for clarification, fax info to Trustee	.8
1/9/06	- SP -	rec Motion for Relief, calender, send letter to client	.3
1/11/06	- LJD -	meet w. Sherrie re: motion for relief, plan and budget	.6
1/16/06	- LJD -	review file, draft and file objection to Motion for Relief	.4
1/19/06	- LJ -	rec/rev Trustee objection to conf., call to client re: Dave Burrage	.3
1/23/06	- LJ -	rec. info, call w/ client, prepare amended D and matrix, file after attorney review	.5
1/23/06	- LJD -	rev amended documents for filing	.1
1/24/06	- LJD -	call w/ Hadley office re: possible settlement of motion for relief, call with clients to verify and call back to Hadley re: stip to treatment	.6

1/25/06 - TGJ -	rev. and prepare for hearing on motion for relief, prob. Stip.	.2
1/25/06 - TGJ -	travel time to court and back for hearing on motion for relief (bill 1.2 time)	1.0
1/25/06 - TGJ -	attend hearing on motion for relief - stipulated to treatment	.3
1/26/06 - LJ -	call with Trustee re: Plan and stipulation, review claims to date, prepare amended plan to confirm and file same after attorney review. Prep. and file certificate of service.	1.0
1/26/06 - LJD -	endorse stip via ECF. Review and approve Plan and certificate of service	.2
2/3/06 - LJD -	review records, prepare fee application	1.5
2/7/06 - LJD -	travel for confirmation (billed at 1/2 time)	.5est
2/7/06 - LJD -	review file (.2); attend confirmation hearing (.3); meet with client before and after (.2)	.7est
2/8/06 - LJD -	review file and write follow-up letter to client re: confirmation and payment	.3 est
3/2006 - LJD -	rec/rev confirmation order, endorse order	.3est
3/2006 - LJ -	reminder letter to client re: claims review and post filing budget management	.2 est
4/2006 - LJ -	review claims, provide claims review report to atty.	.5est
4/2006 - LJD -	meet with client to review claims, discuss budget management course	.5 est
5/2006 - LJD -	draft objections to claims and / or review and execute prepared claims report	.3 est
6/2006 - LJ -	rec/rev Trustee's report, address feasibility if needed, file certificate re budget course	.5 est
2010 - LJ -	rec/rev Trustee's report of completed payments. ltr to client to meet with attorney	.3est
2010 - LJD -	meet with client re: prep / file dec. of readiness for discharge	.7est

Total LJD (Lee J. Davis, attorney) time: 10 x \$200/hour = \$2,000.00

Total TGJ (Tony G. Jones, attorney) time: 5.3 x \$180/hour = \$954.00

Total LJ (Lisa Jones, paralegal) time: 4.9 x \$75/hour = \$367.50

Total JH (Jen Hansen, legal assistant) time: 2.2 x \$25/hour = \$55.00

Costs: copying \$41.40  
postage \$32.76  
additional estimated costs: \$75.00

**Subtotal of all fees and costs: \$3,525.66**  
**Less Retainer Received: \$0.00**  
**Amount Noticed in Plan \$2,500.00**

**Total Amount Due: \$2,500.00**

Lec J. Davis (#7501)  
Tony G. Jones (#9181)  
Law Office of Davis & Jones, P.C.  
470 East 3900 South, Suite 105  
Salt Lake City, Utah 84107  
801/261-2244

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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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In re	)	CHAPTER 13
	)	
BEVERLY L. BALLANTYNE	)	Case no. 05-80137
	)	
Debtor.	)	
	)	Judge Judith A. Boulden

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/s/ \_\_\_\_\_  
Lee J. Davis  
Law Office of Davis & Jones, P.C.  
Attorney for Debtor(s)

Copy of the foregoing delivered this February 3, 2006 to:

J. Vincent Cameron (electronic notice)  
Chapter 13 Trustee

/s/ \_\_\_\_\_  
Lee J. Davis

## EXHIBIT "A"

DATE	TIMEKEEPER	DESCRIPTION	HOURS
11/16/05	- TGJ -	initial consultation re: disclosure information, bankruptcy alternatives, budget	.7
11/21/05	- TGJ -	rec/rev faxed info from Beverly, review file for garnishment info	.3
11/22/05	- JH -	review client questionnaire, prepare petition, statements and schedules	2.0
11/22/05	- LJD -	review income and Debtor's info. Revise schedules and work on Means Test	1.0
11/23/05	- LJD -	meet with Beverly to review and sign Chapter 13 paperwork. Discuss previous filing and effect of the automatic stay. Prepare affidavit re previous filing	2.2
11/23/05	- LJD -	finish filing preparation, make sure papers in order for filing	.3
11/23/05	- LJD -	travel to court and back to office for case filing (billed at half time)	1.0
11/23/05	- LJD -	file Chapter 13 case at clerk's office due to ECF being down	.3
11/23/05	- LJ -	prepare pay stub analysis	.3
11/28/05	- SP -	call to creditor Kimble re garnishment, prepare and fax BK info, call to creditor Beehive	.5
12/1/05	- LJD -	research previous filing, review file, draft and file motion to extend stay	1.3
12/2/05	- LJD -	complete filing of statements and schedules	.5
12/2/05	- JH -	acquire court date for motion to extend, prepare notice of hearing and file aft atty review	.7
12/2/05	- LJD -	rev and sign notice of hearing	.1
12/7/05	- SP -	rec/rev notice of 341 Meeting, calender and send letter to client	.3
12/8/05	- LJ -	call w/ client re: we need 2004 state tax copy. Rec/ rev faxed tax info from client	.4
12/13/05	- SP -	rec notice of rescheduled confirmation, adjust calender and send letter to client	.3
12/15/05	- LJD -	rec/rev Trustee's response, review file	.5
12/21/05	- LJD -	travel to and from court for Motion to Extend (billed 1/2 time)	1.0
12/21/05	- LJD -	meet with client prior to hearing, attend hearing on motion to extend	.6
12/22/05	- LJD -	review notes from hearing, draft and upload order re motion to extend	.4
12/23/05	- LJ -	review file, prepare and send Trustee taxes and pay stub analysis, support info	.3
12/30/05	- LJD -	travel for 341 Meeting (billed at 1/2 time)	.5

12/30/05 - LJD -	review file (.2); attend meeting of creditors (.3); meet with clients before and after meeting (.2)	.7
1/6/06 - LJ -	rec/ rev bank statement from Debtor, review file, provide info to Trustee	.3
1/19/06 - LJD -	conf. With LJ re: Trustee objection	.2
1/19/06 - LJ -	rec/rev Trustee's objection, conf. W/atty LJD and contact client re: provide proof that Domestic Support Obligation is current.	.6
1/27/05 - LJ -	rec/rev. letter provided by client re: post-petition child support, call w/client and provide information to Trustee	.3
2/3/06 - LJ -	call w/client re: preparation for confirmation	.3
2/3/05 - LJD -	review records, prepare fee application	1.0
2/7/06 - LJD -	travel for confirmation (billed at 1/2 time)	.5est
2/7/06 - LJD -	review file (.2); attend confirmation hearing (.3); meet with client before and after (.2)	.7est
2/8/06 - LJD -	review file and write follow-up letter to client re: confirmation and payment	.3 est
3/2006 - LJD -	rec/rev confirmation order, endorse order	.3est
3/2006 - LJ -	reminder letter to client re: claims review and post filing budget management	.2 est
4/2006 - LJ -	review claims, provide claims review report to atty.	.5est
4/2006 - LJD -	meet with client to review claims, discuss budget management course	.5 est
5/2006 - LJD -	draft objections to claims and / or review and execute prepared claims report	.3 est
6/2006 - LJ -	rec/rev Trustee's report, address feasibility if needed, file certificate re budget course	.5 est
2009 - LJ -	rec/rev Trustee's report of completed payments, ltr to client to meet with attorney	.3est
2009 - LJD -	meet with client re: status of support payment, prep / file dec. of readiness for discharge.	.7est

Total LJD (Lee J. Davis, attorney) time: 13.9 x \$200/hour = \$2,780.00

Total TGJ (Tony G. Jones, attorney) time: 1.0 x \$180/hour = \$180.00

Total LJ (Lisa Jones, paralegal) time: 4 x \$75/hour = \$300.00

Total JH (Jen Hansen, legal assistant) time: 2.7 x \$25/hour = \$67.50

Costs: copying \$74.25  
postage \$37.39  
additional estimated costs: \$75.00

<b>Subtotal of all fees and costs:</b>	<b>\$3,514.14</b>
<b>Less Retainer Received:</b>	<b>\$0.00</b>
<b>Amount Noticed in Plan</b>	<b>\$2,500.00</b>
<b>Total Amount Due:</b>	<b>\$2,500.00</b>

David T. Berry (4196)  
Leasa M. Tripp (8005)  
BERRY & TRIPP P.C.  
5296 So. Commerce Dr., Suite 200  
Salt Lake City, UT 84107  
Tel: (801) 265-0700  
Fax: (801) 263-2487  
E-mail: berryandtripp@aros.net  
Attorneys for Debtor(s)

Debtor(s) Address:  
3726 S. Gold Ridge Dr.  
Magna, UT 84044

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**IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
DISTRICT OF UTAH, CENTRAL DIVISION**

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**In re: JUSTIN MICHAEL TOMASINI  
XXX-XX-5392**

**Debtor(s).**

**Case No. 05T-80115  
Chapter 13**

**Judge William T Thurman**

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**FEE APPLICATION**

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BERRY & TRIPP, attorneys for debtor, respectfully applies for approval and allowance of the fees and costs on Exhibit "A", attached hereto, and in support of this Application shows:

1. **BASIS FOR APPLICATION.** This Application is made pursuant to 11 U.S.C. Section 330 and Bankruptcy Rule 2016. In the event debtor's Chapter 13 Plan is not confirmed and the case is dismissed or converted to one under Chapter 7, the undersigned requests allowance of the fees and costs detailed on Exhibit "A" as an administrative expense pursuant to 11 U.S.C. Section 503(b)(2) and 11 U.S.C. Section 330(a), and that the Court enter an Order requiring payment of said administrative expense pursuant to 11 U.S.C. Section 1326(a)(2).

2. **RETAINER.** As a retainer, debtor has paid \$ 510.00 to BERRY & TRIPP.

3. **SOURCE OF COMPENSATION.** The source of all compensation paid and promised is from the debtor.

4. **NO AGREEMENT TO SHARE COMPENSATION.** No compensation previously received has been shared and no agreement of understanding exists between the applicant and any other entity for the sharing of compensation received or to be received for services rendered in or in connection with debtor's case.

5. **NATURE OF SERVICES RENDERED.** Exhibit "A" sets forth a detailed statement of the services

rendered, time expended and expenses incurred, and the amounts requested. The compensation sought is reasonable compensation for actual, necessary services rendered by debtor's attorney and reimbursement for actual, necessary expenses.

6. NO ADVERSE INTEREST. Neither BERRY & TRIPP nor David T. Berry holds or represents an interest adverse to the debtor or the estate. BERRY & TRIPP and David T. Berry are disinterested persons.

7. IDENTITY OF ATTORNEYS AND PARAPROFESSIONALS. The services described in Exhibit "A" were provided by David T. Berry (DTB), Leasa M. Tripp (LMT), Amber Britt (AB), Jennifer Hasty (JH), Mauriona Saxton (MS), and Stephanie Sheldon (SS). David T. Berry is an attorney in good standing and admitted to practice before this Court and in the courts of the State of Utah. Leasa M. Tripp is an attorney in good standing admitted to practice before this Court and in the courts of the State of Utah. Amber is a legal assistant who spends her time on Chapter 13 bankruptcy matters. Jennifer is a legal assistant who works on Chapter 13 Bankruptcy matters. Mauriona is a legal assistant who spends her time on Chapter 13 bankruptcy matters. Stephanie Sheldon is a legal assistant who works solely on Chapter 13 Bankruptcy matters.

WHEREFORE, BERRY & TRIPP requests that the Court approve and allow the compensation and reimbursement requested in this Application.

DATED this 30<sup>th</sup> day of January 2006.

BERRY & TRIPP P.C.

/s/ David T. Berry   
David T. Berry  
Leasa M. Tripp  
Attorneys for Debtor(s)

**EXHIBIT A: Tomasini, 05-80115**

<u>DATE</u>	<u>TIME</u>	<u>CHARGES</u>	<u>BY WHOM</u>	<u>SERVICES</u>
10/05/05	.5	42.50	AB	Call from client w/questions on re-file options.
11/16/05	.2	17.00	AB	Call from client re: credit counseling.
11/17/05	1.5	375.00	DTB	Met wH in office re: filing. Receive & review petition and documents, review preliminary plan payment calc against data, discussed garnishment, assets, etc. Initial outline of case issues.
11/17/05	1.0	85.00	AB	Met w/client - review income verification and means test. Prep tax declaration for filing.
11/17/05	.5	N/C	AB	Enter creditor info to prep matrix for filing.
11/18/05	.2	17.00	AB	Review data from client to determine need for Notices of Bankruptcy and flag the same (.2); Call to Deanna / Ace Financial re: garnishment (.2); Draft, fax and mail Notices of Bankruptcy to appropriate parties. (N/C).
11/18/05	.5	42.50	AB	Call to payroll dept. re: Ace Financial garnishment, got details (.3); Call to Deanna / Ace Financial re: same. (.2).
11/21/05	.3	25.50	AB	Call to client's payroll - they have NOT recvd release yet (.2); Call to R.Hallet / Ace Financial re: same (.1).
11/21/05	.2	17.00	AB	Call from R.Hallet re: release of garnishment.
11/21/05	1.5	N/C	Staff	Draft schedules & statement of financial affairs.
11/21/05	.8	68.00	AB	Prep credit counseling certificate for filing (.1); Compile and prep 60 day payment advices for filing (.2); Prepare PSA & review of all payroll deductions (.3); Draft letter to client re: schedules (.2).
11/22/05	.6	51.00	AB	Draft Motion to Extend the Automatic Stay (§362 motion) for attorney to review.
11/22/05	1.0	250.00	DTB	Review file and case notes (.4); Outline problems (.2); Review, edit §362 motion (.4).
11/22/05	.5	42.50	AB	Met with client to review and sign the §362 motion (.3); Call to Thora / J. Thurman re: hearing on §362 motion, she'll discuss w/Judge and call me back with a date (.2).
11/22/05	1.4	119.00	AB	Review file for problems and inconsistencies (.4); Draft Liquidation Analysis (.3); Do plan calculations (.3); Draft plan for attorney to edit (.4).
11/23/05	.4	34.00	AB	Call to Tina / J.Thurman - left message (.1); Draft notice of hearing (.2); Call from Tina / J.Thurman - set hearing date (.1).
11/23/05	.2	17.00	AB	Call to Sharon / IRS re: amount owed and plan treatment.
11/23/05	.2	n/c	Staff	Call from B.Fishburn / Ace Financial re: garnishment issues.

11/28/05	.2	17.00	AB	Compile and fax required information to Trustee.
11/30/05	.2	40.00	LMT	Draft amended hrg notice (re: §362 motion) & re-send.
12/01/05	.6	120.00	LMT	Review schedules (.1); Review intake notes and compare to schedules (.1); Review Budget including PSA (.1); Review Liquidation Analysis (.1); Review Plan Calculation (.1); Edit and approve Plan (.1).
12/02/05	.3	25.50	AB	Call from client w/questions on §362 motion (.3); Mailed him a copy of the notice of hearing (n/c).
12/05/05	.3	60.00	LMT	Receive and review Ace Financial's objection to §362 motion.
12/07/05	.1	n/c	AB	Call to client - left message re: credit counseling payment and hearing on §362 motion.
12/07/05	.2	17.00	AB	Call from client re: hearing on §362 motion.
12/08/05	.8	68.00	AB	Call from L.Miller / J.Thurman re: §362 motion and hearing (.2); Call to Tina / J.Thurman - left message requesting new hearing date (.1); Draft ex parte Mot/Ord to shorten time (.5).
12/08/05	.2	40.00	LMT	Receive and review Trustee's response to §362 motion.
12/09/05	1.8	450.00	DTB	Review file & schedules for issues (.4); Direct staff re amendment of schedules (.1); Conference with client (.3); Prepare for hearing on §362 Extend Stay (1.0).
12/09/05	.2	17.00	AB	Prep amended SofA Q#9 for filing.
12/11/05	4.0	1,000.00	DTB	Preparation for §362 Extend Stay hearing (3.5); oTel call w client re: §362 Extend Stay hearing (.5).
12/12/05	4.3	1,075.00	DTB	Prepare for §362 Extend Stay hearing (2.5); conference with client before §362 Extend Stay Hearing (.5); Hearing on §362 Extend Stay hearing (1.0); conference with client after hearing (.3).
12/13/05	.3	N/C	Staff	Prepare file for §341 meeting (.1); Draft letter to debtors re: meeting of creditors and clients specific meeting requirements (.2).
12/20/05	.2	17.00	AB	Call from client re: garnishment from Ace Financial.
12/21/05	.5	42.50	AB	Review fax from client re: Ace Financial (.1); Call to client re: same (.2); Correct creditor address on matrix & send notice (.2).
12/22/05	.6	150.00	DTB	Review file to prep for meeting of creditors (.2); Telephone call w/debtor re §341 Meeting (.4).
12/22/05	.5	125.00	DTB	Meet with client before meeting of creditors (.1); Represent client at meeting of creditors (.1); Meet with client group after §341 meeting to explain bankruptcy issues & requirements (.1); Meet with debtor individually after §341 to review Trustee's directives and give legal advice (.1); Create 'To Do' and issue list for follow up attention (.1).
12/22/05	.7	59.50	AB	Review file & §341 notes (.1); Compile and fax requesting info to Trustee (.2); Review claims register & update plan calc (.2); Draft

				amended Plan (.2).
12/22/05	.2	50.00	DTB	Review Plan calc prepared by AB (.1); Review & edit Amended Plan prepared by AB (.1).
12/22/05	.5	N/C	Staff	Copy and mail amended plan to all creditors.
01/12/06	.5	42.50	JH	Review and update file (.3); Review Trustee's objection to confirmation (.2).
01/27/06	.2	17.00	JH	Call from client - discussed upcoming confirmation hearing.
01/30/06	.5	42.50	JH	Review and update file (.1); Draft DP brief (.3); Prep file for contested confirmation hearing (.1).
01/30/06	1.2	300.00	DTB	Review claims register and plan calc (.4); Review, edit DP brief and add new argument (.8).
01/30/06	1.6	N/C	JH	Fee app initial preparation for attorney review.
01/30/06	.3	75.00	DTB	Edit and review Fee App.
01/31/06	1.0	250.00	DTB	Review of file, note issues for confirmation, check PACER for any late-filed claims or issues. Prep for confirmation hearing (est).
01/31/06	.5	125.00	DTB	Represent Debtors at contested confirmation hearing, meet with Debtors to review case (est).

\$ 4,225.00	DTB total hours = 16.9 @ \$250/hr.
\$ 260.00	LMT total hours = 1.3 @ \$200/hr.
\$ 841.50	AB total hours = 9.9 @ \$ 85/hr.
\$ 102.00	JH total hours = 1.2 @ \$ 85/hr.

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\$ 5,428.50 Total Billable Attorney Fees

\$ 67.03	Postage
\$ 8.75	Facsimile @ \$.25 per page
\$ 92.55	617 Copies @ \$.15 per copy

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\$ 168.33 Total Expenses

\$ 5,596.83	Total Attorney Fees and Costs
\$ 86.83	Attorney Fees Waived

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\$ 5,510.00 **TOTAL ATTORNEY FEES AND COSTS PRESENTED FOR APPROVAL**  
\$ 510.00 Less Retainer, Paid Pre-Petition

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\$ 5,000.00 **PAYABLE THROUGH PLAN**

**Debtor Events:**

05-80115 Justin Michael Tomasini

**U.S. Bankruptcy Court**

**District of Utah**

Notice of Electronic Filing

The following transaction was received from Berry, David entered on 1/30/2006 at 5:47 PM MST and filed on 1/30/2006

**Case Name:** Justin Michael Tomasini

**Case Number:** 05-80115

**Document Number:** 29

**Docket Text:**

Application for Compensation by Attorney/Debtor(s)(Ch13) filed by Debtor(s). (Berry, David)

The following document(s) are associated with this transaction:

**Document description:**Main Document

**Original filename:**K:\BK-05\Tomasini.J\fee app.pdf

**Electronic document Stamp:**

[STAMP bkecfStamp\_ID=983650642 [Date=1/30/2006] [FileNumber=6909753-0]  
[9970b01c390b41cd972384531768d9f54fd30dd9c5d0e8898c30ebc4ac01a07da716  
54c32288e1a515d8e785e72adb6e09c46e850906839e3238fec87b62e6a6]]

**05-80115 Notice will be electronically mailed to:**

Kevin R. Anderson tr kanderson@ch13kra.com, lneebling@ch13kra.com

David T. Berry berryandtripp@aros.net,

United States Trustee USTPRegion19.SK.ECF@usdoj.gov

**05-80115 Notice will not be electronically mailed to:**

Paul Bryan Fishburn  
Fishburn & Associates  
4505 South Wasatch Blvd.  
Suite #215  
Salt Lake City, UT 84124

Jeffrey R. Stephens (4774)  
Attorney for Debtor,  
P.O. Box 888  
Sandy, UT 84091  
Telephone: (801) 966-0888

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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH

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IN RE: Craig Miller

)  
) Bankruptcy No. 05T-80094  
) (Chapter 13)  
)

Debtor(s) )

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FIRST INTERIM APPLICATION FOR FEES

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Under penalty of perjury, the undersigned respectfully represents as follows:

1. Applicant firm, Jeffrey R. Stephens, is counsel for the above named Debtors and makes this application for allowances of compensation, pursuant to Section 330 of the Bankruptcy Code, for professional services rendered and for reimbursement of out-of-pocket expense necessarily incurred by Applicant in the representation of said Debtor.
2. All professional services for which allowance of compensation requested were actually performed by the Applicant firm for and on behalf of the Estate as being, in the opinion of the Applicant, both reasonable and necessary. Application purports to have exercised reasonable billing judgment encompassing situations, if any, where more than one attorney has been involved in the same hearing or conference and with respect to non-legal type services including travel time, if any.
3. Jeffrey R. Stephens has had continuous experience in bankruptcy matters since 1982 and has spent 95% of his billable hours representing debtors in chapters 7, 11, and 13 since

1986.

4. The rates charged by Applicant firm, were at all times since the inception of these proceedings, the normal charges for similar work performed for other clients and are consistent with the rates previously viewed by the Court as the appropriate and charged in the State of Utah by attorneys and para-professionals with similar expertise.

5. Other than in connection with this matter, Applicant firm has had no relationship with the Debtors, nor does expect to have post-petition relationships, except for winding up these proceedings.

6. A complete accounting for the time spent by each person and costs expended is provided in Exhibit (A) attached hereto.

WHEREFORE, Applicant firm prays the Court to enter its Order authorizing as an expense of administration to Jeffrey R. Stephens the total amount of \$2,500.00.

DATED this 6 day of Jan., 2006.

  
\_\_\_\_\_  
Jeffrey R Stephens  
Attorney for Debtor(s)

CERTIFICATE OF MAILING

Under penalty of perjury, I hereby certify that I mailed a true and correct copy of the  
APPLICATION FOR ALLOWANCE OF ATTORNEYS FEES on this 6 day of  
Jan, 2006, to the following parties of interest:

Kevin R. Anderson  
Chapter 13 Trustee  
405 S. Main Street, Suite 600  
Salt Lake City, UT 84111

Craig Miller  
4066 Diana Way  
SLC, UT 84124

  
\_\_\_\_\_

Debtors: Craig Miller  
Case #: 05T-80094

"Exhibit A"			
DATE	DESCRIPTION	ATTORNEY	
11/03/05	Conference Debtor re: facts, issues, options	JRS	1.2
11/03/05	Tele-conference Debtor re: income, means test	JRS	0.3
11/04/05	Conference Debtor. Work on statements, schedules	JRS	3.5
11/07/05	Conference Debtor. Work on budget, DMI	JRS	2.2
11/08/05	Conference Debtor. Work on schedules, DMI, budget	JRS	2.7
11/11/05	Conference Debtor. Work on petition, plan, completion of filing	JRS	3.5
11/18/05	Assemble and fax tax returns and PSA to Trustee	JRS	0.2
12/01/05	Review budget	JRS	0.1
12/01/05	Tele-conference client re: budget	JRS	0.1
12/01/05	Conference client re: amended budget	JRS	0.1
12/05/05	Receive and review 341 notice, Plan, letter to client	JRS	0.1
12/05/05	Tele-conference Gregorcy @ Bankruptcy Court re: Plan problem	JRS	0.1
12/05/05	Tele-conference Tina @ Trustee's office re: Plan problem	JRS	0.1
12/05/05	Tele-conference Court clerk re: Plan problem, will re-scan and resend	JRS	0.2
12/06/05	Review docket re: Plan	JRS	0.1
12/06/05	Tele-conference client re: bank statements	JRS	0.1
12/07/05	Conference client re: bank statements, schedule B	JRS	0.2
12/07/05	2 <sup>nd</sup> Conference client, amend Schedules B, I, J	JRS	0.7
12/07/05	Work on amended Plan	JRS	0.5
12/16/05	Conference client re: paystubs, case status	JRS	0.2
12/22/05	Travel to Meeting of Creditors 1.0 @ ½ rate	JRS	0.5
12/22/05	Attend Meeting of Creditors, conference client, re: Plan calculations, DMI	JRS	1.2
12/22/05	Amend Statement of Affairs	JRS	0.1
12/22/05	Review DMI and Plan calculations	JRS	0.2

01/06/06	Work on fee application	JRS	0.3
01/31/06	Travel Re: Confirmation Hearing 1.0 @ ½ rate	JRS	0.5
01/31/06	Estimated time to attend Confirmation Hearing	JRS	2.0
	<b>TOTAL HOURS</b>		21.0
	Postage:	\$	
	Copy Fees:	\$	
	Total Attorney Hours (21 @ \$175.00 per hour):	\$3,675.00	
	Total Paralegal Hours (0.0 @ \$50.00 per hour):		
	<b>Total Amount:</b>	<b>\$3,675.00</b>	
	<b>Amount Requested:</b>	<b>\$2,500.00</b>	