WEST MICHIGAN BANKRUPTCY QUARTERLY

FALL 1999

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60 MONTHS - CINDERELLA'S "MIDNIGHT" IN 13?

By: Steven L. Rayman, Editor

Bankruptcy Judges, past and present, have been called upon in Chapter 13 matters to decide the following case:

TRUSTEE: Your Honor, this Plan was originally scheduled to run 59.9 months. The Debtors are substantially behind in their payments such that the Plan now runs 60.1 months. You and I are both too busy for this. We move for dismissal.

JUDGE LAWRENCE E. HOWARD: Will the Plan be completed within 21 years of a life-in-being at the creation of the interest, uh-uh, confirmation of the Plan?

JUDGE JO ANN C. STEVENSON: You know my feeling on this... if the Plan can not be completed within three nanoseconds of midnight on the last day of the 60th month, it should be dismissed.

JUDGE JAMES D. GREGG: This is a very interesting issue. I believe that I am going to take this matter under advisement. I will be issuing a 45 page written Opinion with 45 footnotes and which will balance the 45 factors that I think are relevant.

As shocking as it may sound, **none** of the above approaches are technically correct. We begin our discussion on this problem not by asking when the 60 months end but when it begins. In fact, although 11 U.S.C. §1326(a)(1) requires Plan payments to **begin** within 30 days when the Plan is filed, the majority view is that the five year maximum period for Plan payments does not commence until confirmation of the Plan. See *West* v *Costen,* 826 F.2d 1376 (4th Cir. 1987). Also see *In Re Martin,* 156 B.R. 47 (9th Cir. BAP 1993). Also see Norton Bankruptcy Law and Practice 2d, ¶121:14 ["it could be argued that the Plan does not "provide for payments" until it is confirmed by the Court. Therefore, the five year period does not begin until confirmation".] See *In Re Serna,* 193 B.R. 537 (Bankr. D. Ariz. 1996), *In Re Endicott,* 157 B.R. 255 (W.D. Va. 1993). Norton does, however, cite authority to the contrary. Our Bankruptcy Court has not issued a written opinion on this issue. Judge Howard had previously followed this majority rule, as has Judge Gregg, who wrote on the sub-

(Continued Page 2)

HUGHES' ARRIVAL EXPECTED JANUARY 1, 2000

Unless you have been on Mars for the last 2 ½ months, you know that Jeffrey R. Hughes, longtime bankruptcy practitioner/litigator, has been appointed to fill Judge Howard's position as one of our three bankruptcy judges. Jeff indicated that he will be simply assuming Judge Howard's docket and rotation, at least for the immediate future.

When interviewed for this article, Jeff described himself as a "reflective person who intends to apply the law fairly." He does not view himself as

(Continued page 5)

60 Months Continued -

ject for Norton. Judge Stevenson, interviewed for this Article, indicated that she had not been called upon to rule on the issue, but was inclined to agree.

Most importantly, the fact that a Debtor does not actually finish the required payments within five years does not, in of itself, constitute a violation of 11 U.S.C. §1322(d), the governing provision. As Colliers points out, §1322(d) focuses on the payments that are "provided for" by the Plan. If the payments are late, but the Debtor is substantially complying with the Plan, the Court should allow the Plan to be completed within a reasonable time after its stated term. See Colliers ¶1322.18. Also see In Re *Brack,* 17 C.B.C. 2d 602, 78 B.R. 840 (Bankr. S.D. Ohio 1987).

To summarize, although we have generally used the five year/60 months/260 weeks/1825 days/43,800 hours as our guidelines for completing a Chapter 13 case, this deadline should not be "cast in stone". Our Courts should (and do) exercise discretion with respect to the time line for completion of a Plan.

LITIGANTS SAIL TO "SAFE HARBOR" IN SANCTION CASES

By: Steven L. Rayman, Editor

In two unrelated opinions, Bankruptcy Judge Jo Ann C. Stevenson, interpreted Rule 9011 and its "safe harbor" provisions finding that a Motion for Sanctions brought by a litigant must be "presented" to opposing counsel within the required time periods described in Rule 9000(c)(1) in order to be considered. Following the specific language of the Rule, the Court found that counsel must be given the opportunity to "reflect on the Motion and perhaps withdraw the offending pleading voluntary". In *City of Benton Harbor vs Maurice Lavan Golliday*, counsel for Mr. Golliday, failed to give the City formal notice of his intent to seek sanctions at trial. Mr. Golliday's counsel succeeded in cajoling the Plaintiff to voluntarily dismiss the proceedings after a day and half of trial. The issue of sanctions was reserved. When the Sanction Motion was then filed by counsel on behalf of his client, Judge Stevenson found that counsel had failed to comply with the "safe harbor" of Rule 9011 in that he had not given 21 days prior notice of his Motion. The Judge ruled that you had to give a party a chance to reconsider the position though to be improper. Therefore, the party's Motion for Sanctions was denied.

In a similar case, *Zeeland Farm Services, Inc. vs James Kolberg,* Judge Stevenson reached a similar result. In that case, counsel for the Debtor/Defendant in a nondischargeability action **that was tried in 1997 before Judge Howard** waited until after Judge Howard retired in **1999** to bring his Motion for Sanctions. Although all who know Attorney Thomas Budzynski are shocked by his failure to timely file his Motion, Judge Stevenson ruled that Mr. Budzynski's filing of a Motion for Sanctions, under Rule 9011(c)(1) was not timely because counsel had not complied with the "safe harbor" provisions of the law, waiting to file his Motion "some 22 months after the conclusion of the Trial". Judge Stevenson also seemed somewhat troubled that the Motion was brought not only after such a long period of time but "approximately three weeks prior to the retirement of Judge Howard" who, as we all know, cut off a toe every time he had to grant a sanction motion.

Judge Stevenson's opinions, although "Not for Publication", are noted here with the permission of both nonprevailing counsel. The "safe harbor" provisions of the Rule are mandatory procedural prerequisites. See Collier on Bankruptcy ¶9011.06[1][b]. In order to have a sanction motion granted, it has to be brought in time to give the opposing party the chance to reconsider their position. The "safe harbor" provision immunizes litigants from Rule 9011 sanctions if they withdraw or correct the challenged paper before the motion is served. See Collier Rule 9011.06[1][a]. Also see *Elliot* vs *Tilton,* 64F.3d 213 (5th Cir. 1995).

Rule 9011 contains no explicit time limit for a sanctions motion. The 1993 Advisory Committee notes state, however, that such motion should generally be filed "promptly". Further, a motion for sanctions must be made separately from other motions or requests. Rule 9011(c). Therefore, "a request for sanctions may not be simply included as an additional prayer for relief contained in another motion". *Tate* vs *Law*, 865 Fed.Supp. 681 (D. Nevada 1994). Lastly, a lawyer's lack of experience or knowledge does not reduce his or her liability under Rule 9011. An attorney may not avoid sanctions by claiming inexperience or unfamiliarity with the law, an argument I have thought of making on several occasions. See *Hays* vs *Sony Corp. of America,* 847 F.2d 412 (7th Cir. 1988).

Good luck in your next life... SR

STATE COURTS MAY SANCTION PARTIES FOR "BAD FAITH" BANKRUPTCY FILING

Tom Sarb, one of the few Bankruptcy practitioners who actually reads the Michigan Court of Appeals decisions, asked your Editor to note the per curiam decision *In Re Prince* vs *MacDonald*, Docket No.: 204615. The Court of Appeals, in a case of first impression, awarded sanctions against a Defendant who had filed a Title 11 proceeding as a "ploy" to negotiate a nominal settlement. One day before trial the Defendant filed a Petition which was promptly dismissed by the Bankruptcy Court as being "deficient". The Court of Appeals considered sanctions against the Defendant finding that State Courts are not preempted from action by the Federal Bankruptcy Law. The Court found "there is no specific statute giving the Bankruptcy Court authority, and certainly not exclusive authority, to sanction the debtor for filing of a petition solely in order to interfere with the State Court proceeding. There is no valid reason to prohibit our state courts from sanctioning a Defendant". The ruling resulted in a $43,203.00 sanction award.

Why would Tom Sarb send this to me?????

HEALTH UPDATE: CHOLESTEROL LOWERED

Right after the publication of our last Newsletter, your Editor started on an anti cholesterol medicine, Zorcor. In the course of six weeks, my cholesterol dropped 85 points and my "ratio" drastically improved. Others have found similar results using similar anti cholesterol drugs. My physician told me "there is no reason why every American over the age of 40 should not be on one of the new anti cholesterol medicines".

One pill a day and I'm off to McDonalds...

NEXT ISSUE - Rob Wardrop and Ron VanderVeen will debate *"Propecia* vs *Rogaine".*

CHAPTER 13 "MAXIMUM" INCREASED

Effective Monday, October 18, 1999, paragraph 15 of the Memorandum Regarding Allowance of Compensation and Reimbursement of Expenses for Court-Appointed Professionals were modified. The modification permits Chapter 13 Debtors' attorneys to seek maximum compensation of $1,500.00 without submitting an itemized bill. The Court, in a written memorandum, commented that "the $1,500.00 amount is not "base" amount - it is the maximum that may be charged without time consuming itemization". The Court cautioned that in relatively "straight forward" Chapter 13 cases, counsel to carefully consider the services to be rendered and, as appropriate, charge less than the maximum amount. The Court will continue to review requested fees and take appropriate actions. The complete text of the Judges letter, dated August 24, 1999, along with the complete text of the Memorandum Regarding Allowance of Compensation and Reimbursement of Expenses for Court-Appointed Professionals, as amended effective October 18, 1999, are attached. Not surprisingly, David Anderson, the most prolific Chapter 13 filer in our District, commented, in a letter to your Editor that the Judges should be "commended for their understanding of how important adequate compensation is for Debtor attorneys in performing quality work". In his letter, Mr. Anderson points out that Chapter 13 cases require additional staffing and that Debtor's counsel in Chapter 13 cases usually ends up being the Debtor's General Counsel for the next five years.

PERFECTION FOR "SUBSEQUENT LENDER" EXAMINED

By: Steven L. Rayman, Editor

In two unrelated opinions, Bankruptcy Judge James D. Gregg and District Court Judge Robert Holmes Bell have examined the issue of perfection as it relates to lender who had already, in one manner or fashion, on the title to the vehicle in question because of a previous transaction, either with the Debtors or with the Debtor's seller. *James W. Boyd, v NBD Bank,,* Judge Gregg had the following case:

FACTS:

➳NBD leased a vehicle to the Debtors.

➳NBD was listed on the title to the vehicle as "lessor".

➳When the lease was up, the Debtors sought to buy the vehicle. NBD did the financing.

➳Of course, for this transaction the application for certificate of title, which would have identified the Debtors as owners and NBD as the first secured party, was not filed with the Secretary of State.

➳The Debtors filed Bankruptcy.

HELD:

➳NBD was not perfected because it failed to comply with the requirements of MCL §257.217 and §257.238 - in short, since NBD was not identified on the title as the **secured creditor**, it was not perfected.

THE BANK'S ARGUMENT:

➳NBD argued that, at all relative times, it was **on** the operative title. Anyone looking at the title would note NBD's interest (as lessor) and, therefore, be on notice. Rightly, Judge Gregg was not impressed. At no time did NBD "have a perfected **security interest** in the vehicle". Being on the title, as "lessee" was not enough.

In a similar case, Judge Bell also found against a Bank, which was attempting to "boot strap" its perfection of the Debtors' automobile by its previous perfection of its loan on the same vehicle to the Debtors' seller. In *Thomas R. Tibble v Huntington National Bank,* Case No.: 98-88179, the following is the scenario that was presented to the Court:

FACTS:

➳Debtors buy a vehicle from seller.

➳The Debtors' seller had previously financed the same vehicle with Huntington Bank. When the seller sold the vehicle to the Debtors, coincidentally, Huntington did the financing for the purchase.

➳The Debtors never put vehicle title in their name. When they got to Bankruptcy Court, the vehicle was still titled in the name of their seller with Huntington Bank noted as the seller's secured lender.

HELD:

➳Perfection, by Huntington Bank, as to the previous owner of the vehicle, was not sufficient to find that creditor perfected in the subsequent transaction, even though the Bank's name clearly appeared on the title. The Court distinguished *In Re Paige*, 679 F.2d 601 (6th Cir. 1982) and *In Re Skyland*, 28 BR 354 (Bankr. W.D. Mich. 1983) which adopted a "liberal" approach to the recording requirement of security interest. In *Paige*, the Court noted that the creditor was, at one time, properly perfected as to the Debtor. In the case before the Court, the creditor was never properly perfected, as to the Debtor's interest. An attempt to get perfected is not sufficient perfection.

EDITOR'S COMMENT:

Both of these cases should not be read as limiting either the 6th Circuits' opinions in *Paige* or *Skyland*. These cases should be read to support the proposition that a lender must go through the steps to file an application for certificate of title. If the steps are followed a creditor would prevail. However, **in both of these cases, those steps were not taken**. Because of that, the creditor was not allowed to "boot strap" its current position on the vehicle by its previous position.

30 DAY PERIOD FOR OBJECTING TO EXEMPTIONS STARTS AT CONCLUSION OF "FIRST"1st MEETING

In a decision made last month *In Re Robert L. Page,* Case No.: HT 98-02756, Judge James D. Gregg ruled that the thirty day period for objecting to exemptions, under Federal Bankruptcy Rule Procedure 4003(b) commenced at the conclusion of the "first" first meeting of creditors and not at the conclusion of any subsequent meetings that may be held as a consequence of conversion of the first case to another chapter. In *Page,* the Debtor had filed Chapter 13 on March 30, 1998. The Chapter 13 first meeting was held and concluded on September 24, 1998. Later, in May of 1999, the Debtor converted to Chapter 11. The creditor's filing of an objection to exemptions, within thirty days after the "second" first meeting, was found to be insufficient. Judge Gregg, although acknowledging that the cases were not "unanimous", chose to follow the rule that provided creditors with only one "bite" at the apple.

DODGE v LaCASSE ANALYZED

By: Dean Rietberg

In *Dodge* v *LaCasse* (July 21, 1999, Bankr. W.D. Mich.), the Honorable Jo Ann C. Stevenson found sufficient cause to lift the automatic stay and permit the state court to determine the substantive rights of the Debtor-husband and his non-debtor former wife under applicable, non-bankruptcy domestic relations law and determine whether its previous award of the Debtor's pension to the non-debtor former spouse is in the nature of alimony, maintenance, or support, and therefore nondischargeable under 11 U.S.C. §523(a)(5).

After a discussion of the interplay between §523(a)(5) and (15) and the concepts of concurrent and exclusive jurisdiction, the Bankruptcy Court further authorized the state court to take the appropriate proofs to employ the balancing test of §523(a)(15)(B) so as to determine whether the Debtor or his non-debtor former spouse would be most detrimentally affected by the discharge of the Debtor's obligation from a prior state court order to directly pay the legal fees for his non-debtor former spouse.

SUNDAY SEMINAR?

Considerable discussions have taken place with our Steering Committee as to whether, in the future, our Seminar, which has traditionally been Thursday evening cocktail party, Friday morning and Saturday morning programs, should be modified. The Steering Committee is investigating whether or not we should change our format to a Friday cocktail party, and Saturday and **Sunday** morning programs.

Please e-mail your thoughts to Tom Sarb at Sarbt@mjsc.com. Send "status quo" for our current program or "Sunday o.k." if you are in favor of a modification. If you have any other suggestions, please send

HUGHES CONTINUED -

having either a "pro-debtor or a pro-creditor orientation." However, he did note that the "Bankruptcy Code, by its very nature, is designed more to protect the interests of debtors than the interests of creditors." He also indicated that to the extent the law permitted him discretion, he hoped to "exercise that discretion with compassion and sensitivity." Finally, Jeff expressed the hope that all parties and counsel who appear before him will "walk out of his courtroom believing that they were treated both fairly and respectfully."

Jeff, age 45, is a University of Michigan graduate (both undergraduate and law school) and has practiced with Varnum, Riddering, Schmidt & Howlett, LLP in Grand Rapids for nearly 20 years. Originally from the St. Joseph/Benton Harbor area (Jeff is a 1973 graduate of Benton Harbor High School), Jeff resides with his wife, Sharon, and his three children, David, 12, Rhianna, 10 and Aidan, 8.

Jeff's favorite movies: "Roxanne" ("Steve Martin has some great lines"); "Titanic" ("showcases all of Hollywood's grandeur and banality in just 3 hours").

Six people Jeff would invite to dinner: Jesus, Caiphas, Pontius Pilate, Muhammad, Buddah and Frederich Nietzsche. [Editor's Note: Jeff, I'm busy that night.....].

Jeff's favorite book: "The Grapes of Wrath" by John Steinbeck.

PRO BONO UPDATE

Mary Hamlin, our *Pro Bono* liaison and future Chapter 13 Trustee, has provided us with a status report and refresher course regarding the *Pro Bono* program:

1. Financial Guidelines. Each referral receives a copy of the Statement of Income and Expenses, which is similar to the bankruptcy form. The inquiry focuses on the individual's ability to pay attorney's fees based on disposable income. The same standard is used as in reviewing budgets in bankruptcy proceedings to determine disposable income. If someone is determined not to qualify because of available disposable income, a letter is written to that individual with a copy to the Court and opposing counsel advising that they do not qualify for the program and recommending that they obtain counsel. We reviewed the *Pro Bono* files and see that only one perspective candidate did not qualify.

2. Types of Cases. Both Plaintiffs and Defendants in adversary proceedings are eligible. The types of cases we have typically seen are non dischargeability of debts and ex-spouses who were suing a debtor's spouse under a Judgment of Divorce.

3. Individuals Entitled to Pro Bono Representation. The purpose of the *Pro Bono* Program is to insure certain individuals who cannot afford representation, whether a creditor or a debtor, are allowed access to the legal system.

4. Reimbursement of Expenses. In the past the *Pro Bono* Program has not had sufficient funds to reimburse any significant costs incurred by counsel's representation of an individual under the Program. The FBA is working out a proposal to provide for reimbursement of expenses.

5. Referrals. To date, there have been fifteen (15) referrals to the *Pro Bono* Program from the Court. Of these referrals, one was denied due to excessive disposal income. Attorneys were assigned to nine (9) cases, four (4) cases received no response to the Applicant and in one (1) case the individual failed to appear for scheduled appointment with the appointed attorney. The following attorneys have represented individuals under the *Pro Bono* Program to date:

   Paul Davidoff
   Bruce Grubb
   Mary Hamlin
   Perry Pastula
   Lori Purkey
   Steve Rayman
   Roland Rhead
   Norm Witte

Once the *Pro Bono* liaison determines that an individual qualifies for the program, the liaison sends the case to the Grand Rapids Bar Association, who then contacts an attorney based on the list of attorneys who have agreed to participate in the program. The Grand Rapids Bar Association is typically very good about keeping us informed. There are currently forty two (42) attorneys who have agreed to participate in the program.

GRAND RAPIDS' TRUSTEES' REPORT

Ray Johnson and Brett Rodgers sent the following letter:

On October 1, 1999 Tim Johnson started work as the second staff attorney for our office. His telephone extension is #12. Carol Chase has reduced her hours to four days per week.

To the Debtors' bar:

In the past our office had noticed out Post Confirmation Amendments with a notation of whether or not the Trustee approved the amendment. At our request, many of you have already been noticing out both pre and post confirmation amendments with notice and opportunity to object pursuant to Local Rule 9013(c).

We will no longer notice out plan amendments, but will expect the Debtor's attorney to notice out the amendment on all creditors which are adversely affected by the proposed amendment. Please file the original amendment, notice and proof of service with the Court and send a copy to our office. The matter will only be set for a hearing if the Trustee's Office or other interested party files a timely written objection.

If you have any questions or need a sample notice form, call Carol Chase or Tim Johnson.

To the Creditors' bar:

We have all seen an increase in the number of bank mergers, mortgage companies and transfer of claims between financial institutions. More and more the new creditors are failing to inform the Trustee that the Proof of Claim has been assigned to a different entity. As a result, we are receiving an increased volume of returned creditor checks each month. The Trustee's Office would like to pay the appropriate creditor, but we can not unless we receive the proper documentation. Please inform your clients that they must follow up with proper assignments of claims if there is a change in the payee on the account. If they fail to do so, upon the closing of the case, their money will be sent to the Unclaimed Funds Account at the Clerk of the Court's Office.

WESTERN DISTRICT OF MICHIGAN BANKRUPTCY FILINGS

CHAPTER	JULY 1999	AUGUST 1999	SEPTEMBER 1999	OCTOBER 1999	YTD 1999
Chapter 7	574	595	598	639	6348
Chapter 11	2	4	3	3	33
Chapter 12	1	1	1	0	9
Chapter 13	235	226	257	227	2344
TOTALS	812	826	859	869	8734

Some of us have volunteered to receive this Newsletter via e-mail. This will dramatically decrease our costs. If you have not already done so, please, if you have e-mail capability, e-mail us at jeh@raymanattorneys.com to get faster distribution and help us save money. Tree lovers will thank you.

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF MICHIGAN
110 MICHIGAN, N.W.
P. O. BOX 3310
GRAND RAPIDS, MICHIGAN 49501

JAMES D. GREGG
U.S. BANKRUPTCY JUDGE
TELEPHONE: (616) 456-2264

JO ANN C. STEVENSON
U.S. BANKRUPTCY JUDGE
TELEPHONE: (616) 456-2949

August 24, 1999

TO : MEMBERS OF THE FEDERAL BAR - BANKRUPTCY PRACTITIONERS

RE : CHAPTER 13 FEES

Effective Monday, October 18, 1999, paragraph 15 of the Memorandum Regarding Allowance of Compensation and Reimbursement of Expenses for Court-Appointed Professionals, often commonly referred to as the "Fees Guidelines", shall be modified. The modification will permit chapter 13 debtors' attorneys to seek a maximum amount of $1,500 for compensation of their fees and expenses, through the conclusion of the confirmation hearing(s), without submitting an itemization of services rendered, provided there is a written fee agreement signed by the debtor and the debtor's attorney.

The $1,500 amount is not a "base" amount--it is the maximum that may be charged without time-consuming itemization. In relatively straightforward chapter 13 cases, debtors' counsel should carefully consider the services to be rendered, and, in appropriate instances, charge less than the maximum amount. As has occurred in the past, the bankruptcy judges will continue to review requested fees and, in their reasonable discretion, may hold hearings regarding chapter 13 fees on their own initiative when circumstances dictate such action.

Copies of the revised Fees Guidelines, amended effective October 18, 1999, are available from the Clerk of the Court. Also, the undersigned judges have requested that the editor of the FBA Bankruptcy Section Newsletter publish this letter and the revised Fees Guidelines in the next issue.

Honorable James D. Gregg
Chief U.S. Bankruptcy Judge

Honorable Jo Ann C. Stevenson
U.S. Bankruptcy Judge

Exhibit 9

MEMORANDUM REGARDING ALLOWANCE OF COMPENSATION AND REIMBURSEMENT OF EXPENSES FOR COURT-APPOINTED PROFESSIONALS

AS AMENDED EFFECTIVE OCTOBER 18, 1999

Parties in interest have continued to lodge objections to applications for the allowance of compensation and reimbursement of expenses. In an attempt to reduce the number of these objections, the Court has determined that it is in the interests of all debtors, creditors, their respective attorneys, and other parties in interest, including the United States Trustee, that the following general guidelines respecting the format of fee applications be established and published.

1. Professional persons approved and appointed by the United States Bankruptcy Court for the Western District of Michigan, pursuant to 11 U.S.C. §§ 328 and 330(a)(1) and FED. R. BANKR. P. 2016. The burden of proof regarding all fee applications is imposed upon the applicant.

2. An application must itemize each activity, its date, the professional who performed the work, a description of both the nature and substance of the work, and the time expended thereon. Records providing no explanation of activities performed will be deemed inadequate and therefore noncompensable.

3. In order for time spent on activities such as court appearances, preparation for court appearances, conferences, telephone calls, drafting documents, and research to be compensable, the nature and purpose of the activity must be noted. Time entries for telephone calls must list the person with whom the applicant spoke and give a brief explanation of the conversation. Time entries for letters must state the addressee and give a brief explanation of the letter's contents. Time entries for documents must specify the document involved. Time entries for legal research must describe the matter or proceeding researched.

4. Applicants must not attempt to circumvent minimum time requirements or any of the detail requirements by "lumping" or "bunching" a number of activities into a single entry. Each type of service must be listed with a corresponding specific time allotment.

5. Time entries with unexplained abbreviations are noncompensable. Where computer time sheets are submitted to substantiate entries, a code key must be supplied, or the application will not be considered. In more complex petitions, a glossary of persons involved may be helpful.

15. In Chapter 13 cases, the Court may approve compensation of a debtor's attorney in an amount not to exceed $1,500 for services rendered through the time of confirmation, without the necessity of filing an itemized statement of services rendered, provided an agreement is filed with the Court which sets forth the agreed-upon fee for such pre-confirmation services. The required agreement shall be executed by the debtor and the debtor's attorney. If services with a reasonable value in excess of $1,500 are performed, and are documented by the filing of an itemized fee application as required herein, the Court may award a fee in excess of $1,500 in Chapter 13 cases in cases filed on and after October 18, 1999. If an attorney wishes to request fees in excess of $1,500, then the attorney must submit an itemized fee application documented as required herein, covering both the initial $1,500 awarded as well as the additional fees requested.

16. The Court may consider petitions for fees and expenses on a notice and objection basis as authorized by the Local Bankruptcy Rules for the Bankruptcy Court for the Western District of Michigan. The Court may, sua sponte and without notice of hearing, or upon the motion of any party in interest or the United States Trustee after notice and hearing, order that payment of all, or some portion of, allowed interim fees be withheld for a particular period of time. Whenever payment of an applicant's fee has been deferred by the Court without a hearing, that applicant may file at any time a motion to rescind or modify deferral. Motions to rescind or modify deferral shall be set for hearing.

17. Attorneys should keep in mind that in most cases the reasonableness of the work done and the fee charged will depend upon the results attained. A part of the service to be performed by an attorney is to estimate, as to each prospective proceeding, the probability of success, the amount to be realized and the overall benefit to creditors.

The Court will consider applications for allowance of compensation and reimbursement of expenses which comport with the guidelines set forth in this memorandum.

Honorable James D. Gregg
Chief U.S. Bankruptcy Judge

Honorable Jo Ann C. Stevenson
U.S. Bankruptcy Judge

OFFICE OF THE STANDING TRUSTEE
Chapter 12 and 13 PROCEEDINGS

RAYMOND B. JOHNSON
Standing Trustee
BRETT N. RODGERS
Standing Trustee
CAROL S. CHASE
Staff Attorney
TIMOTHY F. JOHNSON
Staff Attorney

555 CASCADE WEST PARKWAY, SE
GRAND RAPIDS, MICHIGAN 49546-2105

Telephone: 616-956-9900
Facsimile: 616-956-7771

CHAPTER 13 SEMINAR

The Chapter 13 Trustees' office will be offering seminars intended for creditors, attorneys, and legal assistants who work with attorneys specializing in bankruptcy practice. These seminars will last for an hour or one half day (9:00-12:00), depending on the response. We will cover topics of interest to you, but you need to let us know which topics you would like covered and in how much detail. This seminar will be held at our office without cost to the participants. A response form is printed below. We will send a seminar schedule to those who respond. Return this form to the above address, attn: Bonnie. If you have any questions please call Carol Chase at the above number, ext. 23.

Yes, our office would like to attend a Chapter 13 Seminar.

Name of firm _____
Address _____
_____
Phone _____
Fax _____
Who and How many will attend? Attorneys_____ Staff_____

Please, indicate the topics you are most interested in by rating them 1 through 4, below:

___ Finding information. The methods for finding and using case information from the Trustees' office quickly and efficiently.

___ The basic requirements for filing a Chapter 13 case, how to calculate a workable plan.

___ Use of standard forms, required forms and suggested forms to accomplish routine procedures. We will discuss the areas of practice which cause all of us the most problems.

___ Other topics: (Use back if necessary)_____
_____
_____
_____

What length of time or what type of session would you prefer for a seminar session?

___ 1 Hour
___ ½ Day
___ Other _____

Western Michigan Chapter of the
Federal Bar Association
200 Monroe NW, Suite 300
Grand Rapids, MI 49503

PETER A. TEHOLIZ
5801 W. MICHIGAN AVENUE
P.O. BOX 80857
LANSING, MI 48908