

USTP Fee Guidelines

From: John Rizzardi <JRizzardi@Cairncross.com>
Sent: Tuesday, January 31, 2012 7:36 PM
To: USTP Fee Guidelines
Subject: Comments to proposed fee guidelines

To Whom It May Concern:

These comments are directed to the new proposed Guidelines for Reviewing Compensation Applications.

Our law firm is comprised of thirty eight attorneys. Two of those lawyers work primarily in bankruptcy with assistance from real estate, transactional and litigation attorneys. On average, we may file one to four Chapter 11 Debtor's cases per year in the Western District of Washington.

My first comment concerns the threshold of \$50,000,000, which I assume means combined assets and liabilities. We have a few cases in that District that exceed that amount, however, I believe the proposed threshold should be increased so that these Guidelines do not impact most of the mid-sized cases in many jurisdictions. Moreover, in such cases, we have found that there are usually few billing issues or controversies. The current guidelines and the oversight from our very involved judiciary results in close scrutiny and fair awards. Thus, our first comment is to increase the threshold to at least \$250,000,000 of combined assets/liabilities, resulting in the new Guidelines being applicable to those few "mega" cases where fee abuses may be the most prevalent, and, resources are available in order to comply with the challenging nuances of the Guidelines.

Second, I believe the new Guidelines, if applied to a higher number of smaller cases, will substantially burden an already overtaxed United States Trustee program. In our district, we are informed that the UST is working at or over capacity. Requiring more cases to comply with these Guidelines may cause other essential UST services to be compromised. This may result in a disservice to unsecured creditors. As the attorney for unsecured creditors, we greatly value the input and time of our local UST analysts and attorneys, and we would not want their availability compromised.

Third, we do not agree with the redaction guideline. This would lead to a dilemma: If this guideline does not allow compensation for redaction, entries will be truncated and the client may have issues or concerns with the abbreviated description of the service. On the other hand, if the service is fully detailed, the attorney may be ethically forced to redact in order to avoid disclosing sensitive names or strategies to opponents. If the guideline expects more truncated descriptions as the eventual outcome, then the guidelines should be drafted so that counsel will not be penalized for complying in a fashion so as to not compromise the rights of the estate or the estate's assets. I am not sure how you draft around counsel's ethical issues, but you may wish to keep this in mind.

Finally, nothing in these Guidelines should preclude the Court, upon proper notice and a hearing, from considering a case specific procedure to override, amend or modify any of the Guidelines.

Thank you very much for considering these comments.

Very truly yours,

CH&
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