



13-BK-H

The Hon. Eugene R. Wedoff
Chair, Advisory Committee on Bankruptcy Rules
United States Bankruptcy Court
Everett McKinley Dirksen U.S. Courthouse
219 South Dearborn Street
Chicago, IL 60604

July 16, 2013

Dear Judge Wedoff;

My name is Dan Dooley and I'm the CEO and majority owner of a national turnaround and loan workout consulting firm called MorrisAnderson. I'm based in Chicago and my firm MorrisAnderson and I live in the world of the middle market. I do consulting work primarily on the company side for mainly privately owned businesses doing from \$50 million to \$250 million of annual sales with between \$10 million to \$50 million of secured debt.

The purpose of my letter is to suggest a practical and simple business process to much better control Professional Fees in bankruptcy cases. The biggest public criticism of Chapter 11 today is the perception, right or wrong, that Professional Fees are too high and out of control. Although this criticism is heard mostly regarding the mega cases, the public perception and complaints clearly spills over to my world in the middle market as well.

For what it's worth I agree with the public perception. In my opinion, there is little or no fee control and discipline in mega cases. The attitude you hear expressed is that these are complex cases and it simply costs what it costs.

I believe there are two reasons why the current process used to control bankruptcy fees simply does not work.

1. Professional Fees are controlled with a "form over substance" process using detailed time reporting combined with Fee Examiners in bigger cases. The massive exercise of recording small time

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increments of professional tasks serves only to create the illusion of control and does nothing in and of itself to control fees. Frankly, this huge stack of detailed time reporting created actually makes it harder to control fees because anyone who reviews the Fee Application data inevitable gets lost in the data. Fee Examiners nibble around the edges of fees but let's face it, no one in our industry would ever get employed again as a Fee Examiner if he or she really substantially attacked another professional firm's fees. You see the professional firms generally suggest the Fee Examiner names to the bankruptcy bar. Therefore, you see Fee Examiners typically asking for just enough in professional fee reductions to justify their own costs and not much more. Any of us could do better at managing the Professional Fees in mega cases by simply saying to each professional firm involved that I need a 10% or 20% fee discount because your fees on this case are huge and a volume discount is very much in order. This is precisely what happens in virtually all other types of professional fee work except of course bankruptcy.

2. The time frame for the reporting of time and expenses in Fee Applications lags at least 7 weeks after the professional time was actually expended. It is impossible to review and control time or "labor" costs with this kind of lag time. If you were spending your own money on a pay by the hour service, would you let the clock run for 7 weeks or more (20 days after a month-end is typically the earliest you are allowed to file a monthly interim Fee Application) before you get any sense of how much of their time and your money has been expended so far? I don't think so. With this process of time reporting, it is impossible to adequately review whether fees on a case, typically from multiple firms, are reasonable and necessary with this much time delay between the work and the reporting. And of course to form any type of opinion you have to sort through the mountain of detailed time reporting that each professional at each firm is required to submit.

Recommended New Process

So here's how I recommend that we control Professional Fees. Frankly, it's easy and this proposal will not endear me to other insolvency industry professionals for suggesting it because it will

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lower fees on mega cases immediately. However, I think it's important that own industry start to police its fees for the long term good of the industry.

Proposal- Each week all Professional Firms would be required to submit a report to the Court on Wednesday covering the prior week's fees and expenses. Fees would simply be detailed by professional, job title, hours billed and billing rate with appropriate totals but no time detail would be required. Expenses would be summarized by type of expense for professionals in the firm. Here's the key- each firm would be required to write a simple memo of "two pages maximum" to the Court describing the primary "activity(ies)" the firm worked on and what was "accomplished" that week. The word "accomplished" is precisely chosen because the current process pays primarily for "activity" and not "accomplishment". This timely reporting and visibility of Professional Fees and Expenses combined with a few questions by Bankruptcy Judges on these weekly professional fee submissions would immediately put the spotlight on fees and expenses on a real time basis and the professional costs would quickly drop. That's because in business costs always drop if you measure and publicize them on a timely and regular basis. Anyone who manages a business will confirm that this is so.

I would be most happy to discuss this letter and my thoughts on the subject with you or anyone else on the Bankruptcy Rules Committee.

Sincerely,

Dan Dooley

CEO and Principal

MorrisAnderson & Associates, Ltd.

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