UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re

GLASER CORP. Case No. 92-10307 K

Debtor

DECISION

Messrs. Fox and Balkin have applied for fees as attorneys for the debtor in possession and the United States Trustee has opposed. The applicants, in their response to the U.S. Trustee's objections, appear to misunderstand the bona fides of some of the United States Trustee's objections.

1. Twenty-four hours of attorney time in the preparation of schedules in this case ($180,000 in assets, $137,000 in liabilities, approximately ninety creditors) appears to be excessive. This case is not unusual. Indeed many (if not most) Chapter 11 cases filed in this district involve businesses or farms operated by persons who are unsophisticated in business or accounting matters, yet experienced Chapter 11 counsel find effective ways of getting their clients to provide comprehensible information for the schedules without counsel having to do it for them, and without counsel having to do it with them hand in hand.

2. While it is commendable that counsel does not bill for tasks that take less than a quarter hour, counsel's response

does not address the possibility that as to some applicants, a task that takes, for example, one hour and six minutes (1.1 hours) might be billed at 1.25 hours. Thus the U.S. Trustee's point is well-taken and counsel are advised to adopt a system of charging time to smaller units than quarter hours. Furthermore, all time spent should be itemized if possible, whether or not it is charged-for, so that the Court may properly determine whether the billed time spent on any given matter was reasonable. (For example, the Court might question whether a two hour meeting with a client was reasonably necessary with regard to a given problem, if the Court were to know that counsel was able to handle other similar problems by means of several brief phone calls that were not charged for.) (See *In Re Matis*, 73 B.R. 228, (Bkrtcy. Ct. N.D.N.Y. 1982)

3. The initials of each attorney working on a task should be shown in the time entry. It is for the Court, not counsel, to determine (A) whether "two heads" should have been able to perform a task more economically than the time claimed, and (B) whether one partner appears to be more effective or efficient than the other. Counsel are free to use the "double-team" method they use, but must disclose whether a task was performed by one, the other, or both.

4. Time that is spent travelling should be separately itemized and should not be billed at full attorneys' rates.

Counsel notes that other Courts do not require this type of record-keeping. They are correct, but Bankruptcy Courts do.[1] At least this one does. In this district, accounting for fees, and the allowance of fees, has for many years been and will continue to be a fastidious process. This will not be a Court which earns the public disdain so aptly captured by a current bestseller.[2] We will have thorough and precise disclosure; and when, as here, counsel claim efficiencies and claim a waiver of fees for brief matters or

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[1]See the following Second Circuit Court of Appeals cases: *In re Hudson v. Manhattan R.R. Co.*, 339 F.2d 114 (1964); *Dayton Newspapers, Inc. v. Starick*, 345 F.2d 677 (1965); *In re General Economics Corp.*, 360 F.2d 762 (1966); and *In Re Borgenicht*, 470 F.2d 283 (1972). These and cases elsewhere have led Collier to say, "In setting specific standards ... courts have demonstrated a certain degree of unanimity. Itemized daily entries which reflect the activity performed, the date, the attorney responsible, a description of the nature and substance of the work performed and the time expended have become the sine qua non of recovery." [Emphasis added.]

2 Collier on Bankruptcy, ¶ 330.05 [b], at fn. 17.

[2]"All this has been a bonanza for the burgeoning bankruptcy industry - the lawyers, accountants and other specialists who charge up to $500 an hour for their time."

"They get paid to fly around the country, from courthouse to courthouse, from business to business. They get paid to talk for a few minutes on the telephone. They get paid to pack files. They get paid to unpack files. They get paid to pick up their mail. They get paid to sort their mail. They get paid to schedule conferences. They get paid to attend conferences. They get paid to keep a list of the conferences. They get paid to keep track of the way they spend their time. They get paid to fill out expense reports. And they get paid to eliminate the jobs of people who work for two weeks to earn what they charge for one hour." Bartlett and Steele, America: What Went Wrong?, Andrews and McMeel Publishers (1992), p. 69.

a reduced fee for travel or clerical or menial matters, let it stand of record as testimony to the integrity of the Bankruptcy Bar of this district.

The application at bar is an interim application seeking allowance of $4600 for forty-six hours. I will provisionally disallow, as excessive, seven hours of time spent in the preparation of schedules and statements. I will also provisionally disallow three hours of time which may be presumed to be travel billed at attorney's rates. Counsel are free to renew their request for these ten hours of time in connection with a final allowance, but must supplement their time records in accordance with this opinion with regard to this time. Thus, currently allowed are thirty-six hours at $100 an hour. However, this being an interim allowance, only 75% of $3600, or $2700, may currently be paid to counsel. The balance of the $3600 allowance may be permitted to be paid to counsel in connection with further interim allowances or a final allowance.

Finally, counsel are advised for the future that once a firm has been apprised of what the Court expects by way of time records, compensation will be denied for insufficient records <u>even if</u> the claimed compensation is later supported by means of a response to an objection filed by the U.S. Trustee or a party-in-interest. In other words, an applicant may not, with impunity, put

others to the burden of opposing the application, before applicant provides the information to which others are entitled.

SO ORDERED.

Dated: Buffalo, New York
July 30, 1992

U.S.B.J.