

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF KENTUCKY
Frankfort Division**

IN RE:	:	
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ANTHONY WAYNE BECKHAM and	:	Chapter 13
STACY ANNETTE BECKHAM,	:	Case Nos. 11-30109
	:	Judge Joseph M. Scott
	:	
Debtors	:	
	:	
_____	:	

**ORDER ON MOTION TO
APPROVE ATTORNEY FEES PRIOR TO CONFIRMATION**

This matter is before the Court on the Motion to Approve Attorney Fees Prior to Confirmation ("Fee Motion") (Doc. 69) filed by Nick C. Thompson, former counsel for the Debtor.¹ Mr. Thompson requests fees in the amount of \$7,215. A hearing was held on the Fee Motion on November 17, 2011. The Debtor, Anthony Wayne Beckham, appearing *pro se*, was present at the hearing and objected to the Fee Application.²

This Court has jurisdiction of this matter pursuant to 28 U.S.C. § 1334(b) and this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A).

1. The Debtors filed their Chapter 13 Petition on February 24, 2011.

2. A Disclosure of Compensation of Attorney for Debtor ("Disclosure") was included with the filing of the Petition. In paragraph 5.d., the Disclosure provides that Mr. Thompson agreed to accept \$3,500 as compensation for his legal services and that: "In return for the above-disclosed fee, I have agreed to render legal service for all aspects of the bankruptcy case, including: . . . d. Representation of the debtor in adversary proceedings and other contested bankruptcy matters."

¹ Mr. Thompson withdrew as Debtors' counsel effective September 20, 2011. (See Order Allowing Debtors Counsel to Withdraw (Doc. 60)).

² Subsequent to the hearing, Debtors obtained counsel who filed a formal Objection to Request for Fees by Prior Counsel (Doc. 78) on behalf of the Debtors.

3. Subsequent sections 5.e. and 6. of the Disclosure are in conflict with the statement that Mr. Thompson's \$3,500 fee included representation of Debtors in adversary proceedings, contested matters, etc. and provided for a fee of \$150.00 per hour for such services. Although a space is provided for Debtors' signature on the Disclosure, there is no indication that it was signed by either of the Debtors and there is no evidence in the record that Debtors agreed to pay any fees in addition to the \$3,500 reflected in the Disclosure.

4. At the hearing, Mr. Beckham stated that it was his understanding that Mr. Thompson was entitled to a fee in the total amount of \$3,500 and he had no objection to paying a fee in that amount.

Having reviewed Mr. Thompson's itemization of hours and expenses attached to the Fee Motion, the Court notes that Mr. Thompson's itemization does not comply with the U.S. Trustee's Guideline for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330, *reprinted at*, 28 C.F.R. pt. 58, appx. A (1996) ("Fee Guidelines"). The Fee Guidelines require that, "[t]ime entries should be kept contemporaneously with the services rendered in time periods of *tenths of an hour.*" (Fee Guidelines at ¶ (b)(4)(v)). All except 1 of Mr. Thompson's 75 time entries are in quarter hour increments. One-tenth of an hour increments ensure that attorneys' time entries more accurately reflect actual time spent on a particular task, because billing in increments of greater than one-tenth of an hour inherently inflates and distorts the time actually expended and provides an opportunity for padding on short tasks. *In re Bass*, 227 B.R. 103, 106 (Bankr. E.D. Mich. 1998).

Further, the Court notes that Mr. Thompson's time entries include copying, faxing, and scanning activities. These time entries are for services that are secretarial or clerical in nature, are considered overhead charges, and are not reimbursable at the attorney's hourly rate. *See In re Atwell*, 148 B.R. 483, 490 (Bankr. W.D. Ky. 1993) ("Ministerial and/or clerical services provided by professionals to debtors should not be compensable at the same hourly rate as 'truly legal services.'"); *see also* Fee Guidelines at ¶ (b)(5)(vii).

In the future, Mr. Thompson is advised to comply with the Fee Guidelines.

Having reviewed the record and the pleadings and having considered the arguments of counsel and Mr. Beckham, the Court finds that Mr. Thompson is entitled to be paid the original fee of \$3,500 agreed to between Mr. Thompson and the Debtors.

IT IS, THEREFORE, ORDERED that the Fee Motion is **SUSTAINED** to the extent that Mr. Thompson is awarded a fee in the total amount of \$3,500, to be paid in the ordinary manner permitted in chapter 13 cases in this District. The Fee Motion is **OVERRULED** to the extent that it requests fees in excess of \$3,500 and to the extent that it requests fees be paid to Mr. Thompson prior to confirmation.

Copies to:

Todd K. Bolus, Esq.
Nick C. Thompson, Esq.
Beverly Burden, Esq.
Anthony Wayne Beckham
Stacy Annette Beckham

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***The affixing of this Court's electronic seal below is proof this document has been signed by the Judge and electronically entered by the Clerk in the official record of this case.***



**Signed By:**  
**Joseph M. Scott, Jr.**  
**Bankruptcy Judge**  
**Dated: Tuesday, November 22, 2011**  
**(jms)**