

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ALASKA**

In re:

TONYA L. EZA,

Debtor.

Case No. A06-00131-DMD
Chapter 7

Filed On
8/25/06

MEMORANDUM REGARDING ATTORNEY'S FEES

The United States Trustee seeks a return of a portion of the attorney's fees paid in this case. Marvin Clark, attorney for the debtor, received \$3,000.00 as a fee in this case. \$300.00 went for a filing fee and the balance was retained by Mr. Clark.

11 U.S.C. § 329(b) allows a court to order the return of any payment made to the attorney if such payment exceeds the reasonable value of the services. This case was a straightforward consumer Chapter 7 bankruptcy with two secured creditors and five unsecured creditors. It did not involve extensive calculations for means testing because the presumption of abuse did not arise. The §341 meeting concluded in one day. A reaffirmation hearing has been scheduled for September 18, 2006. No adversary proceedings have been initiated against the debtor and no one has objected to the debtor's claim of exempt property.

The United States Trustee has filed a compilation of flat fees charged in the Anchorage area for Chapter 7 cases filed in May 2006. The flat fee charges range from \$451.00 to \$1,800.00 with an average fee, excluding Mr. Clark's fees and pro bono filings, of \$1,077.00. Mr. Clark practices in Wasilla. He argues that his fees of \$2,700.00 should

be allowed due to the travel time he incurs attending §341 meetings and the complexity of the new code. I agree that travel time shall be considered and that the new code imposes many onerous obligations on debtors' attorneys. Even considering these mitigating factors, however, his fees are excessive. I will allow Mr. Clark to retain \$2,000.00 of his \$2,700.00 fee. The sum of \$700.00 shall be returned to the debtor.

DATED: August 24, 2006.

BY THE COURT

/s/ Donald MacDonald IV
Donald MacDonald IV
United States Bankruptcy Judge

Serve: M. Clark, Esq.
K. Hill, Esq.
W. Barstow, Trustee

8/25/06