

United States Bankruptcy Court
for the Southern District of New York

Re:

M-449

PACER Fee Exemption
_____ /

**ORDER GRANTING EXEMPTION
FROM PAYMENT OF PACER FEES**

This Court recognizes that the United States Congress has given the Judicial Conference of the United States authority to impose user fees for electronic access to case information;

This Court further recognizes that individual courts have the authority to waive user fees for parties that satisfy certain established criteria in order to facilitate access to the Court's PACER electronic case information;

Upon review of the application for a waiver of PACER fees for Michigan State University College of Law Professor Anne Lawton, this court finds good cause to exempt Anne Lawton, Associate Professor of Law, PACER login ms6605, from payment of fees associated with her use of the PACER system for the period beginning on March 15, 2013, and ending on April 30, 2014. Professor Lawton is conducting ongoing academic research on chapter 11 that requires access to thousands of individual and business chapter 11 cases. The data collected will be used to produce scholarly articles about the plan-confirmation process both before and after the passage of BAPCPA. A fee waiver would promote public access to court information, as publications resulting from access to such information would be available to the public, thereby increasing public knowledge and promoting better understanding of the bankruptcy system and the process of plan confirmation under chapter 11.

It is so ORDERED.

Date: 2/21/13



The Honorable Cecelia G. Morris, Chief Judge



ANNE LAWTON
Associate Professor of Law

February 14, 2013

The Honorable Cecelia G. Morris
United States Bankruptcy Court
for the Southern District of New York
Alexander Hamilton U.S. Custom House
One Bowling Green, 6th Floor
New York, NY 10004-1408

Dear Judge Morris:

I am writing to request a waiver of PACER fees for the period March 15, 2013, through April 30, 2014.

I previously received PACER fee waivers from your court. Those waivers enabled me to publish two law review articles. The first, entitled *Chapter 11 Triage: Diagnosing a Debtor's Prospects for Success*, appears at 54 ARIZONA LAW REVIEW 985 (2012). In *Chapter 11 Triage*, I conclude, on the basis of a random sample of chapter 11 debtors from 2004, that liability size and official creditor committee formation predict plan confirmation rates. Plan confirmation rates overall were low. Debtors confirmed plans in 34% of the cases in the sample, and successfully performed those plans (no post-confirmation conversion or dismissal, and no re-filing of bankruptcy) in only 29% of the cases. But, small debtors and cases without committees had significantly weaker prospects for success. Debtors whose liabilities exceeded \$2M (the small business liability trigger in 2004) confirmed plans at significantly higher rates statistically (49%) than did debtors whose liabilities were \$2M or less (27%). Cases with official creditor committees had significantly higher rates of plan confirmation (62%) than did cases with no official committee (27%). On the basis of these findings, I propose simplifying the Code's current small business debtor definition. That proposal appears in my second article, which is forthcoming in volume 21 of THE AMERICAN BANKRUPTCY INSTITUTE LAW REVIEW.

PACER fees may be waived "to avoid unreasonable burdens and to promote public access to such information." My request satisfies both criteria. First, the cost of obtaining dockets, plans, and other relevant case documents, is prohibitive. My home academic institution has provided research assistance, but cannot absorb the cost of PACER fees for 94 judicial districts. Second, I plan to publish the results of my research, thereby not only providing public access to the data but also promoting greater understanding of the plan confirmation process.

I am requesting a fee waiver to complete my work on the 2007 data. I intend to compare plan confirmation rates pre- and post-BAPCPA and also determine whether there is a statistically

significant difference in time to disposition for the 2004 and 2007 cases. Therefore, I request a waiver of PACER fees, starting on March 15, 2013, and ending on April 30, 2014. I agree not to sell any data that I obtain from PACER or to share such information with any person who might derive a financial benefit from using such data. For your convenience, I am enclosing a proposed order. If the waiver is granted, please notify the PACER service center (address below) to grant a waiver of access fees for your district for **account number ms6605**. In addition, please send an electronic copy of the waiver order to alawton@law.msu.edu or return a paper copy in the enclosed envelope.

PACER Service Center
P.O. Box 780549
San Antonio, TX 78278
(800) 676-6856

Thank you for considering my request.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Lawton".

Anne Lawton
Associate Professor