

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

2002 SEPT 11 AM 10:59  
COURT  
ALBUQUERQUE, N.M.

In Re:

Furr's Supermarkets, Inc.,  
a Delaware Corporation

Debtor.

No. 7-01-10779 SA

**OBJECTION OF SARA LEE BAKERY GROUP, INC.,  
TO CHAPTER 7 TRUSTEE'S MOTION TO RETAIN WALTER DOYLE**

Sara Lee Bakery Group, Inc., by its attorney, Donald R. Fenstermacher, P.C., for its Objection to the Chapter 7 Trustee's Motion to Retain Walter R. Doyle as Expert Witness filed herein on September 11, 2002, states:

1. Because of his previous employment as president of Furr's Supermarkets and his direct involvement in the transactions which are the subject of the numerous preference suits filed by the Trustee, it is likely that Mr. Doyle will be required to provide factual, rather than expert, testimony. The compensation and other terms of employment of Mr. Doyle set forth in the Motion are inappropriate for a fact witness, yet the Motion appears to provide for compensating Mr. Doyle for any testimony in these cases.

2. Mr. Doyle is primarily a fact witness with a personal interest in the preference cases. The proposed rate of compensation, \$175.00 per hour, with a one-day minimum, is grossly excessive for a fact witness or for an expert witness, particularly a witness whose testimony is strongly subject to question as a person who was directly involved in the transactions being litigated. Mr. Doyle is described only as a "consultant" and no information is provided about his actual business. If

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Mr. Doyle is permitted to be retained as an expert, his compensation should be greatly reduced from the amount proposed.

3. The Motion attempts to penalize defendants in the preference actions, as well as all creditors generally, by significantly increasing the costs of defending the Trustee's numerous preference actions. The Trustee does not need an expert witness to establish the elements of her case.

4. The Motion fails entirely to set forth any specific information regarding Mr. Doyle's qualifications which would in any way justify his retention, such as prior experience or qualification by other courts as an expert, experience with supermarkets other than Furr's, or any professional or educational history or experience.

5. The Motion should disclose whether Mr. Doyle has been retained or identified as an expert by any other parties or with respect to any other litigation.

6. The Motion inappropriately attempts to bind defendants in adversary proceedings to a certain manner of conducting and scheduling depositions, including the location and terms of any depositions. The Motion suggests that the parties will be required to travel to Laguna Pueblo in order to depose Mr. Doyle.

7. The proposed terms of engagement are unduly broad and general, including "Otherwise assisting the Trustee in the Collection Actions" without providing any specific information.

WHEREFORE, Creditor Sara Lee Bakery Group, Inc., prays the Court that the Trustee's Motion be denied in its entirety; that the Trustee be prevented from

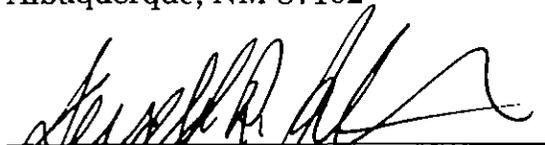
attempting to bind parties in individual adversary proceedings to certain procedures by filing general motions in the main bankruptcy case; that the Trustee be allowed to employ experts only on appropriate terms, rather than general terms at excessive rates of compensation with unduly restrictive terms as to the manner of deposing said experts; and for all such other and further relief as may be proper and just.

DONALD R. FENSTERMACHER, P.C.

By:   
Donald R. Fenstermacher  
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I hereby certify that on October 4, 2002, a true and correct copy of the foregoing pleading was sent by first-class mail to:

Jacobvitz, Thuma & Walker, P.C.  
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Donald R. Fenstermacher