

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

IN RE:)

ATA HOLDINGS CORP., et al., ^{1/}

Debtors.

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Chapter 11

CASE NO. 04-19866-BHL 11

(Jointly Administered)

MOTION FOR AN ORDER SUPPLEMENTING RULE B-2016-1
WITH ADDITIONAL BILLING GUIDELINES

Nancy J. Gargula, United States Trustee, by Joseph F. McGonigal, Trial Attorney, in light of the court's approval of procedures for billings by and payments to professionals for fees and expenses incurred, and in an effort to assist the court in its review of professional fee and expense applications, respectfully moves this court for an order supplementing, as to this case only, Rule B-2016-1 of the Local Rules of the United States Bankruptcy Court for the Southern District of Indiana, which adopts the "Policy of the United States Trustee For Region Ten For Implementation of Fee Guidelines." These "Supplemental Guidelines" are substantially similar to Billing Guidelines established by a Fee Review Committee in UAL Corporation, et al, Case No. 02-B-48191, Northern District of Illinois.

The U.S.Trustee ("UST") believes that all Professionals billing on an hourly basis, and all parties requesting reimbursement of expenses, should comply with the Billing Practices set forth below. The UST recognizes that these Supplemental Guidelines are subject to exception, and the UST will provide all professionals and parties an opportunity to demonstrate that the fees and expenses requested in their

^{1/}The Debtors are the following entities: ATA Holdings Corp. (04-19866), ATA Airlines, Inc. (04-19868), Ambassador Travel Club, Inc. (04-19869), ATA Leisure Corp. (04-19870), Amber Travel, Inc. (04-19871), American Trans Air Execujet, Inc. (04-19872), ATA Cargo, Inc. (04-19873), and Chicago Express Airlines, Inc. (04-19874).

fee applications are reasonable and appropriate.

BILLING PRACTICES

1. All billing statements must be submitted to the UST and prepared in the electronic format detailed in Exhibit A, and directed to Thomas J. Meeker, Bankruptcy Analyst, at tom.j.meeker@usdoj.gov.
2. Statements must also specify in sufficient detail the professional services performed, as well as identify the task code as described in the UST Fee Guidelines. Telephone calls must describe the nature of the conversation. Cryptic and/or lumped descriptions of the services provided are not acceptable and the fees for such time should not be paid until sufficient detail is provided to the UST.
3. Clerical tasks performed by professionals or para-professionals should not be reimbursed. Clerical tasks include, but are not limited to, scheduling, making travel arrangements, faxing, photocopying, Bates stamping and pulling and indexing documents.
4. The estate should not pay for an excessive number of professionals to attend any hearing, meeting, deposition, conference, mediation or other similar event. Examples include, but are not limited to, a professional attending a hearing or meeting solely as an observer, without any intent of providing any assistance or adding any value to the estate other than that provided by other professionals already in attendance; and multiple professionals attending telephonic hearings where it becomes evident from the nature of the proceeding that the services of all professionals were never required. Accordingly, professionals shall state with specificity their involvement in such events. The UST will run reports that will query the number of professionals attending any such events. In addition, professionals must note that

the Court has scheduled several omnibus hearing dates in which the Court is amenable to telephonic participation. In this regard time records submitted by counsel, especially out of town counsel, not expected to present argument, examine witnesses or present evidence must describe to the UST the need for their “live” appearance in the bankruptcy court, and the resultant travel costs.

5. Time billed as “travel time” should be billed at one-half of the professional’s hourly rate, unless the application describes actual work performed during such travel.
6. The estate should not pay for excessive “learning time.” Examples include, but are not limited to: time required for a professional to become familiar with the facts and law implicated by a particular matter when the assignment of a new professional is required because the original professional has left the firm or is no longer responsible for the matter; or when an attorney is new to a specific practice area. Likewise, the estate should not pay for excessive file review time or attendance at seminars.
7. Generally, the estate should not pay for the time a professional spends supervising a junior associate.
8. The estate should not pay for excessive and/or unreasonable “meet and confer” time between professionals. Examples include, but are not limited to: a professional’s attendance at a “document review conference” with several other professionals to gather documents in response to discovery requests where the professional passively observes the other professionals’ document review; or a professional’s attendance at a meeting with his or her superior to passively observe while the superior reviews and revises the professional’s work product.

9. The UST will presume that any time billed by a professional in excess of thirteen-point-nine (13.9) hours in one day is unreasonable and not a benefit to the estate. Professionals will have the opportunity to establish to the UST that any time over thirteen-point-nine (13.9) hours which is billed in one day in fact provided a benefit to the estate.
10. The UST will presume that any partner level professional billing three (3) hours or less or any other timekeeper billing five (5) hours or less within a one-month period has not provided a benefit to the estate. Professionals and other timekeepers will have the opportunity to establish to the UST that any such time billed in fact provided a benefit to the estate.
11. The UST will presume that time billed for intra-office conferences, “meet and confer” time, multiple attendees at hearings, meetings, depositions, conferences, mediation or similar events that in the aggregate constitute five percent (5%) or less of the total monthly bill for fees is reasonable. Professionals will have the opportunity to establish to the UST that any such time spent in excess of five percent (5%) of the total monthly bill for fees is in fact reasonable.

DISBURSEMENTS

All disbursements must be separately itemized and timely submitted. Generally, submission of disbursements should appear on the invoice the month after they were incurred.

A. OFFICE DISBURSEMENTS.

1. **Secretarial, Clerical and Word Processing.** Time charges for secretaries and word processing should not be reimbursed.
2. **Overtime Secretarial and Word Processing.** Generally, secretarial and word processing

overtime and temporary staffing should not be reimbursed.

3. **Messengers.** The estate should only be charged for the actual cost of a third-party vendor messenger. Where an in-house messenger is used, any charges should not exceed the cost of third-party messenger services in the particular locale.
4. **Telephone Charges.** Local “land-line” telephone charges should not be reimbursed. Other extraordinary telephone charges, including conference call charges, long distance phone calls, and mobile telephone long distance charges, should be reimbursed at cost.
5. **Photocopying.** Photocopying should be reimbursed at \$0.10 per page or actual cost, whichever is lower.
6. **Facsimile.** Charges for inbound facsimiles or for local telephone charges incurred on either inbound or outbound facsimiles should not be reimbursed. Facsimile should not be used when a less expensive alternative is available, such as e-mail.
7. **Mail.** Overnight mail should be used only when necessary and will be reimbursed at cost.
8. **In-Office Meals.** In-office meals should be reimbursed only if outsiders are present for a working meal.

B. TRAVEL DISBURSEMENTS.

1. **Airfare.** The omnibus hearings scheduled by the court will permit professionals, whose attendance is necessary at a hearing, to take advantage of advanced purchase fares. Professionals will have to satisfy the UST that emergency flights were unforeseen. The estate should only reimburse professionals for coach airfare.
2. **Hotels.** Professionals are encouraged to use all available hotel “club” rates where possible. The estate should only reimburse professionals for standard rooms. The UST is aware of the rates at

available hotel rooms within a short distance from the courthouse and debtor's counsel and will apply those rates. Professionals staying in hotels with higher rates will have the opportunity to establish to the UST that the higher rate is in fact reasonable.

3. **Business Meals**. The estate should only reimburse professionals for actual business meal expenses. The identities of all parties attending the business meal must be disclosed. The estate will not reimburse professionals for alcoholic beverages. The UST is aware of the restaurants in the general area of the hotels and courthouse and will apply those amounts to business meals. Professionals will have the opportunity to establish to the UST that actual amounts greater than the UST's expectations are in fact reasonable.
4. **Entertainment**. Entertainment, including alcoholic beverages, is not reimbursable.
5. **Travel to/from Office**. The estate will reimburse parking only if a specific need requires additional trips on a given weekday, or weekend trips to perform work pertaining solely to this case. No weekday late-night travel to and from the office will be reimbursed, unless such travel otherwise complies with the guidelines herein.
6. **Cancellations**. Fees for no-shows or cancellations that arise from canceled hearings, depositions or other similar events will be reimbursed. However, the court's electronic case filing system should alert professionals to most cancelled hearings.
7. **Limousines and Car Services**. The estate will reimburse for private car services only where less costly transportation, such as taxicabs and personal vehicles, is not readily available. Professionals will have the opportunity to establish to the UST that private car services are not materially greater than the cost of taxicabs, and, therefore, should be reimbursed.

WHEREFORE the U.S. Trustee requests that the court grant its motion for an order supplementing, as to this case only, Rule B-2016-1 with the foregoing billing guidelines, and for all other relief that is proper and just.

Respectfully submitted,

NANCY J. GARGULA
United States Trustee

/s/ JOSEPH F. McGONIGAL
Trial Attorney

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was sent via the Clerk's Electronic Case Filing System (ECF) and/or by First Class Mail.

/s/ JOSEPH F. McGONIGAL
Trial Attorney

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