

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>In Re:</b>	:	
	:	<b>Chapter 11</b>
<b>LTV STEEL COMPANY, INC.</b>	:	
<b>a New Jersey Corporation, et al.,</b>	:	<b>Jointly Administered</b>
	:	<b>Case No. 00-43866</b>
<b>Debtors.</b>	:	
	:	<b>Judge Randolph Baxter</b>
	:	

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**ELEVENTH APPLICATION OF DUVIN, CAHN & HUTTON FOR  
INTERIM ALLOWANCE OF COMPENSATION AND  
REIMBURSEMENT OF EXPENSES FOR THE PERIOD  
JANUARY 23, 2004, THROUGH APRIL 30, 2004**

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June 14, 2004

SPECIAL LABOR COUNSEL FOR DEBTORS  
AND DEBTORS IN POSSESSION

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Pursuant to 11 U.S. Code §§327, 330, 331 and this Court’s “Administrative Order, Pursuant to Sections 105(a) and 331 of the Bankruptcy Code, Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals,” dated January 31, 2001, and this Court’s “Order Authorizing Debtors and Debtors in Possession to retain and Employ Duvin, Cahn & Hutton as Special Labor Counsel,” dated March 6, 2001, Duvin, Cahn & Hutton (hereinafter “DCH”) hereby respectfully submits its Eleventh Interim Fee Application.

**A. Background**

1. The Debtors’ Petition in bankruptcy was filed on December 29, 2000.
2. The Order approving employment of DCH issued March 6, 2001, *nunc pro tunc* as of the Petition Date, December 29, 2000. DCH commenced providing services on behalf of the

Debtors on January 2, 2001, as Special Labor Counsel. DCH was retained to provide any and all legal services to the Debtors relating to labor and employment matters that are necessary or appropriate in connection with the Debtors' businesses or the Chapter 11 cases. A copy of the Retention Order is attached as Exhibit "A."

3. DCH is retained under its standard hourly rates for its attorneys and para-professionals, less a 15% voluntary discount in accordance with past practice. DCH received from Debtors a retainer in the amount of \$64,000.00 on December 18, 2000. Pursuant to the Court Order Allowing the Ninth Interim Fee Application, dated April 14, 2004, \$4,199.00 of that retainer was applied to the allowed fees. Since then, the Debtor has requested return of the balance of the unapplied retainer in the amount of \$34,288.26. Accordingly, on June 11, 2004, DCH returned the balance of the unapplied retainer in the amount of \$34,288.26.

4. The names of the professionals from DCH and paraprofessionals performing services for which compensation is sought and their billing rate are identified in Exhibit B attached hereto. These hourly rates are the same rates that DCH charges its private sector non-bankruptcy clients for similar services except that, as noted, DCH has applied a 15% discount on its fees in this matter.

5. This is the Eleventh Interim Application of DCH and there are ten previously submitted Orders on interim compensation and reimbursement of expenses.

a. Pursuant to the first Order entered August 7, 2001, DCH received \$119,623.31 in interim compensation and reimbursement for \$4,667.05 in expenses.

b. Pursuant to the second Order entered December 7, 2001, DCH received \$172,141.93 in interim compensation and reimbursement for \$10,377.40 in expenses.

c. Pursuant to the third Order entered November 4, 2002, DCH received \$101,315.28 in interim compensation and reimbursement for \$6,428.20 in expenses.

d. Pursuant to the fourth Order entered October 22, 2002, DCH received \$33,829.56 in interim compensation and reimbursement for \$272.18 in expenses.

e. Pursuant to the fifth Order entered November 27, 2002, DCH received \$18,325.14 in interim compensation.

f. Pursuant to the sixth Order entered March 28, 2003, DCH received \$6,636.37 in interim compensation and reimbursement of \$45.60 in expenses.

g. Pursuant to the seventh Order entered July 21, 2003, DCH received \$19,496.84 in interim compensation and reimbursement of \$460.94 in expenses.

h. Pursuant to the eighth Order entered December 10, 2003, DCH received \$54,366.39 in interim compensation and reimbursement of \$2,743.98 in expenses.

i. Pursuant to the ninth Order entered April 14, 2004, DCH received \$20,994.97 in interim compensation and reimbursement of \$11,480.21 in expenses.

j. DCH filed its Tenth Interim Fee Application on March 22, 2004, requesting \$6,508.45 in interim compensation and reimbursement for \$352.40 in expenses. As of this filing, the Court has not yet set a hearing date on the Tenth Application.

Pursuant to the procedures provided under the Court's January 31, 2000, Order, DCH has received from the Debtors the following:

For the period January 23, 2004, through March 31, 2004, 80% of its fees in the aggregate of \$4,058.92, and 100% of its expenses for the period January 23, 2004, through March 31, 2004, in the aggregate of \$5.60.

For the period April 1, 2004, through April 30, 2004, DCH has received no payment or reimbursement for fees or expenses.

Except as described in paragraphs 3 and 5, DCH did not receive any payments or promises of payments during the Compensation Period from any source for services rendered or to be rendered in connection with these chapter 11 cases.

6. The time period for this application is from January 23, 2004, through April 30, 2004.

**B. Case Status**

As Special Labor Counsel, DCH is not in the position to evaluate the financial condition and status of the case as to amounts of cash on hand or on deposit, the amount and nature of accrued unpaid administrative expenses, the amount of unencumbered funds in the estate, and the operating profit or loss. These matters are more properly addressed by Debtors' other counsel.

**RELIEF REQUESTED**

**A. Authority for Relief**

DCH makes this Application pursuant to the following: (a) sections 330(a) and 331 of the Bankruptcy Code; (b) Rule 2016 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"); (c) the Administrative Order, Pursuant to Sections 105(a) and 331 of the Bankruptcy Code, Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals, dated January 31, 2001 (the "Interim Compensation Order"); (d) certain applicable provisions of the Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330 adopted by the Office of the U.S. Trustee (the "Guidelines"); and (e) General

Order No. 93-1 of the United States Bankruptcy Court for the Northern District of Ohio ("Local Rule 93-1").

**B. Request for Interim Allowance of Compensation and Reimbursement of Expenses**

DCH hereby seeks interim allowance of compensation and reimbursement of expenses for the Compensation Period as follows:

1. Compensation of \$6,268.31 in connection with services rendered during the Compensation Period. DCH has identified each of its professionals and paraprofessionals who provided services to the Debtors during the Compensation Period and their respective hourly rates on the professional summary attached hereto as Exhibit B and incorporated herein by reference. A summary of the total hours incurred and fees charged for each billing category per monthly bill per project — along with the related time detail — is attached hereto as Exhibit C and incorporated herein by reference.

2. Reimbursement of actual and necessary expenses of \$374.63 incurred in connection with DCH's services. A summary and itemization of these expenses is contained in Exhibit C and incorporated herein by reference.

**C. Description of Services Rendered by DCH**

As described in the attached Exhibit C, DCH's professionals and paraprofessionals billed their time during the Compensation Period to four distinct project billing categories. Below is a summary of the primary activities performed by DCH during the Compensation Period in each of those billing categories. Although this summary is intended to highlight areas of particular importance in these cases, a complete description of all such activities is found in the contemporaneous, daily time records included in the attached Exhibit C.

## **D. Project Summaries**

### **Litigation**

DCH represented the interests of LTV Steel Company, Inc. in employment-related claims pending against LTV Steel Company, Inc.

#### **1. *Lawrence v. LTV Steel Company, Inc. (Cuyahoga County Common Pleas Court; Case No. 345189)***

This was an intentional tort case brought by the Plaintiff in connection with the death of her husband, Isaac Lawrence. Defendant obtained summary judgment in the Court of Common Pleas. However, that judgment was reversed and remanded by the Eighth District Court of Appeals. After the stay was lifted, the parties agreed to binding arbitration. The case was heard in arbitration on July 16, 2003, and the arbitrator entered an award in favor of the Plaintiff in the amount of \$2,020,000.00.

In September, 2003, the Plaintiff filed an application to enforce the arbitration award. The Judge confirmed the binding arbitration award on November 3, 2003. Plaintiff then filed an application for prejudgment interest on November 17, 2003, and a hearing was set for February 26, 2004, on that motion. LTV opposed an application for prejudgment interest. On the same date, Plaintiff filed a supplemental complaint against the insurance carriers for LTV regarding an order to collect upon the arbitration award. After preparing to contest some procedural discovery motions by the Plaintiff, LTV was notified that the insurance carrier settled all claims with a complete release of LTV and the carrier, thus terminating the action with no exposure to the bankruptcy estate. This was the culmination of work performed on this case in the 1<sup>st</sup>, 2<sup>nd</sup>, 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup> and 9<sup>th</sup> interim periods resulting in a completely successful resolution for the estate.

**2. LTV v. U.S. Steel (United States Bankruptcy Court, Northern District of Ohio; Adversary Proceeding No. 03-4002)**

This is an adversary proceeding filed by LTV Steel against United States Steel Corporation (U.S. Steel) for breach of contract and specific performance. LTV Steel seeks an order requiring U.S. Steel to provide certain pension and other benefits to William E. Stephans as required by the Asset Purchase and Sale Agreement entered into between LTV Steel and U.S. Steel. LTV Steel has filed a response to the Union's Answer and Counterclaim. DCH represented the client at the oral argument held March 24, 2004.

**3. Ackerman and Kogut v. LTV Steel Corporation (United States Sixth Circuit Court of Appeals; Case Nos. 00-3942 and 00-3943)**

This is an appeal by two (2) retired employees of LTV Steel from the District Court's entry of summary judgment against them on their claims that they are entitled to receive retiree medical benefits from LTV Steel. The District Court found that neither individual met the criteria to participate in the LTV Steel retiree medical benefit plan. DCH has performed services trying to effect dismissal of the claims.

**4. Fee application and Response to Objections of C&K Industries to Fee Application**

DCH devoted time to preparing its Tenth Interim and Final Fee Application as well as time spent appearing at the hearing on the Ninth Application for interim fees. In addition DCH devoted time in defending against the objections of C&K Industries to the Ninth Interim Fee Application and the Final Fee Application of DCH as well as defending against the appeal of C&K Industries of the Order allowing the fees in the Ninth Interim Order.



## LEGAL ARGUMENT

### **A. Applicable Legal Standards**

Section 330(a)(1) of the Bankruptcy Code provides, in pertinent part, for the payment of:

(A) reasonable compensation for actual, necessary services rendered by the trustee, examiner, professional person, or attorney and by any paraprofessional person employed by any such person; and

(B) reimbursement for actual, necessary expenses.

11 U.S.C. § 330(a)(1). To grant a request for compensation pursuant to section 330 of the Bankruptcy Code, a court must find that such request is reasonable.

In the Sixth Circuit, the standard used to determine the reasonableness of a compensation request is the "lodestar" method:

The Supreme Court has made it clear that the lodestar method of fee calculation is the method by which federal courts should determine reasonable attorney's fees under federal statutes which provide for such fees.

In re Boddy, 950 F.2d 334, 337 (6th Cir. 1991). See also In re EWI, Inc., 208 B.R. 885, 891 (Bankr. N.D. Ohio 1997) (citing In re Mansfield Tire and Rubber Co., 65 B.R. 446, 455 (Bankr. N.D. Ohio 1986)) ("The Sixth Circuit has approved the lodestar method as the standard to be applied for allowance of professional fees."); In re Unicast, Inc., 214 B.R. 979, 990 (Bankr. N.D. Ohio 1997) ("[T]he lodestar method . . . should be employed in determining professional fees provided for under federal statutes, including the Bankruptcy Code."). The lodestar amount is calculated by

"multiplying the number of hours reasonably expended multiplied by a reasonable hourly rate."  
EWI, 208 B.R. at 891.

In accordance with its practice in nonbankruptcy matters, DCH has utilized the lodestar method for calculating its compensation requested in this Application. Accordingly, DCH's lodestar calculation is reasonable under section 330 of the Bankruptcy Code.

**B. DCH's Fees Are Reasonable**

\_\_\_\_\_DCH's fees during the Compensation Period were reasonable under the prevailing legal standard and should be allowed on an interim basis. The amount of these fees is not unusual given the complexity of the labor and employment issues that the Debtors have faced in these proceedings.

The professional services rendered in these chapter 11 cases have been performed by attorneys with broad expertise and high levels of skill in the areas in which they have provided services. This highly professional and expert group of attorneys has ensured that the Debtors' difficult labor issues have progressed in an efficient and expeditious manner.

Moreover, for all of the reasons described herein, DCH's services have significantly benefitted the Debtors, their estates and creditors and have furthered the Debtors' ultimate goals and maximized the value of their estates for the benefit of all stakeholders.

**C. Available Funds**

\_\_\_\_\_Based on the financial information provided by the Debtors to date, DCH believes that the Debtors have sufficient cash on hand to pay the fees and expenses requested herein immediately upon their approval by the Court.

**D. Review by the Debtors**

\_\_\_\_\_A copy of this Application has been sent to the Debtors for their review. The Debtors have not yet expressed whether they approved the amounts requested in this Application.

**E. No Sharing of Compensation**

\_\_\_\_\_No agreement or understanding exists between DCH or any third person for the sharing of compensation, except as permitted by section 504(b) of the Bankruptcy Code and Bankruptcy Rule 2016 with respect to sharing of compensation between and among partners in DCH. All the services for which compensation is requested in this Application were rendered at the request of and solely on behalf of the Debtors.

**F. Certification**

In accordance with the Local Rule 93-1 and the Guidelines, the Certification of Mark V. Webber is attached hereto as Exhibit D and incorporated herein by reference.

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**NOTICE**

No trustee or examiner has been appointed in these chapter 11 cases. Pursuant to the Case Management Order and the Interim Compensation Order, notice of this Motion has been given to (a) the Debtors, (b) the U.S. Trustee, (c) counsel to the Committees, (d) counsel to the Debtors postpetition secured lenders, and (e) the other parties on the General Service List.

Any party wishing to object to this Eleventh Interim Fee Application must file an objection with the Court and serve a copy thereof on Mark V. Webber of Duvin, Cahn & Hutton, Erieview Tower, 20<sup>th</sup> Floor, 1301 East Ninth Street, Cleveland, Ohio 44114, within thirteen (13) days of service of this Eleventh Application of Duvin, Cahn & Hutton for Interim Allowance of

Compensation and Reimbursement of Expenses for the Period January 23, 2004, through April 30, 2004.

WHEREFORE, DCH respectfully requests that the Court enter an Order substantially in the form attached hereto as Exhibit E, allowing on an interim basis compensation for services rendered by DCH in connection with these chapter 11 cases during the Compensation Period as follows:

**Reimbursement of Expenses:**

Total Expenses for the Period	
January 23, 2004, through April 30, 2004	\$ 374.63
Total received to date from Debtor	- <u>5.60</u>
	\$ <u>369.03</u>

**Compensation:**

Total Fees for the Period	
January 23, 2004, through April 30, 2004	\$ 6,268.31
Total received to date from Debtor	- <u>4,058.92</u>
<b>Balance of Fees due from Debtor</b>	\$ <u>2,209.39</u>

DCH further requests an Order authorizing and directing the Debtors to pay to DCH all amounts requested herein, and granting such other and further relief as the Court may deem proper.

Respectfully submitted,

/s/ Mark V. Webber

Frank W. Buck  
Mark V. Webber  
DUVIN, CAHN & HUTTON  
Erievue Tower, 20<sup>th</sup> Floor  
1301 East Ninth Street  
Cleveland, Ohio 44114  
(216) 696-7600

June 14, 2004

SPECIAL LABOR COUNSEL FOR DEBTORS  
AND DEBTORS IN POSSESSION

**CERTIFICATE OF SERVICE**

I hereby certify that on June 14, 2004, a copy of the foregoing Eleventh Application of Duvin, Cahn & Hutton for Interim Allowance of Compensation and Reimbursement of Expenses for the Period January 23, 2004, through April 30, 2004, was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court system. In addition, this Application was sent by regular U.S. Mail to the Notice Parties on June 14, 2004.

s/Mark V. Webber

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Mark V. Webber