



**ENTERED**

TAWANA C. MARSHALL, CLERK  
THE DATE OF ENTRY IS  
ON THE COURT'S DOCKET

**The following constitutes the order of the Court.**

**Signed November 1, 2004.**

**United States Bankruptcy Judge**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

IN THE MATTER OF  
DWIGHT E. DENMAN,

§  
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§

MISC. PROCEEDING NO. 04-305

**MEMORANDUM OPINION AND ORDER**

By order entered August 4, 2004, the court opened a miscellaneous proceeding regarding Dwight E. Denman to determine whether Denman's law practice is structured to attend to the details of representing a large number of debtors in this court, whether Denman can adequately represent his clients and whether Denman fulfills his ethical duties as an officer of the court licensed to practice before this court. By order entered August 18, 2004, the court set a status conference regarding this matter on October 15, 2004.

On October 15, 2004, the court conducted the status conference. Denman appeared at the conference, as did counsel

for the Standing Chapter 13 Trustee, Denman's current and former paralegals, and the debtor Eusebio Flores. By letter to the court dated October 4, 2004, received October 12, 2004, and filed October 15, 2004, as document no. 9, Denman informed the court that he would not accept new cases for filing under the Bankruptcy Code. At the hearing on October 15, 2004, Denman agreed that he would not file new cases under the Bankruptcy Code without prior leave of the court. The court accepts Denman's agreement not to file new bankruptcy cases, effective October 1, 2004, without prior leave of this court.

Counsel for the Standing Chapter 13 Trustee moved the court to reassign Denman's existing bankruptcy cases. The trustee contended that Denman's current practice may be harming clients. The trustee asserted that the court had an obligation to transfer Denman's pending bankruptcy cases to another attorney to assure that the debtors are being adequately represented while Denman attends his personal problems and the restructuring of his office. The court agrees.

Denman acknowledges that he is addressing health concerns. Given the current status of his treatment, he has agreed not to take new cases. Denman also asserts that he is restructuring his office. His current paralegal described the manner in which she was organizing the bankruptcy cases, but she has only been on the job one month. His former paralegal stated that she had

attempted to organize the bankruptcy files, but that Denman accepted more cases than the office could handle. She felt Denman had been spread too thin, hampering the ability of the office to organize. She observed that Denman was now attempting to organize his office with new policies and procedures.

Yet, his health condition and the uncompleted office restructuring is causing him to fail to attend to the needs of his current clients. The court reviewed a series of omissions that Denman has had representing clients. Those omissions have resulted in several orders to return fees to clients or otherwise compensate clients.

For example, in early August, 2004, Denman failed to appear in court to represent a client. The court summoned Denman to chambers, with the United States Trustee present, to discuss his failure to represent his clients. Denman represented that he would attend to his practice. Yet, in the case of Elaine Calhoun, case no. 04-46487-DML-13, the debtor appeared at a lift stay hearing on September 9, 2004, but Denman failed to appear to represent her. In addition to not appearing in court to represent his client, Calhoun stated that Denman did not file her bankruptcy petition until after a foreclosure had been conducted. The court sanctioned Denman, barring him from filing new cases in the Fort Worth Division of the court until he paid the sanction. Denman stated that he paid the sanction. Nevertheless, the

pattern demonstrates that Denman cannot attend to the demands of representing a large number of debtors in this court.

Meanwhile, on August 12, 2004, Denman appeared in court in the case of Eusebio and Peggy Flores, case no. 00-35539-SAF-13. Denman agreed to pay the Flores' \$13,000 to compensate them for the loss of a truck they had essentially paid for in their Chapter 13 plan. See Memorandum Opinion and Order, entered August 4, 2004, in this proceeding. However, Mr. Flores reported on October 15, 2004, that Denman had not modified the Flores' plan to reduce plan payments to reflect the loss of the truck. As a result, Flores was paying unnecessary amounts to the trustee while Flores struggled with making his mortgage payments. Flores and Denman had discussed the need to modify the plan in June 2004, and that Denman said on August 12, 2004, that a modification had been filed. The modification had not been filed. The excessive plan payment has been continuing for five months, at a personal cost to the debtors. Flores is behind on his mortgage payments, but current in his plan payments. His plan payments are made by wage withdrawal. Denman explained that his paralegal had failed to follow through. Denman then told the court that the modification had been filed, but the court confirmed that the modification had not been filed. The modification was not filed until October 26, 2004. As with other instances evidenced in the record of this proceeding, Denman had

not been candid with the court. Denman did not attend to the needs of his client. Denman agreed with the court's observation at the October 15, 2004, hearing that Denman was harming people. Denman agreed to compensate Flores.

The record of this proceeding demonstrates a pattern from May 2004 and continuing to the present. When an attorney is experiencing personal and professional problems that hamper his ability to adequately represent his clients and that is causing harm to clients, the court has a supervisory obligation to protect the clients as parties appearing before the court. Clients and the public look to the court to supervise the practice of law before the court. The court therefore grants the request of the trustee to reassign Denman's pending bankruptcy cases. By doing so, Denman may devote his attention to his health treatment and to the restructuring of his office.

At the conclusion of the conference on October 15, 2004, the court took the matter under advisement to consult with all the judges of the court. The court also provided Denman with an opportunity to discuss with his staff how to best proceed. The judges of this court have authorized the chief judge to enter this order on behalf of the court.

Based on the foregoing,

**IT IS ORDERED** that, effective October 1, 2004, Dwight E. Denman shall not file new cases under the United States

Bankruptcy Court without obtaining prior leave of this court.

**IT IS FURTHER ORDERED** that attorneys shall be appointed as substitute counsel to represent all of Denman's clients with cases pending before this court. Denman shall continue to represent his clients until the entry of an order appointing substitute counsel.

**IT IS FURTHER ORDERED** that Dwight E. Denman may, at any time after six months from the date of entry of this order, file a motion in this miscellaneous proceeding to request leave to file new bankruptcy cases. To be considered by the court, the motion must establish that Denman has obtained treatment for his health condition, that Denman has restructured his law office, and that Denman has attended continuing legal education programs, including consumer bankruptcy programs.

###END OF ORDER###