

**IN THE UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF ARKANSAS  
BATESVILLE DIVISION**

**IN RE:           ROBERT SCHMITT and  
                  SHIRLEY SCHMITT**

**1:03-bk-12398 E  
CHAPTER 7**

**ORDER DENYING MOTION FOR REFUND OF FILING FEES**

Before the Court is Debtors' Motion for Refund of Filing Fees filed on April 18, 2003. Debtors filed a Chapter 7 petition on December 4, 2002, resulting in Case No. 1:02-bk-23939, which is currently pending. Debtor filed another Chapter 7 petition on February 27, 2003, resulting in Case No. 1:03-bk-12398. The Debtors moved to dismiss this second bankruptcy case on March 11, 2003, and it was dismissed by Order of the Court on March 14, 2003. Debtors request a refund of the \$200.00 filing fee which was electronically debited when the case was filed for a second time in error. Due to the Debtors' delay in catching the mistaken filing (12 days lapsed between the filing and the Debtors' motion to dismiss), the first meeting of creditors was scheduled and noticed out to all creditors. Because the second case was not promptly dismissed and was therefore, processed normally, the Court's resources were used. This distinguishes this case from other cases where refunds were granted. Additionally, while the Court has entered orders allowing refunds when the mistaken filing is a result of an attorney's lack of proficiency with the Court's new electronic case filing system ("ECF"), these ECF mistakes are characterized by the two filings occurring on the same day. These two filings took place nearly three months apart, evidencing a mistake which was not due to lack of proficiency on ECF. Because the Court's resources were expended as a result of the mistaken filing, and because the mistake was not due to an ECF error, the motion to refund the \$200.00 filing fee is denied.

Entered on Docket  
5/2/03 by  
LaTrese Johnson

For these reasons, it is hereby

**ORDERED** that Debtors' Motion for Refund of Filing Fees is **DENIED**.

**IT IS SO ORDERED.**



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HONORABLE AUDREY R. EVANS  
UNITED STATES BANKRUPTCY JUDGE

DATE: May 2, 2003

cc: A. Jan Thomas, Chapter 7 Trustee  
U.S. Trustee  
Janice Panella, Esq.