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3 UNITED STATES BANKRUPTCY COURT  
4 EASTERN DISTRICT OF CALIFORNIA  
5 SACRAMENTO DIVISION  
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8 In re: )  
9 ) Case No. 05-40435-B-13J  
10 FELICIA NAVA, )  
11 Debtor. ) Docket Control No. BHS-2  
12 ) Date: September 6, 2006  
Time: 9:30 a.m.

13 On or after the calendar set forth above, the court issued  
14 the following ruling. The official record of the ruling is  
appended to the minutes of the hearing.

15 Because the ruling constitutes a "reasoned explanation" of  
16 the court's decision under the E-Government Act of 2002 (the  
"Act"), a copy of the ruling is hereby posted on the court's  
17 Internet site, [www.caeb.uscourts.gov](http://www.caeb.uscourts.gov), in a text-searchable  
18 format, as required by the Act. However, this posting does not  
constitute the official record, which is always the ruling  
appended to the minutes of the hearing.

19 **DISPOSITION AFTER ORAL ARGUMENT**

20 The failure of any party in interest to file written opposition  
21 as required by this local rule may be considered consent to the  
22 granting of the motion. See Ghazali v. Moran, 46 F.3d 52, 53 (9<sup>th</sup> Cir.  
23 1995); LBR 9014-1(f)(1). In this instance, however, the court will  
24 issue a tentative ruling.

25 The application is granted in part and denied in part. The  
26 application is approved for a total of \$2,227.50 in fees and \$80.25 in  
27 costs (\$2,307.75 total) to be paid as an administrative expense  
28 through debtors' plan. This court authorized the employment of

1 counsel for the former chapter 7 trustee in an amended order entered  
2 August 29, 2006 with an effective date of December 15, 2006. The  
3 former chapter 7 trustee's attorney now seeks compensation for the  
4 period of December 15, 2005 to July 25, 2006.

5 Fees in the amount of \$225 (1 hour) are disallowed. Applicant's  
6 July 25, 2006 time entry is improperly lumped. In re Dutta, 175 B.R.  
7 41 (9<sup>th</sup> Cir. B.A.P. 1994). The three hour time entry is described as:  
8 "Preparation of Motion to approve Fees and anticipated appearance on  
9 same." The court takes no issue with compensation for preparation of  
10 the fee application. Such fees are clearly permitted under In re  
11 Nucorp Energy, Inc., 764 F.2d 655 (9<sup>th</sup> Cir. 1985). The problematic  
12 part of the time entry is the estimated time of appearance. Such time  
13 is not compensable. If no opposition is filed and if the court raises  
14 no issue with the fee application, no hearing would occur and the fees  
15 would not constitute actual services. If opposition is filed or if  
16 the court raises an issue with the fees, then applicant is merely  
17 defending his fee application. Fee incurred in defending a fee  
18 request may or may not be compensable. See Boldt v. Crake (In re  
19 Riverside-Linden Investment Co.), 945 F.2d 320, 323 (9<sup>th</sup> Cir. 1991).  
20 The court has disallowed one hour out of the three hours billed. Two  
21 hours is more than adequate compensation for preparation of the fee  
22 application. As set forth in the attorney's application, the allowed  
23 fees and costs are reasonable compensation for actual, necessary and  
24 beneficial services. In re Hages, 252 B.R. 789 (Bankr. N.D. Cal.  
25 2000).

26 The court will issue a minute order.