

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Ronald H. Sargis
Chief Bankruptcy Judge
Sacramento, California

January 20, 2022 at 10:30 a.m.

1.	<u>21-23221</u> -E-7 DEANDRA JACKSON Pro Se	ORDER SETTING RE: NOTICE OF INTENT TO DISMISS CASE 12-21-21 <u>[61]</u>
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Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter. If the court's tentative ruling becomes its final ruling, then the court will make the following findings of fact and conclusions of law:

The Notice of Intent to Dismiss was served by the Clerk of the Court on Debtor *pro se*, Trustee, and U.S. Trustee as stated on the Certificate of Service on December 21, 2021. The court computes that 30 days' notice has been provided.

The Notice of Intent to Dismiss was issued due to Debtor's failure to actively prosecute the case.

~~The Notice of Intent to Dismiss is discharged and the bankruptcy case shall proceed in this court.~~

On November 18, 2021, the Clerk of the Court issued a Notice of Incomplete Filing and Intent to Dismiss Case if the following documents were not filed:

- Form 122A-1 Statement of Monthly Income
- Schedule A/B – Real and Personal Property
- Schedule C – Exempt Property
- Schedule D – Secured Creditors
- Schedule E/F – Unsecured Claims
- Schedule G – Executory Contracts
- Schedule H – Codebtors
- Schedule I – Current Income

Schedule J – Current Expend.
Statement of Financial Affairs
Summary of Assets and Liabilities

Dckt. 42. On December 8, 2021, the court issued an order for outstanding documents, Schedule J and Statement of Financial Affairs, and if they were not filed by Noon on December 17, 2021, gave the Clerk of the Court permission to dismiss the case without further hearing. Dckt. 53. On December 17, 2021, at roughly 3:00 pm, Debtor filed their Schedule J and Statement of Financial Affairs Official Form 122A-1. Dckts. 57, 58.

On December 21, 2021, the Clerk of the Court dismissed the case due to failure to timely file documents. Dckt. 60. That same day, Debtor filed an Application to Extend Time for Debtor's Financial Management Course. Dckt. 59. Debtor requests the due date December 28th or 29th. Additionally, the court vacated the December 21st Order dismissing the case and set a dismissal hearing for January 20, 2022. Dckt. 61.

The Financial Management Course Certificates were filed on January 14, 2022. Dckts. 73, 74.

However, there has been a failure to pay filing fee and administrative fee without a request for an extension of time. Dckt. 67. Notice has been given by the Clerk that the case will be filed without entry of discharge for failure to pay the filing fee.

At the hearing, **XXXXXXX**

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Order to Show Cause having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the ~~Notice of Intent to Dismiss case is discharged, and the case shall proceed in this court.~~

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Chapter 7 Trustee, Chapter 7 Trustee Attorney, Butte County Sheriff, Butte County Counsel, and Office of the United States Trustee on January 6, 2022. By the court's calculation, 14 days' notice was provided. 14 days' notice is required.

The Motion for Turnover was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 7 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing, unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. At the hearing, -----

<p>The Motion for Turnover is granted.</p>

Sadie Davis Rodriguez, Debtor, ("Movant") in the above entitled case and moving party herein, seeks an order for turnover as to the property commonly known as garnished wages held by the Butte County Sheriff's Office in the amount of \$470.23 ("Property").

Trustee's Nonopposition

The Chapter 7 Trustee, Nikki B. Farris, filed a statement of Nonopposition to the Motion for Turnover on January 12, 2022.

DISCUSSION

11 U.S.C. § 542 and Federal Rule of Bankruptcy Procedure 7001(1) permit a motion to obtain an order for turnover of property of the estate if any entity, other than custodians, has possession,

custody, or control of property that trustee could use, lease, or sell, pursuant to 11 U.S.C. § 363 of Debtor could list as exempt under 11 U.S.C. § 522. That entity must turn over the property to the trustee or debtor in possession, subject to exceptions. 5 Collier on Bankruptcy P 542.03 (16th 2021).

Federal Rule of Bankruptcy Procedure 7001(1) defines an adversary proceeding as,

(1) a proceeding to recover money or property, other than a proceeding to compel the debtor to deliver property to the trustee, or a proceeding under § 554(b) or § 725 of the Code, Rule 2017, or Rule 6002.

Collier on Bankruptcy, ¶ 522.5 (16th Edition, 2021) addresses what must be proved to support a cause of action for turnover:

(1) the property is (or was during the bankruptcy case) in the possession, custody or control of a noncustodial third party; (2) the property constitutes property of the estate; and (3) the property is a type that the trustee could use, sell or lease pursuant to section 363 or that the debtor could exempt under section 522.

In this case, Movant has initiated this proceeding to compel Butte County Sheriff's Office to deliver property to Trustee. Levying officers commonly needing an order of the bankruptcy court in such situations. Movant lists the amount as an asset Debtor's Schedule's A/B and is listed an exemption in Schedule C pursuant to California Code Civil Procedure § 703.140(b)(5).

The Federal Rules of Bankruptcy Procedure permit the trustee to obtain turnover from Butte County Sheriff without filing an adversary proceeding. This Motion for injunctive relief, in the form of a court order requiring that Butte County Sheriff turnover specific items of property, is therefore appropriate under Federal Rule of Bankruptcy Procedure 7001(1).

Though the court does not anticipate there being any failure by Butte County Sheriff to comply with the order of this court, the Ninth Circuit has reaffirmed a bankruptcy judge's power to issue corrective sanctions, including incarceration, to obtain a person's compliance with a court order. *Gharib v. Casey (In re Kenny G Enterprises, LLC)*, No. 16-55007, 16-55008, 2017 U.S. App. LEXIS 13731 (9th Cir. July 28, 2017). Though an unpublished decision, *Gharib* provides a good survey of the reported decisions addressing the use of corrective sanctions by an Article I bankruptcy judge. *Id.* at *2–5.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Turnover of Property filed by Sadie Davis Rodriguez, ("Debtor") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion for Turnover of Property is granted, and Butte County Sheriff is ordered to turnover \$470.23 held as garnished wages to Sadie Rodriguez, the Chapter 7 Debtor in this case.

FINAL RULINGS

3. [21-23700-E-7](#) **ESTHER MONTIEL-GONZALEZ** **MOTION TO CONVERT CASE FROM**
[LTF-1](#) **Lars Fuller** **CHAPTER 7 TO CHAPTER 13**
12-20-21 [14]

Final Ruling: No appearance at the January 20, 2022 hearing is required.

Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Chapter 7 Trustee, creditors, parties requesting special notice, and Office of the United States Trustee on December 20, 2021. By the court's calculation, 30 days' notice was provided. 35 days' notice is required. FED. R. BANKR. P. 2002(a)(4) (requiring twenty-one-days' notice); LOCAL BANKR. R. 9014-1(f)(1)(B) (requiring fourteen-days' notice for written opposition).

The Motion to Convert has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties and other parties in interest are entered. Upon review of the record, there are no disputed material factual issues, and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

The Motion to Convert the Chapter 7 Bankruptcy Case to a Case under Chapter 13 is granted, and the case is converted to one under Chapter 13.

Esther Montiel-Gonzalez ("Debtor") seeks to convert this case from one under Chapter 7 to one under Chapter 13. The Bankruptcy Code authorizes a one-time, near-absolute right of conversion from Chapter 7 to Chapter 13. 11 U.S.C. § 706(a); *see also Marrama v. Citizens Bank of Mass.*, 549 U.S. 365 (2007).

The Chapter 7 Trustee, Sheri L. Carello filed a statement of nonopposition on January 9, 2022.

Debtor asserts that the case should be converted because the case has not previously been converted. Points and Authorities at 3. Dckt. 16.

Here, Debtor's case has not been converted previously, and Debtor qualifies for relief under Chapter 13. Notice was provided to the Chapter 7 Trustee, Office of the United States Trustee, and other interested parties. No opposition has been filed.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Convert filed by Esther Montiel-Gonzalez ("Debtor") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion to Convert is granted, and the case is converted to a proceeding under Chapter 13 of Title 11, United States Code.

Final Ruling: No appearance at the January 20, 2022 hearing is required.

Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 7 Trustee, parties requesting special notice, and Office of the United States Trustee on December 13, 2021. By the court's calculation, 38 days' notice was provided. 35 days' notice is required. FED. R. BANKR. P. 2002(a)(6) (requiring twenty-one days' notice when requested fees exceed \$1,000.00); LOCAL BANKR. R. 9014-1(f)(1)(B) (requiring fourteen days' notice for written opposition).

The Motion for Allowance of Professional Fees has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties and other parties in interest are entered. Upon review of the record, there are no disputed material factual issues, and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

<p>The Motion for Allowance of Professional Fees is granted.</p>

Loris L. Bakken, the Attorney ("Applicant") for Kimberly J. Husted, the Chapter 7 Trustee ("Client"), makes a First and Final Request for the Allowance of Fees and Expenses in this case.

Fees are requested for the period August 4, 2020, through January 20, 2022. The order of the court approving employment of Applicant was entered on August 7, 2020, effective August 4, 2020. Dckt. 167. Applicant requests fees in the amount of \$9,030.00 and costs in the amount of \$124.64.

APPLICABLE LAW

Reasonable Fees

A bankruptcy court determines whether requested fees are reasonable by examining the circumstances of the attorney's services, the manner in which services were performed, and the results of

the services, by asking:

- A. Were the services authorized?
- B. Were the services necessary or beneficial to the administration of the estate at the time they were rendered?
- C. Are the services documented adequately?
- D. Are the required fees reasonable given the factors in 11 U.S.C. § 330(a)(3)?
- E. Did the attorney exercise reasonable billing judgment?

In re Garcia, 335 B.R. at 724 (citing *In re Mednet*, 251 B.R. at 108; *Leichty v. Neary (In re Strand)*, 375 F.3d 854, 860 (9th Cir. 2004)).

Lodestar Analysis

For bankruptcy cases in the Ninth Circuit, “the primary method” to determine whether a fee is reasonable is by using the lodestar analysis. *Marguiles Law Firm, APLC v. Placide (In re Placide)*, 459 B.R. 64, 73 (B.A.P. 9th Cir. 2011) (citing *Yermakov v. Fitzsimmons (In re Yermakov)*, 718 F.2d 1465, 1471 (9th Cir. 1983)). The lodestar analysis involves “multiplying the number of hours reasonably expended by a reasonable hourly rate.” *Id.* (citing *In re Yermakov*, 718 F.2d at 1471). Both the Ninth Circuit and the Bankruptcy Appellate Panel have stated that departure from the lodestar analysis can be appropriate, however. *See id.* (citing *Unsecured Creditors’ Comm. v. Puget Sound Plywood, Inc. (In re Puget Sound Plywood)*, 924 F.2d 955, 960, 961 (9th Cir. 1991) (holding that the lodestar analysis is not mandated in all cases, thus allowing a court to employ alternative approaches when appropriate); *Digesti & Peck v. Kitchen Factors, Inc. (In re Kitchen Factors, Inc.)*, 143 B.R. 560, 562 (B.A.P. 9th Cir. 1992) (stating that lodestar analysis is the primary method, but it is not the exclusive method)).

Reasonable Billing Judgment

Even if the court finds that the services billed by an attorney are “actual,” meaning that the fee application reflects time entries properly charged for services, the attorney must demonstrate still that the work performed was necessary and reasonable. *In re Puget Sound Plywood*, 924 F.2d at 958. An attorney must exercise good billing judgment with regard to the services provided because the court’s authorization to employ an attorney to work in a bankruptcy case does not give that attorney “free reign to run up a [professional fees and expenses] tab without considering the maximum probable recovery,” as opposed to a possible recovery. *Id.*; *see also Brosio v. Deutsche Bank Nat’l Tr. Co. (In re Brosio)*, 505 B.R. 903, 913 n.7 (B.A.P. 9th Cir. 2014) (“Billing judgment is mandatory.”). According to the Court of Appeals for the Ninth Circuit, prior to working on a legal matter, the attorney, or other professional as appropriate, is obligated to consider:

- (a) Is the burden of the probable cost of legal [or other professional] services disproportionately large in relation to the size of the estate and maximum probable recovery?

(b) To what extent will the estate suffer if the services are not rendered?

(c) To what extent may the estate benefit if the services are rendered and what is the likelihood of the disputed issues being resolved successfully?

In re Puget Sound Plywood, 924 F.2d at 958–59 (citing *In re Wildman*, 72 B.R. 700, 707 (N.D. Ill. 1987)).

A review of the application shows that Applicant's services for the Estate include general case administration and how to handle property of the estate. The Applicant states the Trustee will soon be holding \$54,688.23 of which \$27,344.11 will be distributed to the Debtor. The court finds the services were beneficial to Client and the Estate and were reasonable.

FEES AND COSTS & EXPENSES REQUESTED

Fees

Applicant provides a task billing analysis and supporting evidence for the services provided, which are described in the following main categories.

General Case Administration: Applicant spent 5.0 hours in this category. Applicant prepared Applicant's fee agreement and employment application, prepped stipulations, and prepped feed application.

Employment of Special Litigation Counsel: Applicant spent 10.8 hours in this category. Applicant hired Special Counsel regarding the Lawsuit.

Settlements and Motions to Compromise: Applicant spent 19.3 hours in this category. Applicant communicated with Special Counsel, prepared Motion to Compromise, and executed a Settlement Agreement with Debtor's.

The fees requested are computed by Applicant by multiplying the time expended providing the services multiplied by an hourly billing rate. The persons providing the services, the time for which compensation is requested, and the hourly rates are:

Names of Professionals and Experience	Time	Hourly Rate	Total Fees Computed Based on Time and Hourly Rate
Loris L. Bakken, Esq.	35.1	\$300.00	<u>\$10,530.00</u>
Total Fees for Period of Application			\$10,530.00

Applicant is only asking for fees in the amount of \$9,030.00 for 30.1 hours, waiving 5 hours of fees.

Costs & Expenses

Applicant also seeks the allowance and recovery of costs and expenses in the amount of \$124.64 pursuant to this application.

The costs requested in this Application are,

Description of Cost	Per Item Cost, If Applicable	Cost
Postage		\$82.74
Copying	\$0.10	\$41.90
Total Costs Requested in Application		\$124.64

FEES AND COSTS & EXPENSES ALLOWED

Fees

Hourly Fees

The court finds that the hourly rates are reasonable and that Applicant effectively used appropriate rates for the services provided. First and Final Fees in the amount of \$9,030.00 are approved pursuant to 11 U.S.C. § 330 and authorized to be paid by the Chapter 7 Trustee from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 7 case.

Costs & Expenses

First and Final Costs in the amount of \$124.64 are approved pursuant to 11 U.S.C. § 330 and authorized to be paid by the Chapter 7 Trustee from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 7 case.

Applicant is allowed, and the Chapter 7 Trustee is authorized to pay, the following amounts as compensation to this professional in this case:

Fees	\$9,030.00
Costs and Expenses	\$124.64

pursuant to this Application as final fees and costs pursuant to 11 U.S.C. § 330 in this case.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Allowance of Fees and Expenses filed by Loris L. Bakken, the Attorney (“Applicant”) for Kimberly J. Husted, the Chapter 7 Trustee (“Client”) having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that Loris L. Bakken is allowed the following fees and expenses as a professional of the Estate:

Loris L. Bakken, Professional employed by the Chapter 7 Trustee

Fees in the amount of \$9,030.00

Expenses in the amount of \$124.64,

as the final allowance of fees and expenses pursuant to 11 U.S.C. § 330 as counsel for the Chapter 7 Trustee.

IT IS FURTHER ORDERED that the Chapter 7 Trustee is authorized to pay 100% of the fees and 100% of the costs allowed by this Order from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 7.

Final Ruling: No appearance at the January 20, 2022 hearing is required.

Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, Chapter 7 Trustee, and Office of the United States Trustee on December 6, 2021. By the court’s calculation, 45 days’ notice was provided. 35 days’ notice is required. FED. R. BANKR. P. 2002(a)(6) (requiring twenty-one days’ notice when requested fees exceed \$1,000.00); LOCAL BANKR. R. 9014-1(f)(1)(B) (requiring fourteen days’ notice for written opposition).

The Motion for Allowance of Professional Fees has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties and other parties in interest are entered. Upon review of the record, there are no disputed material factual issues, and the matter will be resolved without oral argument. The court will issue its ruling from the parties’ pleadings.

The Motion for Allowance of Professional Fees is Granted.

Loris L. Bakken of the Bakken Law Firm, the Attorney (“Applicant”) for Gary R. Farrar, the Chapter 7 (“Client”), makes a First and Final Request for the Allowance of Fees and Expenses in this case.

Fees are requested for the period March 2, 2021, through January 20, 2022. The order of the court approving employment of Applicant was entered on March 3, 2021. Dckt. 16. Applicant requests fees in the amount of \$2,590.00 and costs in the amount of \$33.14.

APPLICABLE LAW

Reasonable Fees

A bankruptcy court determines whether requested fees are reasonable by examining the circumstances of the attorney’s services, the manner in which services were performed, and the results of

the services, by asking:

- A. Were the services authorized?
- B. Were the services necessary or beneficial to the administration of the estate at the time they were rendered?
- C. Are the services documented adequately?
- D. Are the required fees reasonable given the factors in 11 U.S.C. § 330(a)(3)?
- E. Did the attorney exercise reasonable billing judgment?

In re Garcia, 335 B.R. at 724 (citing *In re Mednet*, 251 B.R. at 108; *Leichty v. Neary (In re Strand)*, 375 F.3d 854, 860 (9th Cir. 2004)).

Lodestar Analysis

For bankruptcy cases in the Ninth Circuit, “the primary method” to determine whether a fee is reasonable is by using the lodestar analysis. *Marguiles Law Firm, APLC v. Placide (In re Placide)*, 459 B.R. 64, 73 (B.A.P. 9th Cir. 2011) (citing *Yermakov v. Fitzsimmons (In re Yermakov)*, 718 F.2d 1465, 1471 (9th Cir. 1983)). The lodestar analysis involves “multiplying the number of hours reasonably expended by a reasonable hourly rate.” *Id.* (citing *In re Yermakov*, 718 F.2d at 1471). Both the Ninth Circuit and the Bankruptcy Appellate Panel have stated that departure from the lodestar analysis can be appropriate, however. *See id.* (citing *Unsecured Creditors’ Comm. v. Puget Sound Plywood, Inc. (In re Puget Sound Plywood)*, 924 F.2d 955, 960, 961 (9th Cir. 1991) (holding that the lodestar analysis is not mandated in all cases, thus allowing a court to employ alternative approaches when appropriate); *Digesti & Peck v. Kitchen Factors, Inc. (In re Kitchen Factors, Inc.)*, 143 B.R. 560, 562 (B.A.P. 9th Cir. 1992) (stating that lodestar analysis is the primary method, but it is not the exclusive method)).

Reasonable Billing Judgment

Even if the court finds that the services billed by an attorney are “actual,” meaning that the fee application reflects time entries properly charged for services, the attorney must demonstrate still that the work performed was necessary and reasonable. *In re Puget Sound Plywood*, 924 F.2d at 958. An attorney must exercise good billing judgment with regard to the services provided because the court’s authorization to employ an attorney to work in a bankruptcy case does not give that attorney “free reign to run up a [professional fees and expenses] tab without considering the maximum probable recovery,” as opposed to a possible recovery. *Id.*; *see also Brosio v. Deutsche Bank Nat’l Tr. Co. (In re Brosio)*, 505 B.R. 903, 913 n.7 (B.A.P. 9th Cir. 2014) (“Billing judgment is mandatory.”). According to the Court of Appeals for the Ninth Circuit, prior to working on a legal matter, the attorney, or other professional as appropriate, is obligated to consider:

- (a) Is the burden of the probable cost of legal [or other professional] services disproportionately large in relation to the size of the estate and maximum probable recovery?

(b) To what extent will the estate suffer if the services are not rendered?

(c) To what extent may the estate benefit if the services are rendered and what is the likelihood of the disputed issues being resolved successfully?

In re Puget Sound Plywood, 924 F.2d at 958–59 (citing *In re Wildman*, 72 B.R. 700, 707 (N.D. Ill. 1987)).

A review of the application shows that Applicant's services for the Estate include providing legal advice and legal services regarding general case administration and strategies on how to handle property of the estate. Assisting Trustee in reviewing and advising the Trustee regarding a possible objection to Debtor's exemptions. Reviewing and advising the Trustee on Debtor's Motion to Compel Abandonment. Investigating ownership and valuation of property of the estate and recovered property of the estate. The Estate has \$8,896.85 of unencumbered monies to be administered as of the filing of the application. The court finds the services were beneficial to Client and the Estate and were reasonable.

FEES AND COSTS & EXPENSES REQUESTED

Fees

Applicant provides a task billing analysis and supporting evidence for the services provided, which are described in the following main categories.

General Case Administration: Applicant spent 3.2 hours in this category. Applicant prepared fee arrangement, fee application, and employment application. Applicant did not bill for any time in connection with time spent on case administration.

Review and Advise Trustee Regarding Possible Objection to Debtor's Exemptions: Applicant spent 1.8 hours in this category. Applicant reviewed legal issues regarding Debtor's exemption of accounts receivable as wages when self-employed. Applicant discussed with Trustee a possible objection to the exemption, which she also discussed with Debtor's counsel.

Review and Advise Trustee Regarding Debtor's Motion to Compel Abandonment: Applicant spent 2.2 hours in this category. Applicant discussed with Debtor's counsel the status of the Debtor's business and the need for a Motion to Compel Abandonment if the Debtor wished to continue to operate the business. On March 24, 2021, Debtor filed the Motion which Applicant reviewed and discussed with the Trustee.

Investigation of Ownership and Valuation of Property of the Estate: Applicant spent 7.6 hours in this category; however, Applicant did not bill for any of this time. Applicant reviewed the Internal Revenue Service (the "IRS"), proof of claim filed on Debtor's Property and the Notice of Federal Tax Lien attached as an exhibit to the Proof of Claim. Applicant discussed with Trustee the possibility of a sale of the Property since the Debtor's homestead exemption could not be paid until the federal tax liens are satisfied in full. Applicant discussed the issue with Debtor's counsel and proposed a possible solution. Applicant reviewed the IRS and the Franchise Tax Board (the "FTB"), liens and determined that the FTB lien is senior to the IRS lien. Applicant and Trustee attempted several times to contact the FTB to work with Trustee in selling the property but to no avail.

Recovery of Property of the Estate: Applicant spent 5.6 hours in this category. Applicant reviewed the Accounts Receivable documents and information provided by Charlie Menghetti and sent a letter to Mr. Menghetti requesting the payment to the estate of the amount due.

The fees requested are computed by Applicant by multiplying the time expended providing the services multiplied by an hourly billing rate. The persons providing the services, the time for which compensation is requested, and the hourly rates are:

Names of Professionals and Experience	Time	Hourly Rate	Total Fees Computed Based on Time and Hourly Rate
Loris L. Bakken, Counsel	7.4	\$350.00	\$2,590.00
Total Fees for Period of Application			\$2,590.00

Costs & Expenses

Applicant also seeks the allowance and recovery of costs and expenses in the amount of \$33.14 pursuant to this application.

The costs requested in this Application are,

Description of Cost	Per Item Cost, If Applicable	Cost
Postage		\$21.94
Copying	\$0.10 per page	\$11.20
Total Costs Requested in Application		\$33.14

FEES AND COSTS & EXPENSES ALLOWED

Fees

Hourly Fees

The court finds that the hourly rates are reasonable and that Applicant effectively used appropriate rates for the services provided. First and Final Fees in the amount of \$2,590.00 are approved pursuant to 11 U.S.C. § 330 and authorized to be paid by the Chapter 7 Trustee from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 7 case.

Costs & Expenses

First and Final Costs in the amount of \$33.14 are approved pursuant to 11 U.S.C. § 330 and authorized to be paid by the Chapter 7 Trustee from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 7 case.

The court authorizes the Chapter 7 Trustee to pay 100% of the fees and 100% of the costs allowed by the court.

Applicant is allowed, and the Chapter 7 Trustee is authorized to pay, the following amounts as compensation to this professional in this case:

Fees	\$2,590.00
Costs and Expenses	\$33.14

pursuant to this Application as final fees and costs pursuant to 11 U.S.C. § 330 in this case.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Allowance of Fees and Expenses filed by Loris L. Bakken of the Bakken Law Firm (“Applicant”), Attorney for Gary R. Farrar, the Chapter 7 Trustee, (“Client”) having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that Loris L. Bakken of the Bakken Law Firm is allowed the following fees and expenses as a professional of the Estate:

Loris L. Bakken of the Bakken Law Firm , Professional
employed by the Chapter 7 Trustee

Fees in the amount of \$2,590.00
Expenses in the amount of \$33.14,

as the final allowance of fees and expenses pursuant to 11 U.S.C. § 330 as counsel for the Chapter 7 Trustee

IT IS FURTHER ORDERED that the Chapter 7 Trustee is authorized to pay 100% of the fees and 100% of the costs allowed by this Order from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 7 case.

Final Ruling: No appearance at the January 20, 2022 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor, Debtor's Attorney, creditors, and Chapter 7 Trustee as stated on the Certificate of Service on December 28, 2021 to email recipients and on December 29, 2021 to mail recipients. The court computes that 23 days' and 22 days' notice, respectively, has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: \$32.00 due on December 13, 2021.

The Order to Show Cause is discharged, and the bankruptcy case shall proceed in this court.

The court's docket reflects that the default in payment that is the subject of the Order to Show Cause has been cured.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Order to Show Cause having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Order to Show Cause is discharged, no sanctions ordered, and the bankruptcy case shall proceed in this court.