

**UNITED STATES BANKRUPTCY COURT**  
Eastern District of California

**Honorable Ronald H. Sargis**  
**Chief Bankruptcy Judge**  
**Sacramento, California**

**March 17, 2022 at 10:30 a.m.**

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1.	<a href="#"><u>18-27974-E-7</u></a> <a href="#"><u>BLF-3</u></a>	<b>JEROD KENOYER</b> <b>Nikki Farris</b>	<b>MOTION FOR COMPENSATION FOR</b> <b>LORIS L BAKKEN, TRUSTEES</b> <b>ATTORNEY(S)</b> <b>2-24-22 [49]</b>
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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.

**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).**

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Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, creditors, parties requesting special notice, and Office of the United States Trustee on February 24, 2022. By the court's calculation, 21 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.

<b>The Motion for Allowance of Professional Fees is granted.</b>
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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 November 16, 2021, through March 17, 2022. The order of the court approving employment of Applicant was entered on December 13, 2021. Dckt. 35. Applicant requests fees in the amount of \$2,485.00 and costs in the amount of \$87.09, with payment deferred to be paid at the same time as dividends pursuant to Rule 3009.

## **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 rendering legal services to the Chapter 7 Trustee regarding general case administration and strategies on how to handle the property of the estate. The Estate has \$0.00 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.

There are currently no funds in the estate. Applicant is requesting fees as she has accepted employment with a government agency and must resign as counsel. Applicant will receive no compensation if there are no assets to be administered and no more than 1/3 of the assets if the Trustee recovers less than \$21,000.00.

## **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 2.3 hours in this category. Applicant prepared their own fee agreement and employment application.

Investigation of Litigation and Employment of Special Litigation Counsel: Applicant spent 4.8 hours in this category. Applicant communicated with Debtor’s special litigation counsel, reviewed various filings, and prepared and filed the application for the special litigation counsel’s employment.

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:

<b>Names of Professionals and Experience</b>	<b>Time</b>	<b>Hourly Rate</b>	<b>Total Fees Computed Based on Time and Hourly Rate</b>
Loris L. Bakken	7.1	\$350.00	<u>\$2,485.00</u>
<b>Total Fees for Period of Application</b>			\$2,485.00

### **Costs & Expenses**

Applicant also seeks the allowance and recovery of costs and expenses in the amount of \$87.09 pursuant to this application.

The costs requested in this Application are,

<b>Description of Cost</b>	<b>Per Item Cost, If Applicable</b>	<b>Cost</b>
Postage	N/A	\$59.59
Copying	\$0.10 per page	\$27.50
<b>Total Costs Requested in Application</b>		\$87.09

### **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 \$2,485.00 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 \$87.09 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	\$2,485.00
Costs and Expenses	\$87.09

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 (“Applicant”), Attorney 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 \$2,485.00  
Expenses in the amount of \$87.09,

with the limitation that Applicant shall be paid no more than one-third of the monies which the Trustee has to disburse for the payment of unsecured administrative expenses and unsecured claims. 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.

**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.

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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's Attorney, Chapter 7 Trustee, RBS Citizens, N.A., Citizens Financial Group, Inc., and Office of the United States Trustee on January 24, 2022. By the court's calculation, 38 days' notice was provided. 28 days' notice is required.

The Motion to Avoid Judicial Lien 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 Avoid Judicial Lien is granted, and the Judicial Lien is avoided for all amounts in excess of \$225,000.00.**

This Motion requests an order avoiding the judicial lien of RBS Citizens, N.A. ("Creditor") against property of the debtor, Bobbie Gail McMahan ("Debtor") commonly known as 12 Garden Park Drive, Chico CA 95973, California ("Property").

Debtor asserts that Creditor hold a judicial lien against the Property "in the amount of \$225,000.00." Motion, Dckt. 12.

Debtor has not provided a copy of the recorded abstract of judgment. Rather, there is a copy of an abstract of judgment (with no recording information) issued on May 14, 2018, for the judgment entered on January 6, 2015. Exhibit, Dckt. 14 at 11.

Included with the Exhibits is what appears to be a portion of an unauthenticated preliminary

title report. *Id.* at 12-13. Item 10 is for an abstract of judgment for Creditor in the amount of \$150,728.83, which is stated to have been recorded on June 5, 2018. The recording information is stated to be “Recorded in: Butte County Official Records Serial No. 2018-19030. *Id.* at 10.

There is no date given for when the unauthenticated excerpt from a preliminary title report was generated. However, the current property tax information is November 2019 and February 2020.

Pursuant to Debtor’s Schedule A, the subject real property has an approximate value of \$415,400.00 as of the petition date. Dckt. 1. The unavoidable consensual liens that total \$157,221.00 as of the commencement of this case are stated on Debtor’s Schedule D. Dckt. 1. The court notes that Debtor’s Motion refers to Schedule D in Exhibit 1, however, Exhibit 1 does not appear to contain Schedule D. See Exhibit 1, Dckt. 14. The court may refer to Debtor’s voluntary petition (Dckt. 1) for Schedule D, but Debtor is reminded that such relevant information should be included in Debtor’s Exhibits.

Debtor has claimed an exemption pursuant to California Code of Civil Procedure § 704.730 in the amount of \$33,179.00 on Schedule C. Dckt. 1. However, in Debtor’s Motion, Debtor claims an exemption in the amount of \$258,179.00. Motion at 2, Dckt. 12. It appears Debtor inadvertently wrote their Net Equity as a claimed exemption on Schedule C, rather than their proper Homestead Exemption.

The hearing is continued to allow Debtor to file a copy of the recorded judgment lien to be avoided.

### **March 17, 2022 Hearing**

On March 14, 2022, Debtor filed a supplemental exhibit, the Abstract of Judgment with the recording information, and Declaration authenticating the Exhibit. Dckts. 26, 27. With this supplemental evidence, the court may properly rule on the Motion and issue an effective order for recording with the County Recorder.

A judgment was entered against Debtor in favor of Creditor in the amount of \$150,728.83. Exhibit, Dckt. 27. An abstract of judgment was recorded with Butte County on June 5, 2018, that encumbers the Property. *Id.*

Pursuant to Debtor’s Schedule A, the subject real property has an approximate value of \$415,400.00 as of the petition date. Dckt. 1 at 11. The unavoidable consensual liens that total \$157,221.00 as of the commencement of this case are stated on Debtor’s Schedule D. Dckt. 1 at 20.

In the Motion it is asserted that Debtor has claimed an exemption in the amount of \$258,179.00 in the Property. However, as addressed above, Schedule C states an exemption of \$33,179.00. Sch C, Dckt. 1 at 18; and filed as Exhibit A in support of the Motion, Dckt. 14 at 9.

Applying the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), the determination of the extent to which the Abstract of Judgment impairs the lien is as follows:

FMV of the Property.....	\$415,400.00
Consensual Lien.....	(\$157,221.00)
Homestead Exemption.....	(\$ 33,179.00)

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\$ 225,000 in value for the Judgment Lien in excess of the  
consensual liens and homestead exemption

In the Motion, it is asserted that the amount of the judgment as of the commencement of this case (\$225,000). Motion, ¶ 6; Dckt. 12. This is exactly equal to the value of the property that is in excess of the consensual liens and homestead exemption.

Therefore, the fixing of the judicial lien impairs Debtor's exemption of the real property, and its fixing is avoided in excess of \$225,000.00 subject to 11 U.S.C. § 349(b)(1)(B).

An order substantially in the following form shall be prepared and issued by the court:

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

The Motion to Avoid Judicial Lien pursuant to 11 U.S.C. § 522(f) filed by Bobbie Gail McMahan ("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 judgment lien of RBS Citizens, N.A. ("Creditor"), California Superior Court for Contra Costa County Case No. CIVMSC 13-02020, recorded on June 5, 2018, Document No. 2018-0019030, with the Butte County Recorder, against the real property commonly known as 12 Garden Park Drive, Chico California, California, is avoided in its entirety for all amounts in excess of \$225,000.00 pursuant to 11 U.S.C. § 522(f)(1), subject to the provisions of 11 U.S.C. § 349 if this bankruptcy case is dismissed.



**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).**

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Local Rule 9014-1(f)(3) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor (*pro se*), Chapter 7 Trustee, creditors, and Office of the United States Trustee on March 8, 2022. By the court’s calculation, 9 days’ notice was provided. The court set the hearing for March 17, 2022. Dckt. 445.

The Motion to Abandon 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, -----

<b>The Motion to Abandon is granted.</b>
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After notice and hearing, the court may order a trustee to abandon property of the Estate that is burdensome to the Estate or of inconsequential value and benefit to the Estate. 11 U.S.C. § 554(a). Property in which the Estate has no equity is of inconsequential value and benefit. *Cf. Vu v. Kendall (In re Vu)*, 245 B.R. 644 (B.A.P. 9th Cir. 2000).

The Motion filed by Hank Spacone (“the Chapter 7 Trustee”) requests that the court authorize him to abandon the following items of personal property:

1. 2006 Infiniti G35
2. 2004 Chevrolet 1500 Work Truck Pickup
3. 2004 Volkswagen Toureg
4. 2004 Freightliner 4700
5. 1993 Ford F-350
6. Browning X-Bolt
7. 45-70 Pistol

8. Glock 9 MM Pistol
9. Ruger 9MM Carbine Rifle
10. Sig Sauer .45 Pistol
11. .45-70 Marlin Rifle
12. .308 Socom Rifle

(“Property”). The Declaration of Trustee has been filed in support of the Motion and provides testimony that the value of the Property is \$15,500.00 (\$13,200.00 for Vehicles and \$2,300.00 for Firearms).

The court finds that the Property secures claims that exceed the value of the Property, and there are negative financial consequences for the Estate if it retains the Property. The court determines that the Property is of inconsequential value and benefit to the Estate and authorizes the Chapter 7 Trustee to abandon the Property.

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 Abandon Property filed by Hank M. Spacone (“the Chapter 7 Trustee”) 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 Compel Abandonment is granted, and the Property identified as:

1. 2006 Infiniti G35
2. 2004 Chevrolet 1500 Work Truck Pickup
3. 2004 Volkswagen Toureg
4. 2004 Freightliner 4700
5. 1993 Ford F-350
6. Browning X-Bolt
7. 45-70 Pistol
8. Glock 9 MM Pistol
9. Ruger 9MM Carbine Rifle
10. Sig Sauer .45 Pistol
11. .45-70 Marlin Rifle
12. .308 Socom Rifle

is abandoned to Shon Jason Treanor and Jill Diana Treanor by this order, with no further act of the Chapter 7 Trustee required.

# FINAL RULINGS

4. [18-20964-E-7](#) **BRADLEY GILBREATH** **MOTION FOR COMPENSATION FOR**  
[BLF-3](#) **Peter Macaluso** **LORIS L. BAKKEN, TRUSTEES**  
**ATTORNEY(S)**  
**2-10-22 [160]**

**Final Ruling:** No appearance at the March 17, 2022 hearing is required.  
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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, creditors, parties requesting special notice, and Office of the United States Trustee on February 10, 2022. By the court’s calculation, 35 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, 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 18, 2021, through March 17, 2022. The order of the court approving employment of Applicant was entered on August 24, 2021. Dckt. 112. Applicant requests fees in the amount of \$7,245.00 and costs in the amount of \$217.02, with payment deferred to be paid at the same time as dividends pursuant to Rule 3009.

## 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 rendering legal services to the Chapter 7 Trustee regarding general case administration and strategies on how to handle the property of the estate. The court finds the services were beneficial to Client and the Estate and were reasonable.

There are currently no funds in the estate. Applicant is requesting fees as she has accepted employment with a government agency and must resign as counsel. Applicant will receive no compensation if there are no assets to be administered and no more than 1/3 of the assets if the Trustee recovers less than \$21,000.00.

## **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 hours in this category. Applicant prepared their own fee agreement and employment application, reviewed deadlines to object to exemptions and to file a complaint objecting to Debtor's discharge, and preparing their own fee application.

Employment of Realtor and Investigation Regarding Sale of Real Property: Applicant spent 5.4 hours in this category. Applicant reviewed a grant deed and property profile report regarding the ownership of the real property, reviewed the realtor's valuation of the property, reviewed a preliminary title report for the property, and prepared the realtor's employment and application.

Motion For Omnibus Relief Upon Death of Debtor: Applicant spent 7 hours in this category. Applicant reviewed and responded to the Motion for Omnibus Relief Upon Death of Debtor. Applicant discussed the Motion with Client, appeared telephonically at the hearing, communicated with Debtor's counsel, and prepared a status statement for Client.

Adversary Proceeding for Turnover of Property of the Estate: Applicant spent 8.3 hours in this category. Applicant reviewed several emails and letters in connection with the conversion of the bankruptcy case, and prepared and filed the Adversary Complaint at Client's direction..

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:

<b>Names of Professionals and Experience</b>	<b>Time</b>	<b>Hourly Rate</b>	<b>Total Fees Computed Based on Time and Hourly Rate</b>
Loris L. Bakken	20.7	\$350.00	<u>\$7,245.00</u>
<b>Total Fees for Period of Application</b>			\$7,245.00

### **Costs & Expenses**

Applicant also seeks the allowance and recovery of costs and expenses in the amount of \$217.02 pursuant to this application.

The costs requested in this Application are,

<b>Description of Cost</b>	<b>Per Item Cost, If Applicable</b>	<b>Cost</b>
Postage	N/A	\$47.52
Copying	\$0.10 per page	\$39.00
Court Fees-Certified Copy of Petition	N/A	\$11.50
Recording Fees-Record Petition in Placer County	N/A	\$119.00
<b>Total Costs Requested in Application</b>		\$217.02

### **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 \$7,245.00 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.

##### **Reduced Rate**

Applicant seeks to be paid a reduced sum of \$7,245.00 for its fees incurred for Client. Applicant's actual fees are \$8,995.00 but under Applicant's reduce rate five (5) hours were not billed.

First and Final Fees and Costs in the amount of \$7,245.00 are approved pursuant to 11 U.S.C. § 330 and authorized to be paid by the Chapter 7 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 \$217.02 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 reduced 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	\$7,245.00
Costs and Expenses	\$217.02

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 (“Applicant”), Attorney 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 \$7,245.00  
Expenses in the amount of \$217.02,

with the limitation that Applicant shall be paid no more than one-third of the monies which the Trustee has to disburse for the payment of unsecured administrative expenses and unsecured claims. 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 reduced 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 March 17, 2022 hearing is required.  
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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, creditors, parties requesting special notice, and Office of the United States Trustee on February 10, 2022. By the court’s calculation, 35 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, 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 June 1, 2021, through March 17, 2022. The order of the court approving employment of Applicant was entered on June 7, 2021. Dckt. 82. Applicant requests fees in the amount of \$3,465.00 and costs in the amount of \$52.44.

## **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 rendering legal services to Client regarding general case administration and assisting Client in the investigation of the estate's interest in claims arising out of Debtor's property damage and/or personal injuries. The court finds the services were beneficial to Client and the Estate and were reasonable.

There are currently no funds in the estate. Applicant is requesting fees as she has accepted employment with a government agency and must resign as counsel. Applicant will receive no compensation if there are no assets to be administered and no more than 1/3 of the assets if the Trustee recovers less than \$21,000.00.

## **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 hours in this category. Applicant prepared their own fee agreement and employment application.

Investigation of Litigation and Employment of Special Litigation Counsel: Applicant spent 6.9 hours in this category. Applicant communicated with Debtor's special litigation counsel, reviewed various filings, and prepared and filed the application for the special litigation counsel's employment..

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:

<b>Names of Professionals and Experience</b>	<b>Time</b>	<b>Hourly Rate</b>	<b>Total Fees Computed Based on Time and Hourly Rate</b>
Loris L. Bakken	9.9	\$350.00	<u>\$3,465.00</u>
<b>Total Fees for Period of Application</b>			<b>\$3,465.00</b>

### **Costs & Expenses**

Applicant also seeks the allowance and recovery of costs and expenses in the amount of

\$52.44 pursuant to this application.

The costs requested in this Application are,

Description of Cost	Per Item Cost, If Applicable	Cost
Postage	N/A	\$35.64
Copying	\$0.10 per page	\$16.80
<b>Total Costs Requested in Application</b>		<b>\$52.44</b>

## **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 \$3,456.00 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 \$52.44 are approved pursuant to 11 U.S.C. § 330 and authorized to be paid by the Chapter 7 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 to pay 100% of the fees and 100% of the costs allowed by the court.

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

Fees	\$3,456.00
Costs and Expenses	\$52.44

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 (“Applicant”), Attorney 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 \$3,456.00

Expenses in the amount of \$52.44,

with the limitation that Applicant shall be paid no more than one-third of the monies which the Trustee has to disburse for the payment of unsecured administrative expenses and unsecured claims. 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 March 17, 2022 hearing is required.

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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, creditors, parties requesting special notice, and Office of the United States Trustee on February 8, 2022. By the court’s calculation, 37 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><b>The Motion for Allowance of Professional Fees is granted.</b></p>
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E. Vincent Wood, the Attorney (“Applicant”) for Alejandro C. Alejandro and Griselda Gonzalez, the Chapter 11 Debtor in Possession (“Client”), makes a First and Final Request for the Allowance of Fees and Expenses in this case.

Fees are requested for the period December 1, 2020, through January 20, 2022. The order of the court approving employment of Applicant was entered on February 7, 2021. Dckt. 42. Applicant requests fees in the amount of \$25,807.50 and costs in the amount of \$892.96.

#### **PLEADINGS FILED AS ONE DOCUMENT**

Applicant filed the Motion for Compensation in this matter mostly as one document. See Dckt. 124. This filing includes the actual Motion as well as three (3) Declarations in support. See *id.* at 13-16. That is not the practice in the Bankruptcy Court. “Motions, notices, objections, responses,

replies, declarations, affidavits, other documentary evidence, exhibits, memoranda of points and authorities, other supporting documents, proofs of service, and related pleadings shall be filed as separate documents.” Local Bankr. R. 9004-2(c)(1). Counsel is reminded of the court’s expectation that documents filed with this court comply as required by Local Bankruptcy Rule 9004-1(a). Failure to comply is cause to deny the motion. Local Bankr. R. 1001-1(g), 9014-1(l).

These document filing rules exist for a very practical reason. Operating in a near paperless environment, the motion, points and authorities, declarations, exhibits, requests for judicial notice, and other pleadings create an unworkable electronic document for the court (some running hundreds of pages). It is not for the court to provide secretarial services to attorneys and separate an omnibus electronic document into separate electronic documents that can then be used by the court.

## **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 rendering legal services to Debtor regarding case strategy, obligations as Debtor in Possession, and reorganization strategy. 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 52.7 hours in this category. Applicant prepared and amended the statement of financial affairs, schedules, monthly operating reports. Applicant advised and conferred regularly with Client, and prepared for and attended status conferences.

Creditor and Claims Administration: Applicant spent 12.55 hours in this category. Applicant handled general creditor issues, raised objections to claims, negotiated, and drafted claim treatment stipulations.

Disclosure Statement and Chapter 11 Plan: Applicant spent 10 hours in this category. Applicant drafted and implemented a reorganization plan or liquidation strategy as well as other related documents needed for Plan approval, disbursement, and case closing activities.

Employment Applications/Objections: Applicant spent 2.3 hours in this category. Applicant prepared employment applications for self and others.

U.S. Trustee (IDI and 341a): Applicant spent 7.7 hours in this category. Applicant prepared forms, gathered information, and responded to requests for documents from the U.S. Trustee's Office. Applicant also participated in telephone conferences and email communications with Client to discuss details of prepared for the IDI and 341a hearings.

Fee Applications: Applicant spent 2.85 hours in this category. Applicant prepared the current fee application.

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:

<b>Names of Professionals and Experience</b>	<b>Billing Category</b>	<b>Time</b>	<b>Average Hourly Rate</b>	<b>Total Fees Computed Based on Time and Hourly Rate</b>
E. Vincent Wood, Attorney  Nicole Zorrilla, Paralegal	Case Administration and Reporting	52.7	\$208.33	\$10,978.99
E. Vincent Wood	Creditor and Claims Administration	12.55	\$425.00	\$5,333.75
E. Vincent Wood	US Trustee (IDI and 341a)	7.7	\$425.00	\$3,272.50
E. Vincent Wood	Fee Applications	2.85	\$425.00	\$1,211.25
E. Vincent Wood	Disclosure Statement and Chapter 11 Plan	10	\$425.00	\$4,250.00



E. Vincent Wood	Employment Applications/ Objections	2.3	\$425.00	<u>\$977.50</u>
<b>Estimated Total Fees for Period of Application</b>				\$26,023.99

Applicant provided a seven page exhibit illustrating the breakdown of both professionals and their services for each billing category. Exhibit A, Dckt. 126. However, there is no clear *summary* of how many hours each professional worked on these matters. In the future, it would be helpful to the court if Applicant's Motion contained a breakdown of each professional, their hourly rate, and how many *total* hours they specifically billed under *each* category to assist the court in determining the reasonableness of Applicant's requested fees.

Here, Applicant seeks compensation in the amount of \$25,807.50 for fees. Dckt. 124 at 2:7-8. Applicant appeared to exclusively handle all matters related to Client's Chapter 11 bankruptcy case except for 'Case Administration and Reporting', which Exhibit A shows that Applicant's paralegal also handled. Dckt. 126 at 2-4. Thus, the computed total fees for each category except for 'Case Administration and Reporting' are exact and supported by Applicant's Exhibit A.

The average hourly rate for 'Case Administration and Reporting' is calculated based on Applicant's two hourly rates (\$425.00 and \$75.00) and their paralegal's hourly rate (\$125.00). Accordingly, the total fee the court computed for 'Case Administration and Reporting' is not exact but is close to the total fee provided in Exhibit A. Therefore, the court finds that Applicant's requested fees in the present Motion are reasonable.

### **Costs & Expenses**

Applicant also seeks the allowance and recovery of costs and expenses in the amount of \$892.96 pursuant to this application.

The costs requested in this Application are,

<b>Description of Cost</b>	<b>Per Item Cost, If Applicable</b>	<b>Cost</b>
Court Call Appearance via Telephone (12/10/20; 9/23/21; 10/28/21; 12/9/21)	\$41.20	\$164.80
Court Call Appearance via Telephone (5/27/21)	N/A	\$22.50
Court Call Appearance via Telephone (1/21/21)	N/A	\$22.75

Certificate of Service - Mailing for Confirmation Brief	N/A	\$193.16
Certificate of Service - Notice of Hearing	N/A	\$16.08
Certificate of Service - Mailing for Ballot	N/A	\$110.22
Certificate of Service - Mailing for Notice of Tentative Approval of Ch 11 Plan	N/A	\$97.90
Certificate of Service - Mailing for Application to Employ	N/A	\$166.95
Certificate of Service - Mailing for Motion to Shorten Time	N/A	\$64.60
Certificate of Service - Mailing for Motion to Extend Automatic Stay	N/A	\$34.00
<b>Total Costs Requested in Application</b>		<b>\$892.96</b>

While Applicant requested reimbursement for costs associated with making telephonic Court Call Appearances, the court does not permit such reimbursements and therefore declines to award Applicant Court Call costs. The decision to attend hearings via Court Call is at the cost of the attorney included in the hourly rate for the services.

Here, Applicant could have appeared in person, but probably recognized how even with the associated costs it is more economically efficient to attend remotely. CourtCall is a very effective tool allowing attorneys to market their legal skills (and generate fees from a much larger client base). Therefore, Applicant is only entitled to receive payment in the amount of \$682.91. This amount reflects the expenses and costs Applicant incurred from serving various documents in connection with Client's Chapter 11 bankruptcy case.

## **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 \$25,807.50 are approved pursuant to 11 U.S.C. § 330 and authorized to be paid by Debtor in Possession from the available Plan Funds in a manner consistent with the order of distribution under the confirmed Plan.

## **Costs & Expenses**

First and Final Costs in the amount of \$682.91 are approved pursuant to 11 U.S.C. § 330 and authorized to be paid by Debtor in Possession from the available Plan Funds in a manner consistent with the order of distribution under the confirmed Plan.

The court authorizes Debtor in Possession to pay 100% of the fees and 100% of the costs allowed by the court.

Applicant is allowed, and Debtor in Possession is authorized to pay, the following amounts as compensation to this professional in this case:

Fees	\$25,807.50
Costs and Expenses	\$682.91

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 E. Vincent Wood (“Applicant”), Attorney for Alejandro C. Alejandro and Grisleda Gonzalez, Debtor in Possession, (“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 E. Vincent Wood is allowed the following fees and expenses as a professional of the Estate:

E. Vincent Wood, Professional employed by Debtor in Possession

Fees in the amount of \$25,807.50  
Expenses in the amount of \$682.91,

as the final allowance of fees and expenses pursuant to 11 U.S.C. § 330 as counsel for Debtor in Possession.

**IT IS FURTHER ORDERED** that Debtor in Possession is authorized to pay 100% of the fees and 100% of the costs allowed by this Order from the available Plan Funds in a manner consistent with the order of distribution under the confirmed Plan.

