

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Ronald H. Sargis

Bankruptcy Judge
Sacramento, California

July 17, 2025 at 10:30 a.m.

1. [24-22528-E-7](#)
[GEL-2](#)

GEORGE BENNY
Gabriel Liberman

**CONTINUED MOTION TO COMPEL
ABANDONMENT
6-6-25 [25]**

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 the Chapter 7 Trustee and all creditors and parties in interest on June 6, 2025. By the court's calculation, 20 days' notice was provided. 14 days' notice is required.

The Motion to Compel Abandonment 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.

No opposition was stated at the hearing.

The Motion to Compel Abandonment is granted.

July 17, 2025 Hearing

The court continued the hearing on the Motion to provide Parties with an opportunity to obtain information identifying the person to whom which the abandonment is to be made from the Bankruptcy Estate. On July 3, 2025, counsel for the deceased Debtor filed a Status Report. Docket 37. Counsel states

that the order granting this Motion should include language abandoning the property back to the Estate of George Benny filed in the Superior Court of California, County of El Dorado, case no. 24PR0190.

Counsel for the deceased Debtor also includes as Exhibit A attached to the Status Report a Petition for Letters of Administration and Authorization to Administer Under the Independent Administration of Estates Act. Ex. A, Docket 37. The petitioner there is Mary Ann Benny, who is the deceased Debtor's sibling. The Petition states the decedent died intestate with no spouse or children.

Therefore, with this information provided to the court, the court grants the Motion abandoning property of the Estate to the Estate of George Benny filed in the Superior Court of California, County of El Dorado, case no. 24PR0190.

REVIEW OF MOTION

After notice and a hearing, the court may order a trustee to abandon property of the Estate that is burdensome to the Estate or is of inconsequential value and benefit to the Estate. 11 U.S.C. § 554(b). 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 Mary Ann Benny, the successor representative to the late George Ignac Benny ("Debtor") requests the court to order Irma Edmonds ("the Chapter 7 Trustee") to abandon property commonly known as 351 Rossler Road, Placerville, CA 95667 ("Property"). The Property is encumbered by the lien of Provident Funding Associates, LP, securing a claim of \$116,654. Debtor's Amended Schedules A/B value the Property at \$694,000. Am. Schedule A/B at 4, Docket 18. Debtor has claimed exempt \$577,746 on her Amended Schedule C. Am. Schedule C at 2, Docket 23.

The Motion requests that the Estate's interests be abandoned to "the Debtor." However, given that the Debtor is deceased (Notice of Death, Dckt. 11), there is no "Debtor" to abandon the Property to. There may be a probate estate, a person who inherited the right to the Property, or other person to whom the Property be abandoned.

At the hearing, counsel for Successor Representative Mary Ann Benny reported to the court that there is a probate proceeding and that he would have to obtain the necessary information to identify the person, and in what capacity, the Property is abandoned. Counsel requested that the hearing be continued.

The hearing on the Motion to Compel Abandonment is continued to 1:30 p.m. on July 1, 2025.

July 1, 2025 Hearing

The court continued the hearing so Counsel for Mary Ann Benny, the successor representative to the late George Ignac Benny, could obtain specific information from the probate court to determine to whom and in what capacity the Property is being abandoned.

At the hearing, counsel for the Trustee had not yet provided information identifying the person to whom which the abandonment is to be made from the Bankruptcy Estate.

The hearing on the Motion to Compel Abandonment is continued to 10:30 a.m. on July 17, 2025

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 Compel Abandonment filed by Mary Ann Benny, Successor Representative for the late George Ignac Benny, the deceased Debtor, having been presented to the court, counsel for Movant requesting a short continuance to assemble the information concerning the successor to the late Debtor to whom the property will be abandoned, 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 351 Rossler Road, Placerville, CA 95667 (“Property”) and listed on Amended Schedule A / B by Debtor is abandoned by the Chapter 7 Trustee, Irma Edmonds (“Trustee”) to the pending probate case, the Estate of George Benny filed in the Superior Court of California, County of El Dorado, case no. 24PR0190, by this order, with no further act of the Trustee required.

The Clerk of the Court shall serve a copy of this Order on:

Samuel K. Swenson, Esq.
The Swenson Law Firm
8788 Greenback Lane, Suite 106
Orange, CA 95662

who is identified as the attorney for Mary Ann Benny, the person who has filed an application to be granted authority to administer the estate of George Benny, Jr. Under the Independent Administration of Estates Act (See Petition for Letters of Administration and Authorization to Administer; Exhibit A, Dckt. 37 at 3-14.)

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 Debtor and all creditors and parties in interest on June 23, 2025. By the court's calculation, 24 days' notice was provided. 21 days' notice is required. FED. R. BANKR. P. 2002(a)(2) (requiring twenty-one days' notice).

The Motion to Sell Property was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, 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, -----.

The Motion to Sell Property is granted.
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Focus Management Group USA, Inc., the duly appointed Plan Administrator in this case pursuant to Section 1.74 of the confirmed Plan of Reorganization, ("Movant") moves the court for an order authorizing it to sell property of the estate. 11 U.S.C. § 363. Here, Movant proposes to sell the real property commonly known as vacant land in Stanislaus County, California, containing approximately +/- 5.1 acres of land, bearing Assessor's Parcel No. 016-034-003, commonly referred to as the "Grayson/Laird Property" ("Property").

The proposed purchaser of the Property is George Borden ("Buyer"), and the terms of the sale and relief requested in the Motion are:

- a. The sale of the Subject Property free and clear of liens and other interests to the Buyer in exchange for the Buyer's payment of the purchase price in the amount of \$300,000.00, subject to overbidding, in accordance with the terms and conditions set forth in the PSA attached to the Exhibit Document as Exhibit 1. The sale of the Subject Property is on an "AS-IS" basis and without any warranties, disclosures, questionnaires, or guarantees provided by the Plan Administrator;

- b. In the alternative, the sale of the Subject Property, on the same terms and with no conditions, to the best overbidder that is approved by the Plan Administrator and the Court at the hearing on this Motion, taking into consideration all factors, and approval of a “back-up” buyer;
- c. The use of bidding procedures (the “Bidding Procedures”), at the beginning of hearing on the Motion, as set forth in Section IV of this Motion;
- d. The payment through escrow of: (i) any Subject Property taxes and assessments due on the Subject Property in the estimated amount of \$1,800 and any pro-rated current amounts, (ii) closing costs and other expenses, (iii) broker’s commission(s) (iv) U.S. Trustee fees, (v) unsecured property taxes subject to a lien estimated at \$1,600, (vi) a holdback of \$10,800 for estimated income taxes, (vii) approximately \$9,000 in fees to Stanislaus County for administrative violations at the Subject Property, and (viii) net proceeds from the sale of the Subject Property to Summit; and
- e. Waiving the 14-day stay period imposed by Bankruptcy Rule 6004(h).

Mot. 3:1-16, Docket 2125.

Sale Free and Clear of Liens

The Motion seeks to sell the Property free and clear of the liens. The following creditors hold liens in the Property:

Priority	Claim Holder	Estimated Claim
Tax	Stanislaus County Tax Collector	\$1,800.00 (est.)
First	SBN V Ag I LLC (“Summit”)	\$5,500,000
Second	Summit	\$1,000,000
Tax	Unsecured Property Tax Lien	\$1,600.00 (est.)
Tax (Disputed)	IRS	\$3,419,274.35 (disputed)

The Bankruptcy Code provides for the sale of estate property free and clear of liens in the following specified circumstances,

(f) The trustee[, debtor in possession, or Chapter 13 debtor] may sell property under subsection (b) or (c) of this section free and clear of any interest in such property of an entity other than the estate, only if–

(1) applicable nonbankruptcy law permits sale of such property free and clear of such interest;

(2) such entity consents;

(3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;

(4) such interest is in *bona fide* dispute; or

(5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

11 U.S.C. § 363(f)(1)–(5).

Movant has stated that Summit has given its consent to release their respective liens, to the extent not paid in full, on the Subject Property. The Plan Administrator expects that Summit will consent to the sale of the Subject Property free and clear of their liens pursuant to 11 U.S.C. § 363(f)(2). Mot. 6:14-18, Docket 2125.

The Plan Administrator seeks authority to pay the Stanislaus County Tax Collector from the proceeds of the sale. Therefore, Stanislaus County Tax Collector's liens and any lien of the Del Puerto Water District shall be satisfied and released as paid in full. *Id.* at 6:19-21.

The preliminary title report for the Subject Property indicates that the IRS recorded a notice of federal tax lien against the Subject Property on May 3, 2024 in the amount of \$3,419,274.35 (the "Fed Tax Lien"). Decl. ¶ 13, Docket 2039. The Fed Tax Lien is disputed. On its face, the Personal Tax Notice for the Fed Tax Lien is issued to Arambel personally under his personal social security number. It is not directed to the Estate or the Estate's tax ID number. The Plan Administrator has filed all state and federal tax returns required to be filed for the Arambel Estate for the tax years ending November 30, 2019, 2020, 2021, 2022, and 2023 under the Estate's tax ID number, aka Federal Employer Identification Number or FEIN. None of these Estate tax returns show any unpaid amounts owed by the Estate. Mot. 6:22-7:2.

Collier on Bankruptcy provides a substantive review of the *bona fide* dispute basis for selling free and clear of a lien interest, stating:

Sale When Interest in Bona Fide Dispute; § 363(f)(4)

A sale may proceed free and clear of liens or interests if they are in bona fide dispute.⁵⁹ The trustee has the burden of demonstrating that a bona fide dispute exists.⁶⁰ To meet this burden the trustee must establish that there is an objective basis for either a factual or legal dispute as to the validity of the debt.⁶¹ The court is not required to resolve the underlying dispute as a condition to authorizing the sale under this provision, but must determine that it exists.⁶² In one case, however, the court held that a *bona fide* dispute did exist because the adverse interest holders disputed whether the sale could have been free and clear of their interests under a rent stabilization law.⁶³ Such post-hoc application of this paragraph could raise due process concerns.

In *Rodeo Canon Development Corp.*,⁶⁴ the Court of Appeals for the Ninth Circuit distinguished between a *bona fide* dispute over the validity of the nondebtor

party's interest in the property and a dispute over the debtor's interest. In the latter, the court may not authorize a sale under section 363 until the court resolves the dispute and determines that the debtor has an interest that can be sold. Until that occurs, section 363 does not even apply. The Bankruptcy Appellate Panel for the Ninth Circuit interpreted *Rodeo Canon* as stating a prudential rule of efficient dispute resolution, not a rule prohibiting a bankruptcy court from determining ownership in a contested matter.⁶⁵ Therefore, the bankruptcy court may determine the issue in the contested matter initiated by the motion for an order approving the sale. However, the Ninth Circuit withdrew its opinion two weeks after the appellate panel's decision,⁶⁶ so whether the appellate panel's decision will have any more than persuasive effect is unclear.

64 *Warnick v. Yassian (In re Rodeo Canon Dev. Corp.)*, 362 F.3d 603 (9th Cir. 2004) (withdrawn based on parties' subsequent stipulation that operative facts on which court based its opinion were not correct).

3 Collier on Bankruptcy P 363.06

In addition to filing these returns, the Plan Administrator has submitted requests for the IRS to promptly review each of these returns within sixty (60) days pursuant to Bankruptcy Code section 505(b). The time for such review has long past without any response from the IRS resulting in the Estate's tax returns having cleared. Therefore, pursuant to 11 U.S.C. § 363(f)(4), the Property should be sold free and clear of the IRS tax lien. Mot. 7:2-10.

For this Motion, Movant has established grounds for selling free and clear from the liens of Summit and the IRS pursuant to 11 U.S.C. § 363(f)(2) and (4). The dispute of the IRS' claim is colorable, Movant presenting evidence that the tax lien is against property interests of Jeffrey Arambel in his personal capacity, not against property of the bankruptcy estate.

Upon the close of escrow, Stanislaus County Tax Collector can release its lien upon being paid in full. The court does not now with this Order release the liens of Stanislaus County Tax Collector pursuant to 11 U.S.C. § 363(f).

Proposed Overbidding Procedures

- (a) Valuation of the consideration being received by the estate from the sale of the Subject Property at \$300,000.00;
- (b) the initial overbid must be at least \$10,000.00 higher than the \$300,000.00 gross sale price that the estate will receive from a sale to the Buyer, and each successive bid thereafter must be at least \$5,000.00 more than the previous highest qualified overbid or such other amounts as the Plan Administrator determines are appropriate;
- (c) prior to the date of the hearing and before being permitted to bid, any overbidder must deliver to the Plan Administrator a deposit by cashier's check payable to Focus Management Group USA, Inc., Plan Administrator on behalf of the estate, in an amount equal to \$15,000.00, and if an overbid

is successful, the deposit by the successful overbidder shall be non-refundable; in addition, any person or entity seeking to overbid must identify the proposed overbidder and any principals, owners, members, or shareholders of the bidder and evidence of the prospective buyer's source of capital or other financial ability to complete the contemplated transaction(s), the adequacy of which the Plan Administrator and their advisors will determine in their sole discretion;

- (d) any overbid must be on the same terms and conditions as the PSA, and any overbidder must agree to sign a purchase and PSA for the purchase of the Subject Property in substantially the same form and terms as the PSA, except that all contingencies shall be deemed satisfied, waived, or otherwise removed and close of escrow shall occur within 30 days after entry of an order approving the sale or as otherwise agreed; and
- (e) any overbidder seeking to appear at the hearing must make arrangements to appear by telephone. Instructions for telephonic appearance may be obtained from counsel for the Plan Administrator as identified in the caption of this Motion; and
- (f) approval by the Court of the second highest bid as a back-up buyer on the same terms and conditions.

Mot. 8:20-9:18.

The court finds the proposed overbidding procedures to be reasonable and adopts them for purposes of this Motion to Sell.

DISCUSSION

At the time of the hearing, the court announced the proposed sale and requested that all other persons interested in submitting overbids present them in open court. At the hearing, the following overbids were presented in open court: **XXXXXXX**.

Based on the evidence before the court, the court determines that the proposed sale is in the best interest of the Estate because the sale will generate significant proceeds for payment of secured claims. Plan Administrator has engaged in extensive efforts to sell the Property and has used its business judgment in arriving at this sale, which the court will not replace with its own judgment.

Movant has estimated that a five percent broker's commission from the sale of the Property will equal approximately \$15,000 to Pearson Realty. Pearson Realty represents both Buyer and Movant, so Pearson Realty will be entitled to the full \$15,000 commission. As part of the sale in the best interest of the Estate, the court permits Movant to pay the broker an amount not more than five percent commission.

The payment of the property taxes, costs of sale, real estate commission, hold back to the estate for taxes from the sale and utility liens paid from escrow, with the balance of the net sales proceeds disbursed to Summit.

Request for Waiver of Fourteen-Day Stay of Enforcement

Federal Rule of Bankruptcy Procedure 6004(h) stays an order granting a motion to sell for fourteen days after the order is entered, unless the court orders otherwise. Movant requests that the court grant relief from the Rule as adopted by the United States Supreme Court so that the sale can move forward immediately upon entry of the Bankruptcy Court order approving the sale, Movant not anticipating any opposition.

Movant has pleaded adequate facts and presented sufficient evidence to support the court waiving the fourteen-day stay of enforcement required under Federal Rule of Bankruptcy Procedure 6004(h), and this part of the requested relief is granted.

Counsel for Focus Management Group USA, Inc., the duly appointed Plan Administrator in this case shall prepare a proposed Order consistent with this ruling and lodge it with the 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 Debtor and all creditor and parties in interest on June 24, 2025. By the court's calculation, 23 days' notice was provided. 21 days' notice is required. FED. R. BANKR. P. 2002(a)(6) (requiring twenty-one days' notice when requested fees exceed \$1,000.00).

The Motion for Allowance of Professional Fees 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, -----

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

Loris L. Bakken of the Bakken Law Firm, counsel of record for Chapter 7 Trustee Geoffrey Richards ("Applicant"), makes a first and Final Request for the Allowance of Fees and Expenses in this case.

Fees are requested for the period June 4, 2024, through and including July 17, 2025. The order of the court approving employment of Applicant was entered on June 18, 2024, effective June 4, 2024. Dckt. 25. Applicant requests fees in the amount of \$6,920.00 and costs in the amount of \$47.35.

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 rendered legal services to Mr. Richards regarding general case administration and strategies on how to handle property of the estate and assisting Mr. Richards in the 1) investigation of ownership and valuation of property of the estate, and 2) sale of property of the estate. The Estate has \$60,821.38 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’s work included preparing Bakken's fee agreement and employment application, and preparing Bakken's fee application. Bakken anticipates attending the hearing on the fee application by telephone. Mot. 2:13-17, Docket 31.

Investigation and Recovery of Debtor's Interest in Inheritance: Applicant spent 14.1 hours in this category. Applicant investigated Mr. Hadin’s interest in his deceased mother’s estate. Applicant uncovered an asset here and worked to liquidate. *Id.* at 2:19-3:28.

The fees requested are computed by Applicant by multiplying the time expended providing the services multiplied by an hourly billing rate. Applicant did not bill for 25.4 hours of time. 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	17.3	\$400.00	<u>\$6,920.00</u>
Total Fees for Period of Application			\$6,920.00

In the Motion, it states that Applicant’s hourly rate is \$350 per hour. In Applicant’s Declaration, she states that her hourly rate is \$400.00 an hour. Dec. ¶ 2; Dckt. 35. It appears that the reference to \$350 an hour in the Motion is a clerical error. As noted above, Applicant has not billed for 25.4 hours of her time in this Case, providing the Bankruptcy Estate with a substantial discount.

Costs & Expenses

Applicant also seeks the allowance and recovery of costs and expenses in the amount of \$47.35 pursuant to this application.

The costs requested in this Application are,

Description of Cost	Per Item Cost, If Applicable	Cost
Postage	-----	\$38.35
Copying	\$0.10	\$9.00
Total Costs Requested in Application		\$47.35

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 \$6,920 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 \$47.35 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	\$6,920
Costs and Expenses	\$47.35

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”) of the Bakken Law Firm, counsel of record for Chapter 7 Trustee Geoffrey Richards, 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	\$6,920
Costs and Expenses	\$47.35,

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 the fees and 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.

4. 23-21045-E-7 BLF-4	FLORIN/LIGIA BALAJ Stephan Brown	MOTION FOR COMPENSATION BY THE LAW OFFICE OF BAKKEN LAW FIRM FOR LORIS L. BAKKEN, TRUSTEES ATTORNEY(S) 6-24-25 [38]
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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).

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 Debtor and all creditor and parties in interest on June 24, 2025. By the court’s calculation, 23 days’ notice was provided. 21 days’ notice is required. FED. R. BANKR. P. 2002(a)(6) (requiring twenty-one days’ notice when requested fees exceed \$1,000.00).

The Motion for Allowance of Professional Fees 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, -----

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The Motion for Allowance of Professional Fees is granted.
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Loris L. Bakken of the Bakken Law Firm, counsel of record for Chapter 7 Trustee Nikki B. Farris (“Applicant”), makes a first and Final Request for the Allowance of Fees and Expenses in this case.

Fees are requested for the period May 3, 2023, through and including July 17, 2025. The order of the court approving employment of Applicant was entered on May 22, 2023, effective May 3, 2023. Dckt. 16. Applicant requests fees in the amount of \$2,480.00 and costs in the amount of \$64.91.

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 rendered legal services to Ms. Farris regarding general case administration and strategies on how to handle property of the estate and assisting Ms. Farris in the 1) investigation of ownership and valuation of property of the estate, and 2) sale of property of the estate. The Estate has \$8,116.00 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.

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’s work included preparing Bakken's fee agreement and employment application, attending the Section 341 meeting of creditors, reviewing whether to extend the deadline to file a complaint objecting to the Debtors' discharge, preparing a stipulation to extend the deadline, and preparing Bakken's fee application. Bakken anticipates attending the hearing on the fee application by telephone. Bakken did not bill for any time in connection with time spent on case administration. Mot. 2:14-20, Docket 38.

Investigation of Prepetition Transfers: Applicant spent 1.8 hours in this category. Applicant investigated whether it would be in the interest of the Estate to avoid Debtor’s pre-petition transfer of certain property. Applicant ultimately determined it would not be beneficial to the Estate to prosecute this claim. *Id.* at 2:21-3:12.

Sale to Debtors of Estate's Interest in Property of the Estate: Applicant spent 12.5 hours in connection with these tasks; however, Applicant did not bill for 6.3 hours of this time. Applicant entered into negotiations with Debtor to reach a sale agreement for the Debtor to purchase various assets of the Estate. *Id.* at 3:14-4:14.

The fees requested are computed by Applicant by multiplying the time expended providing the services multiplied by an hourly billing rate. Applicant did not bill for 25.4 hours of time. 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	6.2	\$400.00	<u>\$2,480.00</u>
Total Fees for Period of Application			\$2,480.00

Costs & Expenses

Applicant also seeks the allowance and recovery of costs and expenses in the amount of \$64.91 pursuant to this application.

The costs requested in this Application are,

Description of Cost	Per Item Cost, If Applicable	Cost
Postage	-----	\$46.81
Copying	\$0.10	\$18.10
Total Costs Requested in Application		\$64.91

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 \$2,480.00 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 \$64.91 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	\$2,480.00
Costs and Expenses	\$64.91

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 Loris L. Bakken (“Applicant”) of the Bakken Law Firm, counsel of record for Chapter 7 Trustee Nikki B. Farris, 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	\$2,480.00
Costs and Expenses	\$64.91,

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 the fees and 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.

**THIS MATTER WILL BE HEARD AT 11:30 A.M. CALENDAR
ON JULY 17, 2025 IN CONJUNCTION WITH
THE HEARING ON THE MOTION TO CONFIRM CHAPTER 12 PLAN**

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 Debtor, Chapter 12 Trustee, [attorneys of record, and creditors that have filed claims on June 24, 2025. By the court’s calculation, 23 days’ notice was provided. 21 days’ notice is required. FED. R. BANKR. P. 2002(a)(6) (requiring twenty-one days’ notice when requested fees exceed \$1,000.00).

The Motion for Allowance of Professional Fees was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 12 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, -----

The Motion for Allowance of Professional Fees is granted.

Hardave Singh Dulai and Sukhbinder Kaur Dulai, Debtor in Possession (“Debtor in Possession”) makes a first and final request for compensation on behalf of the Estate’s appraiser, Douglas C. Kurz.

Fees are requested for the period June 2024, through January 2025. The order of the court approving employment of Mr. Kurz was entered on October 2, 2024, effective as of September 30, 2024. Order, Docket 173. Debtor in Possession requests fees in the amount of \$3,650 on behalf of Mr. Kurz and no costs.

APPLICABLE LAW
Reasonable Fees

A bankruptcy court determines whether requested fees are reasonable by examining the circumstances of the professional'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 professional 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 a professional are “actual,” meaning that the fee application reflects time entries properly charged for services, the professional must demonstrate still that the work performed was necessary and reasonable. *In re Puget Sound Plywood*, 924 F.2d at 958. A professional must exercise good billing judgment with regard to the services provided because the court’s authorization to employ a professional to work in a bankruptcy case does not give that professional “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 Mr. Kurz’s services for the Estate include traveling to subject properties and providing appraisal services. The court finds the services were beneficial to Debtor in Possession and the Estate and were reasonable.

FEES REQUESTED

Fees

The fees requested are computed by Douglas C. Kurz 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
Douglas C. Kurz	36.5	\$100.00	<u>\$3,650.00</u>
Total Fees for Period of Application			\$3,650.00

FEES ALLOWED

Fees

Hourly Fees

The court finds that the hourly rates are reasonable and that Douglas C. Kurz effectively used appropriate rates for the services provided. First and Final Fees in the amount of \$3,650.00 are approved pursuant to 11 U.S.C. § 330 and authorized to be paid by Debtor in Possession from the funds of the Estate in a manner consistent with the order of distribution in a Chapter 12 case.

Douglas C. Kurz is allowed, and Debtor in Possession is authorized to pay, the following amounts as compensation to this professional in this case:

Fees	\$3,650.00
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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 Hardave Singh Dulai and Sukhbinder Kaur Dulai, Debtor in Possession (“Debtor in Possession”) on behalf of the Estate’s appraiser, Douglas C. Kurz, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that Douglas C. Kurz is allowed the following fees and expenses as a professional of the Estate:

Douglas C. Kurz, Professional employed by Debtor in Possession

Fees in the amount of \$3,650.00,

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

IT IS FURTHER ORDERED that Debtor in Possession is authorized to pay the fees allowed by this Order from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 12 case.

FINAL RULINGS

6. [19-90003-E-7](#) NATHAN DAMIGO CONTINUED MOTION FOR SUMMARY
[19-9006](#) Pro Se JUDGMENT
5-8-25 [[89](#)]

SINES ET AL V. DAMIGO

Final Ruling: No appearance at the July 17, 2025 hearing is required.

The Motion has been continued to July 31, 2025 at 10:30 a.m.

7. [19-90003-E-7](#) NATHAN DAMIGO CONTINUED STATUS CONFERENCE RE:
[19-9006](#) Pro Se AMENDED COMPLAINT
CAE-1 4-3-25 [[82](#)]
SINES ET AL V. DAMIGO

Final Ruling: No appearance at the July 17, 2025 hearing is required.

The Status Conference has been continued to July 31, 2025 at 10:30 a.m.

8. [19-90003-E-7](#) NATHAN DAMIGO CONTINUED MOTION FOR SUMMARY
[19-9006](#) Pro Se JUDGMENT
RLE-1 5-8-25 [[93](#)]
SINES ET AL V. DAMIGO

Final Ruling: No appearance at the July 17, 2025 hearing is required.

The Motion has been continued to July 31, 2025 at 10:30 a.m.

CASE CLOSED: 01/13/25

Final Ruling: No appearance at the July 17, 2025 Hearing is required.

The Application for Payment of Unclaimed Funds is granted.

Hamilton and Bascom, LLC (“Creditor”) moves the court for payment of unclaimed funds in this case in the amount of \$13,916.10. Docket 197. According to the Chapter 7 Trustee’s Final Report (“Report”), Docket 192, Creditor is listed to receive a distribution in the amount of \$13,916.10. Final Report at 4, Docket 192. Creditor’s proof of claim is for \$541,225.81 and is partially general unsecured and partially priority unsecured. POC 10-1.

The Chapter 7 Trustee’s attempted payment to Creditor was not cashed, the Trustee appearing to attempt to pay creditor the amount owed twice before sending the funds to the court. Final Report at 16. The Chapter 7 Trustee filed a Turnover of Unclaimed Dividend on July 18, 2024, turning over the unclaimed funds to the court. Docket 191. Trustee lists Creditor, Hamilton and Bascom, LLC, as being entitled to claim these unclaimed funds in the amount of \$13,916.10. *Id.* In the Motion for Unclaimed Funds Creditor has provided evidence in support of showing it is entitled to the unclaimed funds.

ORDER FOR PAYMENT OF UNCLAIMED FUNDS

This matter comes before the Court pursuant to 11 U.S.C. §347(a), 28 U.S.C. §2042, and the application of Hamilton and Bascom, LLC, seeking payment of funds previously unclaimed in the above-entitled case. It appears from the application and supporting documentation that Hamilton and Bascom, LLC, is entitled to the funds paid into Court.

Therefore,

IT IS ORDERED that the Clerk is directed to pay \$13,916.10 from the unclaimed funds held by the Clerk of the Court to:

Hamilton and Bascom, LLC
c/o Stanford H. Atwood, Jr., Esq.
Atwood & Associates
40 Hernandez Ave.
Los Gatos, CA 95030

The funds may be disbursed only after 14 calendar days from the entry of this court's order to allow for the appeal period to pass.

10. [22-90415](#)-E-7
[GG](#)-16

JOHN MENDOZA
Peter Macaluso

**MOTION FOR JUDGMENT DIVESTING
TITLE TO THE 25 PROPERTIES
CURRENTLY IN THE NAME OF LA
ESTRELLA ENTERPRISES, LLC AND
VESTING TITLE IN GARY FARRAR
TRUSTEE FOR THE BANKRUPTCY
ESTATE OF JOHN PIERRE MENDOZA
6-26-25 [[556](#)]**

Final Ruling: No appearance at the July 17, 2025 hearing is required.

Gary Farrar (“the Chapter 7 Trustee”) having filed a Notice of Dismissal of the Motion, Dckt. 570, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and Federal Rules of Bankruptcy Procedure 9014 and 7041, the Motion was dismissed without prejudice, and the matter is removed from the calendar.

Final Ruling: No appearance at the July 17, 2025 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, all creditors and parties in interest, and Office of the United States Trustee on June 5, 2025. By the court’s calculation, 42 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>

The Law Office of Barry H. Spitzer, the Attorney (“Applicant”) for the Chapter 7 Trustee, Loris L Bakken, and the Estate of Brian Belden Tercheria and Tina Jean Sexton-Tercheria (“Client”), makes a First and Final Request for the Allowance of Fees and Expenses in this case.

Fees are requested for the period December 31, 2024 through June 4, 2025. The order of the court approving employment of Applicant was entered on January 13, 2025, with an effective date of December 31, 2024. Dckt. 17. Applicant requests fees in the amount of \$3,087.50 and costs in the amount of \$51.34.

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 assisting in liquidating property of the Estate. The estate has approximately \$15,152.25 in the bank as of June 4, 2025 from the sale of the vehicle, as well as federal and state income tax refunds. 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.

- (1) Reviewed the court file and prepared an Application for Employment, as well as this request for fees and costs;
- (2) Significant communication with Trustee and Auctioneer; and
- (3) Prepared an Application for Auctioneer's employment and for Sale of Vehicle.

Mot. 3:1-5.

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
Barry H. Spitzer	6.5	\$475.00	<u>\$3,087.50</u>
Total Fees for Period of Application			\$3,087.50

Costs & Expenses

Applicant also seeks the allowance and recovery of costs and expenses in the amount of \$51.34 pursuant to this application.

The costs requested in this Application are,

Description of Cost	Per Item Cost, If Applicable	Cost
Copying		\$30.90
Postage		\$20.44

Total Costs Requested in Application	\$51.34
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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 \$3,087.50 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 \$51.34 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	\$3,087.50
Costs and Expenses	\$51.34

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 The Law Office of Barry H. Spitzer, the Attorney (“Applicant”) the Chapter 7 Trustee, Loris L Bakken, and the Estate of Brian Belden Tercheria and Tina Jean Sexton-Tercheria (“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 The Law Office of Barry H. Spitzer is allowed the following fees and expenses as a professional of the Estate:

The Law Office of Barry H. Spitzer, Professional employed by the Chapter 7 Trustee

Fees	\$3,087.50
Costs and Expenses	\$51.34,

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 the fees and 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.