

This document has been electronically entered in the records of the United States Bankruptcy Court for the Southern District of Ohio.

IT IS SO ORDERED.

Dated: October 14, 2025





Tyson A. Crist
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

In re:

Renee Elaine Allen,

Debtor.

:
:
:
:
:
:
:

Case No. 23-31259
Chapter 7
Judge Crist

ORDER CONCERNING APPLICATION FOR ATTORNEY FEES (DOC. 26)

This matter is before the Court on a seemingly routine *Application for Additional Attorney Fees* (LBR 2016-1) (Doc. 26) (the “Application”) filed by Richard E. West with Richard E. West Co. LPA, counsel for the Debtor, which seeks additional attorney fees in the amount of \$220 for services rendered by Mr. West’s law firm in a chapter 13 case. The Application was filed on April 30, 2025,¹ the necessary parties were served, and no objections or responses have been filed. However, the Application was filed prior to this case being voluntarily converted to chapter 7 on July 1, 2025. *See* Notice of Voluntary Conversion to Chapter 7 (Doc. 29). Accordingly, there is some uncertainty about whether the Court should rule on the Application. This brief decision will

¹ Although the Application was filed on April 30, 2025, a proposed order was not submitted until July 7, 2025. This is well outside the seven (7) day time-period set forth in LBR 9072-1(e) and the Court may determine, in other and future circumstances, to deny an application based upon such delays in submission of the proposed order.

first address the attorney fees sought in the Application and then, to a limited extent, discuss the issue of payment.

Background

Debtor Renee Elaine Allen filed her *Chapter 13 Voluntary Petition* (Doc. 1) on August 11, 2023. It appears the focus of this below median income case was to save a vehicle. On November 8, 2023, this Court entered the *Order Confirming Chapter 13 Plan (Doc. 8) and Awarding Attorney Fees* (Doc. 17). From that point, up until the *Trustee's Authorization for Credit Transaction* (Doc. 25) was filed on April 11, 2025, soon followed by the Application, the docket indicates that not much happened in this case. And then the Chapter 13 Trustee filed a *Motion to Dismiss for Material Default and Notice of Hearing* (Doc. 27) because “the plan will not timely complete within the maximum of sixty (60) months, due to claims filed the case is running 67 months.” On July 1, 2025, the Debtor filed her *Notice of Voluntary Conversion to Chapter 7* (Doc. 29). The Chapter 13 Trustee’s *Final Report and Account* (Doc. 38), filed on July 3, 2025, reflects that the Debtor paid in a total of \$4,362, that only secured creditor General Electric Credit Union received payments under the plan—in the total amount of \$2,644.91 for a Ford Fusion the Debtor later surrendered—and that attorney’s fees of \$1,330.50 and trustee expenses and compensation of \$356.59 were also paid. This left \$30 to be refunded to the Debtor.

Attorney Fee Sought in the Application

The Court has an independent duty to review attorney fee applications for reasonableness “[i]n order to guard the public interest and integrity of the bankruptcy system.” *In re Vaughn*, 660 B.R. 827, 843-44 (Bankr. S.D. Ohio 2024) (Humphrey, J.) (citing *In re Henson*, 637 B.R. 13, 15 (Bankr. S.D. Ohio 2022) (citing *In re Spear*, 636 B.R. 765, 769 (Bankr. S.D. Ohio 2022) (internal citations omitted)); citing also *Dery v. Cumberland Cas. & Sur. Co. (In re 5900 Assocs.)*, 468 F.3d 326, 329-30 (6th Cir. 2006). The invoice attached to the Application reflects that the services, all performed on April 10, 2025, concerned preparation, review, and execution of Amended Schedules I and J, and submission of information to the Chapter 13 Trustee for consideration. Only 0.2 hours were charged by the Attorney, Clay Woods, at a rate of \$350 per hour, and the remaining 1.2 hours were charged by Paralegal, Jamie Bailey, at a rate of \$125 per hour, with 0.1 hours written off. The docket for this case reflects that the Chapter 13 Trustee then filed, on April 11, 2025, his *Trustee's Authorization for Credit Transaction* (Doc. 25) concerning a 2022 Chevrolet

Equinox. The Application was filed just over two weeks later. Therefore, it appears the result desired by the Debtors was achieved and the Application was promptly filed.

Based upon the foregoing, the Court finds these fees to be reasonable and necessary and will allow the compensation in the amount of \$220, pursuant to 11 U.S.C. § 330(a)(4)(B) and LBR 2016-1(b)(3), in accordance with the analysis set forth in the governing Sixth Circuit case law. *See In re Boddy*, 950 F.2d 334, 337 (6th Cir. 1991) (adopting the loadstar approach in fee calculations); *In re Village Apothecary, Inc.*, 45 F.4th 940, 952-53 (6th Cir. 2022) (court can consider “results obtained” in reviewing bankruptcy fees pursuant to 11 U.S.C. § 330(a)(3)); *In re Vaughn*, 660 B.R. 827, 849 (Bankr. S.D. Ohio) (holding that *Village Apothecary* applies to Chapter 13 proceedings).

Payment of the Attorney Fees

The Court, however, cannot order that the fees be paid by the Chapter 13 Trustee given the post-confirmation conversion of this case to one under chapter 7. *See Harris v. Viegelaahn*, 575 U.S. 510 (2015) (discussed in *In re Elms*, 603 B.R. 11 (Bankr. S.D. Ohio 2019)). And it appears there may be no assets available for distribution in the chapter 7 case. *See* Ch. 7 Trustee’s Report of No Distribution (Aug. 14, 2025). If assets were to become available, then the fees might be payable as an administrative expense claim pursuant to 11 U.S.C. §§ 503(b)(2), 507(a)(2), and 726(b) pro rata among claims of the kind, junior to any § 503(b) allowed claims incurred after conversion. *See generally Specker Motor Sales Co. v. Eisen*, 393 F.3d 659, 662 & n.1 (6th Cir. 2004) (stating that attorney fees awarded under § 330(a) are administrative expense claims under § 503(b) with priority under § 507(a) entitled to payment pursuant to § 726(b)). But any distribution in the chapter 7 case on account of the compensation allowed herein is a separate issue from the Court’s review and allowance of the Application, and, as noted above due to *Harris*, the Court cannot order the Chapter 13 Trustee to pay the allowed fee. *See, e.g., In re Hirsch*, 550 B.R. 126, 148 (Bankr. W.D. Mich. 2016) (Gregg, J.) (“the allowance of an administrative expense is one thing, while payment of an administrative expense is another.”) (citing *In re Sweports*, 777 F.3d 364, 366-67 (7th Cir. 2015) (bankruptcy court could approve fees and expenses even though no funds were available for distribution after dismissal pursuant to its “‘clean-up’ jurisdiction (‘ancillary’ jurisdiction, it is commonly called) to take care of minor loose ends.” (citing *In re 5900*

Assocs., Inc., 468 F.3d 326, 330 (6th Cir. 2006)²); *In re Fox*, 140 B.R. 761, 765 (Bankr. D.S.D. 1992) (recognizing that no guarantee of payment exists even if administrative expense is allowed)). As the *Hirsch* court concluded, even though compensation is awarded it might not be paid, just as with other administrative expense claims.

IT IS SO ORDERED.

Copies to:

Default List Plus

John G. Jansing, Chapter 13 Office, 409 E. Monument Ave., Suite 410, Dayton, OH 45402
(Chapter 13 Trustee)

Erin Renneker, Chapter 13 Office, 409 E. Monument Ave., Suite 410, Dayton, OH 45402
(Counsel for the Chapter 13 Trustee)

² This Sixth Circuit opinion concluded that bankruptcy courts retain “jurisdiction to approve attorney’s fees under 11 U.S.C. § 330 after the underlying case is dismissed.”). *See id.* at 330-31 (“Dismissal of a case, or a private agreement between the debtor and its attorney, cannot abrogate the bankruptcy court’s statutorily imposed duty of review.” (citing, amongst other cases omitted herein, *In re Jeanes*, No. 01-00760, 2004 WL 1718093, at *2 (Bankr. N.D. Iowa June 17, 2004) (“ ‘Because § 330(a) requires court approval to create the obligation to pay the attorney’s fees, absent court approval neither the debtor nor the estate is ever liable. Court approval under § 330(a) is what creates the liability, not the performance of the services.’ ”) (internal citations omitted)). However, bankruptcy courts have declined to rule on applications for attorney fees if filed after the completion of payments under a chapter 13 plan. *See, e.g., In re Cripps*, 549 B.R. 836, 851-57 (Bankr. W.D. Mich. 2016) (finding a fee application filed after chapter 13 plan payments were completed to be untimely), *aff’d*, 566 B.R. 172 (W.D. Mich. 2017).