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IT IS SO ORDERED.

Dated: July 21, 2025



Tyson A. Crist
United States Bankruptcy Judge

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

<i>In re:</i>	:	
	:	Case No. 25-30015
RYAN DENNIS MOOERS	:	Chapter 13
ELISABETH LAURA MOOERS,	:	Judge Crist
	:	
<i>Debtors.</i>	:	

**ORDER GRANTING APPLICATION FOR ITEMIZED ATTORNEY’S FEES
AND DENYING REIMBURSEMENT OF EXPENSES (DOC. 27)**

This matter is before the court on the *Application for Attorney’s Fees* (Doc. 27) (the “Application”) filed by Debtors’ counsel, pursuant to LBR 2016-1(b)(2)(C), on May 19, 2025. Mr. Novick and his colleague opted out of the “no-look fee” by filing an application itemizing all legal services performed up until confirmation of the Chapter 13 Plan, which occurred through entry of the *Order Confirming Chapter 13 Plan* (Doc. 8) and *Awarding Attorney Fees*¹ (Doc. 23) on April 22, 2025.² No response has been filed. But even so, 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)

¹ This is the local form of confirmation order and does not govern the award of attorney fees in this case given that counsel has opted out of the “no-look fee.”

² Debtor counsel did not request fees for preparation of the Application.

(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) (citation omitted) (“In a bankruptcy case fees are not a matter for private agreement. There is an inherent public interest that must be considered in awarding fees.”). And counsel has the burden of establishing its entitlement to attorney’s fees. *See In re Spurlock*, 642 B.R. 269, 285 (Bankr. S.D. Ohio) (Humphrey, J.) (“The applicant seeking attorney fees always carries the burden of proof to establish that the fees are warranted and should be approved.”) (citations omitted); *see also In re Thomas v. Robinson (In re Robinson)*, 189 F. App’x 371, 374 (6th Cir. 2006) (similar); *Vaughn*, 660 B.R. at 844 (similar).

This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1334(b) and Amended General Order No. 05-02 of the District Court for the Southern District of Ohio (Amended Standing Order of Reference).

In counsel’s *Disclosure of Compensation of Attorney for Debtor and Application for Allowance of Fees in Chapter 13 Case* (the “Disclosure”), he and Elizabeth M. Chinault certified that they had agreed to accept \$6,000 for legal services in this case³ and that they had received \$1,200 prior to filing the disclosure. *See* Doc. 1, LBR Form 2016-1(b) at 45-46. In the *Chapter 13 Plan* (Doc. 8) (the “Plan”) counsel’s attorney fees were estimated to be \$6,000, with the amount of \$4,800 to be disbursed by the Trustee at a minimum monthly payment of \$1,200. *See* Plan at 5, § 5.1.7. Further, in the Debtors’ *Statement of Financial Affairs* (“SOFA”) (Doc. 1) they disclosed payments to counsel totaling \$1,537 within the year before filing bankruptcy about seeking bankruptcy or preparing a bankruptcy petition, inclusive of the \$1,200 fee identified in the Disclosure.⁴ *See* SOFA at 41-42. And they further disclosed payments to counsel totaling \$1,000

³ This Court has previously addressed the concern of whether to allow compensation in excess of the amount included in the Disclosure Form, pursuant to 11 U.S.C. § 329 and Bankruptcy Rules 2016(b) and 2017, and does not revisit that topic at this time, except to note that “the court’s authority to disallow fees in excess of the amounts identified in a disclosure of compensation pursuant to § 329 and Rule 2016 is clear.” *See In re Vaughn*, 660 B.R. 827, 841 n.6, 848 (Bankr. S.D. Ohio) (Humphrey, J.) (collecting prior rulings in this district). When applicable, Debtor counsel should explicitly indicate that the amount listed is an estimated amount, as the Debtor’s now-confirmed plan did. *See* Doc. 8 at 5, § 5.1.7.

⁴ The other expenses paid were the filing fee (\$313), credit counseling (\$12), and debtor education (\$12).

within the year before filing bankruptcy for helping the Debtors deal with their creditors or to make payment to their creditors. *See Id.* at 42.

The itemized time sheet attached to the Application reflects that Wayne P. Novick⁵ performed a substantial amount of the legal services for which fees are sought; however, there is no breakdown (tally) of the actual time spent by Mr. Novick or by his colleague, “emc” for whom there are entries as well. Although the Court presumes the identity of attorney “emc” is Elizabeth Chinault,⁶ neither the Application or attached itemization identify this attorney by full name, provide any biography, or specifies the attorney’s hourly rate. It appears, however, that both attorneys’ hourly rates must be \$400 according to item C in the Application. Although the Court is familiar with counsel as experienced practitioners, can research these details, and can review and run its own calculations based upon the information provided, it would be preferable for counsel to identify each “attorney, paralegal, or other professional person for whom fees are sought” by including or attaching short biographies including years of experience (year that J.D. was acquired and/or bar passage), any certifications, and each professional’s normal hourly rates and whether those have been adjusted for the particular matter. *See* LBR 2016-1(b)(2)(C). Further, it would also be helpful if counsel would include a breakdown of the total time spent by each such professional for whom fees are sought and at what hourly rate. *See id.*

By the Court’s calculation, the itemization reflects that Mr. Novick spent a total of 22.3 hours in representing the Debtors at the hourly rate of \$400, while Ms. Chinault spent a total of 5.8 hours at the same rate – a collective total of 28.1 hours at the attorney rate, as shown in the itemization. In addition, Mr. Novick charged 2.2 hours at the hourly “Admin” rate of \$150 and Ms. Chinault charged 1.6 hours at the same lowered rate. Setting aside the “Admin” time, Mr. Novick charged attorney fees of \$8,920 and Ms. Chinault charged attorney fees of \$2,320. Thus, the total fees of \$7,500 sought in the Application, after applying the voluntary reduction of \$3,740 (off the total of \$11,240 charged at the attorney rate), are less than the lodestar amount of fees originally billed just by Mr. Novick. Dividing the total amount of fees sought (\$7,500) by the total

⁵ The time sheet has an “Atty” column under which the initials are “wpm” and “emc.”

⁶ Elizabeth Chinault is listed on Mr. Novick’s website as a consumer bankruptcy practitioner, having practiced since 2003. *See* <https://www.gratefullawyer.com> (last visited on July 12, 2025).

number of hours charged ($28.1 + 3.8 = 31.9$), results in an overall effective hourly rate of \$235.11 for these attorneys, which is within the reasonable range of hourly rates.

Having reviewed several of counsel's itemized fee applications, in this and other chapter 13 cases, it is notable that counsel appears to commonly opt out of the "no-look fee," yet take a substantial voluntary reduction of fees. Perhaps this is to compensate for both professionals charging \$400 per hour, which appears to be at top end of the range for chapter 13 practitioners in the Dayton area. Another means to compensate for this is charging a lower "hypothetical" rate of \$150 per hour for certain administrative services provided by the same professionals. In the big picture, however, the issue this raises is that from application to application, the reduction percentages are not necessarily (or observed to be) consistent, the amount of the reductions are not quantified or explained, and therefore the fees charged are not directly based upon the normal hourly rates and time spent – the *lodestar* approach. See, e.g., *In re Edmondson*, No. 22-23059, 2025 WL 510981, at *4 n.60, 2025 Bankr. LEXIS 350, at *10, n.60 (Bankr. W.D. Tenn. Feb. 14, 2025) (discussing opinions by the United States Court of Appeals for the Sixth Circuit on the lodestar framework and the two-part analysis).⁷ Instead, the final amount of attorney's fees sought, which in this instance is \$7,500 (reduced from the total of \$11,810 for both attorney time and administrative time), might be based on a ballpark estimate of what is reasonable for this type of chapter 13 case, up to the date of confirmation, or what would be charged if professionals in the Dayton area with rates commensurate for the level of each task had performed each service. But because the reduction is neither quantified nor explained, this is only the Court's best guess. This reduction appears to be more art than science. In this case, the Court calculates the undisclosed discount applied to be approximately a 36.5% reduction.

The foregoing can make for a more involved process in assessing the reasonableness of the attorney's fees sought by counsel within the framework established by the Sixth Circuit. A comparison to what would have been charged had this case been staffed with professionals who bill hourly rates commensurate with the complexity of each task could involve an exercise in attributing a lower "associate" rate to one of the attorneys, in addition to the hypothetical paralegal

⁷ 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).

rate. A more experienced counsel may accomplish some of the same tasks more efficiently, but they might be less efficient at others for which their particular knowledge and experience are not well-suited or necessary. The ultimate effective hourly rate billed – the amount actually approved for counsel in comparison to the hours charged – is another tool by which to make this comparison. More broadly, another barometer is the “no-look fee” approved by the Court, which is currently \$4,350 pursuant to this Court’s General Order No. 50-1; however, that is not the basis upon which counsel seeks fees. Instead, counsel represents that this was a non-routine case involving “numerous complications and difficult issues”⁸ and chose not to utilize the “no-look fee,” such that counsel must go through the formal fee application process and provide sufficient detail for the Court to perform the analysis required under Sixth Circuit law.

In addition to the foregoing, there is some question about whether all the services set forth in the itemization were reasonable and necessary in accordance with 11 U.S.C. § 330(a)(1)(A) and (a)(4)(B). This chapter 13 case was filed on January 3, 2025. Voluntary Petition (Doc. 1). The Application states that, “[s]ervices from pre-filing state court actions are not included in this Application as that work was performed an[d] paid for separate from the bankruptcy.” Application at 1. The Application further states that, “[t]hat work and fees have been disclosed on the Statement of Financial Affairs.” *Id.* However, the amounts disclosed in the SOFA appear to overlap, in time, to the fees that counsel described as being paid in contemplation of filing bankruptcy. Review of the time sheet attached to the Application reflects that the first time entry is dated November 17, 2023, long before this case was filed, and that there are, by the Court’s count, up to 13 entries during the period from November 17, 2023 – the first entry – up through October 20, 2024, prior to the entry on November 18, 2024 for “[p]repared draft petition and schedules,” which pre-dated the point-in-time at which the focus of counsel’s representation clearly had shifted to filing bankruptcy. These entries total 4.7 hours of time and are not listed in the “Admin” column such that the total amount at issue at the attorney hourly rate of \$400 is \$1,880.⁹ But the Court cannot

⁸ The Application states that this case was complicated because of “private student loans, cross-collateralization, budget, charitable contributions, theft, preference, and an Objection to Confirmation.” Application at 1. But a review of the time sheet does not readily reveal work concerning private student loans, cross-collateralization, charitable contributions, or theft, which indicates that the time descriptions could be more detailed. Preferences and confirmation objections would not necessarily be unusual. Further, the docket and claims register for this case do not reflect an unusual amount of activity.

⁹ Review of the time sheet also reflects that the last four time entries are for services that occurred after confirmation of the plan on April 22, 2025.

divine exactly where the shift from state court representation to bankruptcy preparation began, based on the level of detail (or lack thereof) in the time descriptions included, or whether there was a dual-track of services being provided, and whether only the services in contemplation of bankruptcy are included in the Application, even though some of them far pre-date the bankruptcy and are from the period of time during which counsel was being paid to assist the Debtors with the state court matters.

Counsel should address the foregoing issues in future fee applications, as well as provide further detail in the time descriptions on the services provided in any complicated cases for which counsel opts out of the “no-look fee” given it is counsel’s burden to establish its entitlement to attorney’s fees. As it stands, it is unclear what the basis and calculation is for the voluntary reduction of counsel’s fees and whether counsel has included any entries in its itemization that relate to the state court representation, such that any of those entries represent non-compensable time under 11 U.S.C. § 330(a). Nevertheless, in this particular case, because counsels’ voluntary reduction of their fees is of a magnitude that exceeds no-charging all of the pre-November 18, 2024 entries (\$1,880), plus reducing the remaining fees of \$9,930 by almost 25% (24.47% to be exact), which is a more significant reduction than could be achieved by just reducing the hourly rate for, or even not charging for, Ms. Chinault’s time (as just one comparison, not a suggestion), the Court will approve counsel’s request for an allowance of attorney’s fees pursuant to LBR 2016-1(b)(2)(C) and 11 U.S.C. § 330(a) in the total amount of \$7,500 for the period of time covered in the Application.

In this particular case, it does not appear that the factors under § 330(a)(3) would warrant a reduction in excess of the voluntary reduction already taken by counsel. Further, the Chapter 13 Plan (Doc. 8) (the “Plan”) was confirmed and the dividend on non-priority unsecured claims pursuant to section 2.2 of the Plan is currently 75%. *See Vaughn*, 660 B.R. at 851 (holding that “[c]rucially, appropriateness under § 330 includes an evaluation of the results obtained by the attorney’s work in the case. [And], in reconciling *Village Apothecary* and § 330(a)(4)(B), the court is tasked with the careful balancing act between rewarding counsel for necessary services to a debtor, while also ensuring that such compensation aligns with the broader objectives and outcomes of the bankruptcy process.”). As the *Vaughn* opinion goes on to note, concerning the purpose and legislative history of Chapter 13, “ “[a]lthough debtors indeed may use Chapter 13 to save their homes, the legislative purpose of Chapter 13 is to maximize recovery to creditors by

allowing debtors to cure arrears and make payments over a period of up to 60 months.’ ” *Id.* at 852 (quoting *In re Pierre*, 468 B.R. 419, 425 (Bankr. M.D. Fla. 2012)). That said, the Court expects to see more detail within the time descriptions going forward, as well as an explanation of the hourly rates and voluntary reductions of fees sought so that it fully understands the reasons that a particular case, for which counsel opts out of the “no-look fee,” required services in excess of those for a typical Chapter 13 case, for which the “no-look fee” is currently \$4,350 and warrants fees that are in excess thereof through confirmation – in this case a delta of \$3,150.

With respect to the expenses of \$59.85 sought in the Application, there is no itemization for the postage or service, or even a description of what the postage and service was for. And the Court cannot readily determine how this amount was calculated given that it appears the only document served by counsel, prior to filing the current Application for which no attorney fee is sought, was the Plan (served on approximately 39 addresses).¹⁰ Thus, the Court declines to award reimbursement for this expense at this time and counsel is advised to include itemizations and descriptions of such expenses going forward in order to obtain reimbursement pursuant to § 330(a)(1)(B).

For the foregoing reasons, the Court grants the Application by Debtors’ counsel for attorney’s fees in the amount of \$7,500 and disallows any reimbursement for expenses.

IT IS SO ORDERED.

Copies to:

Default List

¹⁰ The fact that only one version of the Plan was filed also brings into question whether this was a complicated chapter 13 case.