



Honorable Mike K. Nakagawa
United States Bankruptcy Judge



Entered on Docket
September 21, 2016

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:)	Case No.: 09-33809-MKN
)	Chapter 7
KIM MICHELE VANAMANN,)	
)	Date: April 26 and May 3, 2016
Debtor.)	Time: 1:30 p.m.
)	

SUPPLEMENTAL ORDER ON DEBTOR’S RENEWED MOTION TO HOLD CREDITOR NATIONSTAR MORTGAGE IN CONTEMPT AND FOR SANCTIONS FOR VIOLATION OF THE DISCHARGE INJUNCTION 11 U.S.C. § 524(a)(2)¹

On August 19, 2016, the court entered its Order on Debtor’s Renewed Motion to Hold Creditor Nationstar Mortgage in Contempt and For Sanctions for Violation of the Discharge Injunction 11 U.S.C. § 524(a)(2) (“Sanctions Order”). (ECF No. 174). That order directed counsel for Kim Michele Vanamann (“Debtor”) to file an itemized billing state in support of its request for professional fees and costs.

On September 2, 2016, counsel for the Debtor filed an itemized billing statement for the period August 18, 2015 through June 17, 2016, as an attachment to its Motion for Attorney Fees and Costs (“Fee Motion”). (ECF No. 179).² Debtor requests attorneys fees in the total amount

¹ In this Order, all references to “ECF No.” are to the numbers assigned to the documents filed in the above-captioned case as they appear on the docket maintained by the clerk of the court.

² Although the Sanctions Order did not direct counsel to schedule a hearing on the request for fees and costs, the Debtor noticed a hearing on the Fee Motion to be held on October 5, 2016. (ECF No. 180). A hearing in this matter is not required and will be vacated from the calendar.

1 of \$31,550.00 and reimbursement of costs advanced in the total amount of \$217.80.

2 On September 16, 2016, respondent Nationstar Mortgage LLC (“Nationstar”) filed its
3 objections to the billing statement (“Objection”). (ECF No. 183).

4 On September 19, 2016, the Debtor filed an “errata” to the Fee Motion (“Fee Errata”).
5 (ECF No. 184).

6 The court has considered the Fee Motion and attached billing statement, as well as
7 Nationstar’s objection to the \$500.00 hourly rate charged by Debtor’s counsel.

8 Nationstar argues that counsel has failed to meet his burden of establishing that \$500.00
9 is an appropriate hourly rate. Debtor’s counsel believes the rate is appropriate when compared to
10 other bankruptcy practitioners before this court who charge at \$425.00 and \$550.00 per hour.

11 Nationstar does not dispute that those counsel actually charge those rates. Debtor’s counsel also
12 requests that the court take judicial notice that his proposed \$500 hourly rate was approved in a
13 different bankruptcy case before another judge in this district. See Exhibit “1” to Fee Errata.

14 Nationstar does not dispute that counsel may have been approved at the \$500 rate in that
15 particular case, but notes that Debtor’s counsel also charges at lower hourly rates in other cases
16 and even charged at a \$400.00 rate in the Chapter 13 plan proposed in the present case.

17 Although it objects to the \$500.00 hourly rate charged by Debtor’s counsel, however, Nationstar
18 does not propose a specific hourly rate, nor does it provide evidence that similarly qualified
19 attorneys bill their services at an appreciably lower hourly rate.

20 The court has considered the proposed hourly rate and concludes that it is commensurate
21 with the range of hourly rates charged in the community by bankruptcy and non-bankruptcy
22 counsel having comparable skills, experience and reputation. See In re C-N-D Industries, Inc.,
23 2011 WL 2263794, at * 3 (Bankr. N.D. Ohio Jun 6, 2011); In re Auto Parts Club, Inc., 224 B.R.
24 445, 448 (Bankr .S.D. Cal. 1998); In re Gianulias, 111 B.R. 867, 870 (E.D.Cal. 1989). In
25 establishing a community rate, counsel is not required to submitted affidavits or declarations
26 from other counsel, but may point to other sources of information as to the rates charged by other
27 attorneys. See Gianulias, 111 B.R. at 871.

28 In this instance, the court takes judicial notice of the order entered by Bankruptcy Judge

1 Laurel Davis on April 13, 2016, approving a \$500.00 hourly rate for Debtor's counsel in In re
2 McCabe, Case No. 13-15602-LED. The court also takes judicial notice of the order entered by
3 Bankruptcy Judge August Landis on April 19, 2016, approving compensation at a \$425.00
4 hourly rate for attorney Thomas Crowe in In re Charles H. Tadlock and Mary E. Tadlock, Case
5 No. 15-13135-ABL. The court also takes judicial notice of the order entered by Bankruptcy
6 Judge Bruce Beesley on September 19, 2016, approving compensation at a \$550.00 hourly rate
7 for attorney Samuel Schwartz in In re Stoneridge Parkway, LLC, Case No. 16-11627-BTB. The
8 hourly rates recently approved for the other attorneys cited by Debtor's counsel are in fact both
9 lower and higher than the amount requested in the Fee Motion, suggesting that the rate requested
10 in the Fee Motion is well within the range of rates charged by the bankruptcy and non-
11 bankruptcy community.

12 The court also takes judicial notice of the order entered by Bankruptcy Judge Linda
13 Riegle on January 22, 2013, approving compensation at a \$450.00 hourly rate for attorney
14 Zachariah Larson in In re A.I.P. Limited Partnership, Case No. 12-18038-LBR. The court also
15 takes judicial notice of the order entered by Bankruptcy Judge Gregg Zive on March 2, 2012,
16 approving compensation at a \$575.00 hourly rate for attorney Candace Carlyon in In re Station
17 Casinos, Inc., Case No. 09-52477-GWZ. The court also takes judicial notice of the order entered
18 by Bankruptcy Judge Bruce Markell on March 13, 2013, approving compensation at a \$400.00
19 hourly rate for attorney Jeannette McPherson in In re Belcorp Resources, Inc., Case No. 12-
20 16650-BAM. These additional counsel also charged for their services in the past at rates both
21 higher and lower than the rate currently proposed by Debtor's counsel.

22 The court notes that all of the attorneys referenced above have extensive years of
23 experience in nonbankruptcy areas of practice, and also have represented both debtors and
24 creditors in consumer and business bankruptcy cases. Just as the hourly rates charged by
25 Debtor's counsel has fluctuated, usually increasing with the years of experience, the other
26 counsel's hourly rates also have fluctuated. Under these circumstances, the rates charged by the
27 attorneys suggested by Debtor's counsel, together with the rates approved by the bankruptcy
28 judges in this district for other counsel, are sufficiently reliable to establish the market rate for

1 bankruptcy services in the community. As the proposed rate for Debtor's counsel falls well
2 within that range of rates, the court concludes that the proposed rate is reasonable.

3 The court finds that the descriptions of the services rendered by Debtor's counsel are
4 sufficient for the court to understand the scope, necessity and time expended in this matter. The
5 court finds that the services rendered were not duplicative and were necessary to counsel's
6 representation of the Debtor. Nationstar does not object to any of the specific services set forth
7 in the billing statement. The court having found that the services provided were necessary and
8 that the \$500.00 hourly rate requested is appropriate, concludes that the professional
9 compensation and cost reimbursement requested in the Fee Motion is reasonable in this case.

10 **IT IS THEREFORE ORDERED** that the Order on Debtor's Renewed Motion to Hold
11 Creditor Nationstar Mortgage in Contempt and For Sanctions for Violation of the Discharge
12 Injunction 11 U.S.C. § 524(a)(2), Docket No. 174, is supplemented by the award of \$31,550.00
13 as attorneys fees and \$298.80 as costs advanced in favor of debtor Kim Michele Vanamann.

14 **IT IS FURTHER ORDERED** that the actual damages and fine previously set forth in
15 the prior Order on Debtor's Renewed Motion to Hold Creditor Nationstar Mortgage in Contempt
16 and For Sanctions for Violation of the Discharge Injunction 11 U.S.C. § 524(a)(2), Docket No.
17 174, as well as the attorneys fees and costs set forth in the instant supplemental order, shall be
18 paid by Nationstar Mortgage, LLC, **no later than 14 calendar days from the date of entry of**
19 **this supplemental order.**

20 **IT IS FURTHER ORDERED** that the payments required by this order shall be made
21 payable to and delivered to Christopher P. Burke, Esq., as counsel of record for debtor Kim
22 Michele Vanamann.

23 **IT IS FURTHER ORDERED** that the hearing on the Motion for Attorney Fees and
24 Costs, Docket No. 179, is **VACATED** from the court's calendar of October 5, 2016.

25
26 Copies sent to all parties via BNC and via CM/ECF ELECTRONIC FILING

27 Copies sent via BNC to:
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1 KIM MICHELE VANAMANN
2 5353 S. JONES BLVD. #1035
3 LAS VEGAS, NV 89118

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