


Honorable Mike K. Nakagawa
United States Bankruptcy Judge



Entered on Docket
May 09, 2023

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

* * * * *

In re:)	Case No.: 21-12657-MKN
)	Chapter 7
ROLANDO RAMIL JALLORES GO)	
aka ROLANDO RAMIL J. GO and)	
CHERRY ANN MACAISA TIJAM)	
aka CHERRY A.M. TIJAM)	Date: N/A
aka CHERRY M. TIJAM,)	Time: N/A
)	
Debtors.)	

**ORDER ON MOTION FOR ATTORNEY FEES AND COSTS FROM
ORDER ON MOTION FOR CONTEMPT (Dkt.#69)¹**

On December 10, 2021, Debtors in the above-captioned proceeding filed a Motion for Contempt for Violation of the Discharge Injunction 11 U.S.C. §524(a)(2) (“Contempt Motion”). (ECF No. 29). On January 12, 2022, the Contempt Motion was heard and taken under submission.

On June 29, 2022, the court entered an Order on Motion for Contempt for Violation of the Discharge Injunction 11 U.S.C. §524(a)(2) (“Contempt Order”). (ECF No. 41). The Contempt Order found secured creditor 21st Century Mortgage Corporation (“21st Century”) to have violated the Chapter 7 discharge injunction provided by Section 523(a)(2). The Contempt

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.

1 Order directed that an evidentiary hearing be conducted to determine the amount of any damages
2 appropriate in the matter.

3 On November 15, 2022, a trial regarding damages (“Damages Trial”) was conducted on
4 the Contempt Motion.

5 On March 17, 2023, a Memorandum Decision After Trial (“Damages Memorandum”) along with an Interim Order After Trial (“Interim Order”) were entered. (ECF Nos. 68 and 69).
6 The Damages Memorandum provided for Debtors’ counsel to submit appropriate evidence in
7 support of Debtors’ request for attorney’s fees and costs in this matter. After attorney’s fees and
8 costs are determined, a final order would be entered on the subject motion. The Interim Order
9 provided that Debtors’ counsel, Christopher P. Burke, Esq. (“Attorney Burke”), shall file and
10 serve an affidavit or declaration in support of the request for attorney’s fees and costs, along with
11 an itemized billing statement, by no later than March 30, 2023. Any objections, if any, must be
12 filed and served no later than April 14, 2023, and Debtors’ counsel may file and serve a reply, if
13 any, no later than five (5) court days thereafter. The Interim Order also indicated that unless
14 otherwise ordered by the court, no hearing would be held.²

15
16 On March 29, 2023, Attorney Burke filed the instant “Motion for Attorney Fees and
17 Costs From Order on Motion for Contempt (Dkt.#69)” (“Fee Motion”). (ECF No. 73). Included
18 with the Fee Motion is a supporting declaration of Attorney Burke along with a breakdown of
19 “Attorney Services Rendered” (“Billing Statement”).

20 On March 31, 2023, secured creditor 21st Century filed a “Notice of Attorney Death,”
21 indicating that attorney Mark Blackman had recently passed away and that 21st Century is
22 “working with its attorneys to review and determine how to handle the remaining matters
23 associated with this matter, including review of the [Fee Motion] filed by the Debtor’s counsel
24 on March 29, 2023.” (ECF No. 75).

25 On March 31, 2023, a stipulation was filed by 21st Century to extend the deadlines
26 outlined in the Interim Order. (ECF No. 76).

27
28 ² The Interim Order provides that after determination of the request for attorney’s fees and costs, a final order will be entered on the Contempt Motion.

1 On April 4, 2023, an order was entered granting an extension of time for any objections
2 to the Fee Motion to be filed with the court and served on Debtors' counsel no later than April
3 28, 2023, and any reply may be filed and served by May 12, 2023. (ECF No. 78).

4 On April 18, 2023, a substitution of attorney was filed by 21st Century, substituting
5 Terence Cushing, Esq., Michael Ayers, Esq., and Clark Vellis, Esq. of Quintairos, Prieto, Wood
6 & Boyer, as its attorney of record in the above-referenced bankruptcy case in place and instead
7 of Barrett Daffin Frappier Treder & Weiss, LLP. (ECF No. 79).

8 On April 27, 2023, substitute counsel for 21st Century filed an objection to the Fee
9 Motion ("Objection"). (ECF No. 82).

10 On May 8, 2023, Attorney Burke filed a reply. (ECF No. 83)

11 DISCUSSION

12 The Fee Motion requests an award of attorney fees on an hourly basis of \$34,153.00 and
13 paralegal fees of \$175.00, for a total amount of \$34,328.00. It also requests filing fees and other
14 costs totaling \$319.40. The total amount requested is \$34,647.40. Additionally, the Fee Motion
15 requests an enhancement of the fee request based on a 1.5 multiplier, i.e., that the attorney fee
16 amount be increased to \$51,229.50.

17 In its Objection, 21st Century maintains that no attorneys fees should be awarded at all,
18 that the amount requested on an hourly basis is unreasonable, and that an enhancement is
19 inappropriate. With respect to hourly fees, 21st Century disputes Attorney Burke's hourly rate of
20 \$595.00 an hour and questions the adequacy of the described services appearing in the Billing
21 Statement. Not surprisingly, 21st Century argues that a fee enhancement is not justified "for this
22 run-of-the-mill post-discharge contempt case."

23 The court previously found 21st Century in civil contempt for its attempts to enforce the
24 Secured Note. See Contempt Order at 13:16 to 14:18. The court also previously found that the
25 Debtors are entitled to recovery of compensatory damages and authorized the award of
26 attorney's fees and costs. See Damages Memorandum at 26:14-16. The instant Fee Motion
27 simply addresses the amount of attorney's fees and costs previously authorized.

1 The \$595.00 hourly rate charged by Attorney Burke is reasonable. The court has
2 considered his experience and qualifications, as well as the quality of the services performed.
3 Burke's hourly rates in similar matters have been approved in other bankruptcy cases in this
4 district.³ Comparable hourly rates have been approved for bankruptcy attorneys presenting
5 similar matters in this district.⁴ Attorney Burke's hourly rate is well within the range of the
6 amounts charged by experienced bankruptcy attorneys in the community. No evidence has been
7 offered by 21st Century suggesting that other similarly qualified professionals offer services at a
8 materially different rate for the same tasks.⁵

9 The Billing Statement filed in support of the Fee Motion sufficiently describes the time
10 incurred and the services provided in presenting the Contempt Motion on January 12, 2022, and
11 in prosecuting the Damages Trial on November 15, 2022, including the post-trial briefing and
12 closing argument that was completed on December 27, 2022.⁶ Having reviewed each of the time
13 entries, the court concludes that they are sufficient to evaluate the nature of the services
14

15 ³ See, e.g., In re Willie N. Moon and Adnette M. Gunnels-Moon, Case No. 13-12466,
16 Order After Remand, Docket No. 424, entered June 13, 2022; In re Kim Michele Vanamann,
17 Case No. 09-33809, Supplemental Order on Debtor's Renewed Motion to Hold Creditor
18 Nationstar Mortgage in Contempt and for Sanctions for Violation of the Discharge Injunction 11
U.S.C. § 524(a)(2), Docket No. 185, entered September 21, 2016.

19 ⁴ See, e.g., In re Debra Lynn Sivas, Case No. 21-15726, Order on Motion for
20 Determination of Whether Lloyd Winter, P.C. Willfully Violated the Discharge Injunction and
Request for Sanctions, Docket No. 50, entered October 28, 2022.

21 ⁵ 21st Century suggests that its previous counsel charged only \$210.00 an hour. See
22 Objection at 3 n.2. Although prior counsel was respected and well-qualified, the marketing
23 choices of other attorneys and their law firms shed little light on the value of services provided
by other counsel in comparable matters.

24 ⁶ 21st Century argues that the 5.8 hours of services between 12/04/21 and 12/10/21, the
25 3.7 hours between 01/03/22 and 01/05/22, and the 6.8 hours between 11/17/22 and 12/20/22, are
26 "block-billed" and do not include a sufficient description of each service performed. See
27 Objection at 4:3-6. Those services, however, were provided shortly before the major events in
28 presenting the Contempt Motion, i.e., the initial hearing on the Contempt Motion and the
Damages Trial. While there might be a concern about contemporaneous recording of the time
spent, the overall amounts of time appear to be reasonable. Under the circumstances, 21st
Century's "block-billing" objection is overruled.

1 provided. Based on that review, the court finds that the amount of time incurred to prepare and
2 argue the Contempt Motion was reasonable. Moreover, the amount of time incurred to prepare
3 and fully prosecute the Damages Trial also was reasonable.⁷

4 A fee enhancement is permissible but not warranted in these circumstances. Whatever
5 opportunity cost an attorney incurs in choosing to take a particular case over another case
6 typically is reflected by entry into a contingency fee arrangement or an hourly services
7 agreement with the client. Attorney Burke voluntarily chose to represent the Debtors over taking
8 on other work. The requested fee enhancement is denied.

9 Based on the foregoing,

10 **IT IS HEREBY ORDERED** that the Motion for Attorney Fees and Costs From Order
11 on Motion for Contempt (Dkt.#69), Docket No. 73, be, and the same hereby is, **GRANTED** in
12 the amount set forth below.

13 **IT IS FURTHER ORDERED** that professional fees in the amount of \$34,328.00 and
14 reimbursement of costs advanced in the amount of \$319.40 are awarded to the above-captioned
15 Debtors.

16 Copies sent via CM/ECF ELECTRONIC FILING

17 Copies sent via BNC to:
18 ROLANDO RAMIL JALLORES GO
19 CHERRY ANN MACAISA TIJAM
20 6223 E. SAHARA AVENUE, SPACE 122
LAS VEGAS, NV 89142

21
22 ###
23
24
25
26

27 ⁷ In the face of a successful prosecution of the Contempt Motion, it would be difficult to
28 present persuasive evidence that less time should have been expended to overcome 21st
Century's opposition.