


ORDERED.

Dated: March 15, 2019



Karen S. Jennemann
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION
www.flmb.uscourts.gov

In re)	
)	
SANDRA RODRIGUEZ,)	Case No. 6:17-bk-07927-KSJ
)	Chapter 13
Debtor.)	
_____)	

ORDER GRANTING ATTORNEYS' FEES

On February 11, 2019, the Court awarded unspecified damages for the Debtor and jointly against Andrew Robert Williams and his attorneys, Onda, Labuhn, Rankin & Boggs Co., LPA, for violating the automatic stay.¹ This order established a procedure for Debtor's attorneys to file affidavits to submit legal fees and costs the Debtor incurred in defending the improper lawsuit filed by Mr. Williams and his lawyers in Ohio. Mr. Williams and his lawyers were given a chance but failed to object to the requested damages.² Debtor now seeks damages of \$11,420 in attorneys' fees and costs she incurred in prosecuting her Motion for Sanctions Under §§ 105 and 362³ for

¹ Doc. No. 76.

² Doc. No. 76. Debtor's counsels were directed to submit fee affidavits on or before February 22, 2019. Any responses or objections were to be filed on or before March 8, 2019.

³ All references to the Bankruptcy Code refer to 11 U.S.C. §§ 101 *et. seq.*

Violation of the Automatic Stay and Contempt for Violation of Court Order.⁴ The Court will assess damages in the amount requested of \$11,420 and assess additional sanctions of \$1,500 against Mr. Williams for making a threatening phone call.

Debtor was represented by the law firms of Lewis & Monroe, PLLC and Michael Kahn, P.A from November 2, 2018, to February 4, 2019. Attorney James H. Monroe from the law firm of Lewis & Monroe was hired to represent the Debtor in this bankruptcy case. Mr. Monroe is asking for \$6,580 representing 18.8 hours at a \$350 average hourly rate.⁵ Attorney Michael Kahn is the lead attorney representing the Debtor in state court proceedings and assisted Mr. Monroe in prosecuting the sanctions motions. Mr. Kahn is asking for \$4,840 representing 12.1 at a \$400 average hourly rate.⁶ Neither Mr. Williams nor his lawyers objected to the fees requested.

The Court tested the fees sought by the Debtor's lawyers under the *Johnson* lodestar analysis that initially multiplies the attorney's reasonable hourly rate by the number of hours reasonably expended. A bankruptcy court can adjust and must explain the lodestar calculation, upward or downward, after considering the following twelve (12) factors laid out in *Johnson v. Georgia Highway Express, Inc.*:⁷

(1) The time and labor required; (2) the novelty and difficulty of the questions; (3) the skill requisite to perform the legal service properly; (4) the preclusion of other employment by the attorney due to acceptance of the case; (5) the customary fee; (6) whether the fee is fixed or contingent; (7) time limitations imposed by the client or the circumstances; (8) the amount involved and the results obtained; (9) the experience, reputation, and ability of the

⁴ Doc. No. 63.

⁵ Doc. No. 79.

⁶ Doc. No. 78.

⁷ 488 F.2d 714 (5th Cir. 1974) (abrogated on other grounds by *Blanchard v. Bergeron*, 489 U.S. 87, 92, 109 S. Ct. 939, 944, 103 L. Ed. 2d 67 (1989)).

attorneys; (10) the “undesirability” of the case; (11) the nature and length of the professional relationship with the client; and (12) awards in similar cases.⁸

Professionals, for example, must “exclude any excessive, unnecessary, or redundant hours from their fee applications.”⁹

Here, neither the average hourly rate nor the fees are disputed. After considering the *Johnson* factors, the Court finds that both fees are reasonable. Mr. Williams and his Ohio counsel, Patrick H. Boggs, directly violated automatic stay and the Agreed Order Modifying the Automatic Stay for a Limited Purpose.¹⁰ The automatic stay was modified and lifted to allow the state court to decide the Mr. Williams’ Joint Motion to Vacate.¹¹ Mr. Williams, upon losing at this hearing, then filed a complaint in a United States District Court in Ohio on October 26, 2018, seeking to overturn all matters adjudicated in the state court foreclosure.¹²

Mr. Williams and his Ohio counsel were contact by Debtor’s counsel as early as November 2018 to withdraw the complaint.¹³ The complaint was not properly withdrawn, and Mr. Williams continued to litigate these matters in direct violation of the automatic stay.¹⁴ On December 1, 2018, Debtor moved for Sanctions.¹⁵ On or about December 11, 2018, Mr. Williams made a threatening call to the Debtor stating that if she did not cooperate with the Ohio litigation, she would be

⁸ *Id.* at 714.

⁹ *In re Blue Stone Real Estate*, 487 B.R. 573, 577 (Bankr. M.D. Fla. 2013) (citing *Franklin v. Hartford Life Ins. Co.*, No. 8:07-cv-1400-T-23MAP, 2010 WL 916682, at *3 (M.D. Fla. March 10, 2010) and *ACLU of Ga. v. Barnes*, 168 F.3d 423 (11th Cir. 1999)).

¹⁰ *See* Doc. No. 58.

¹¹ *Id.*

¹² Debtor’s Exh. 1.

¹³ Debtor’s Exh. 3.

¹⁴ Debtor’s Exh. 4. Motion to Abate was withdrawn.

¹⁵ Doc. No. 63.

targeted. Because of these violations, Debtor's counsels had to prepare and attend the evidentiary hearing before this Court on February 4, 2019, where the Court ruled for the Debtor.

Accordingly, it is

ORDERED:

1. Debtor's request for attorney's fees of \$11,420 is **APPROVED**.
2. Andrew Robert Williams and his Ohio counsel, Patrick H. Boggs, are jointly and severally liable for \$11,420.
3. Sanctions are further awarded solely against Andrew Robert Williams for the threatening call made against the Debtor on or about December 11, 2018, for \$1,500.
4. Per diem interest will accrue on a simple, non-compounded rate of 2.55% starting on April 1, 2019.
5. Andrew Robert Williams and Patrick H. Boggs are directed to pay in full the amount awarded in this Order to counsel for the Debtor, James Monroe, no later than April 26, 2019.
6. If the full amount awarded is not timely paid, the Court, on request, will enter a separate Final Judgment upon which execution shall lie.
7. This Court reserves the right to impose additional sanctions on Mr. Williams if he continues to violate the automatic stay and/or contact the Debtor directly or indirectly.

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The Clerk is directed to serve a copy of this order on all interested parties.