

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

IN RE:

Case No.: 6:07-bk-02364-ABB
Chapter 7

DAMIAN DIAZ and LAURA DIAZ,

Debtors.

CIT SMALL BUSINESS LENDING
CORPORATION,

Plaintiff,

v.

Adv. Pro. No.: 6:07-ap-00196-ABB

DAMIAN DIAZ and LAURA DIAZ,

Defendants.

ORDER

This matter came before the Court on the Affidavit of Attorney's Fees and Costs (Doc. No. 30) filed by Perla & Associates, P.A. ("Perla"), counsel for the Debtors/Defendants Damian Diaz and Laura Diaz. A Memorandum Opinion and Judgment were entered on September 23, 2008 (Doc. Nos. 26, 27) holding the Debtors/Defendants are entitled to an award of reasonable attorney's fees pursuant to Florida Statute Section 57.105(7). The time period for seeking reconsideration or appeal of the Memorandum Opinion and Judgment has passed. The Memorandum Opinion and Judgment constitute a final non-appealable judgment.

Perla incurred attorney's fees of \$7,617.50 and costs of \$0.00 for services performed relating to this adversary proceeding. The Affidavit details 27.7 total hours billed at the hourly rate of \$275.00. The Affidavit does not set forth whether the Debtors paid such fees to Perla.

The reasonableness of attorney fees and costs is determined through an examination of the criteria enunciated in In the Matter of First

Colonial Corp. of America¹ and Johnson v. Georgia Highway Express, Inc.² After consideration of the First Colonial and Johnson factors, the reasonable number of hours for the services performed by Perla is 27.7 at a rate of \$275.00 per hour for a total fee award of \$7,617.50. Attorney's fees of \$7,617.50 are due to be awarded to the Debtors/Defendants and Perla pursuant to Florida Statute Section 57.105(7) and In re Woollacott, 211 B.R. 83, 87 (Bankr. M.D. Fla. 1997).

Accordingly, it is

ORDERED, ADJUDGED AND DECREED that attorney's fees of \$7,617.50 are hereby awarded to Perla & Associates, P.A. and Damian Diaz and Laura Diaz and against the

¹ The Fifth Circuit Court of Appeals in In the Matter of First Colonial Corp. of America, 544 F.2d 1291, 1299 (5th Cir.1977) stated:

In order to establish an objective basis for determining the amount of compensation that is reasonable for an attorney's services, and to make meaningful review of that determination possible on appeal, we held in Johnson v. Georgia Highway Express, Inc., 488 F.2d at 717-19, that a district court must consider the following twelve factors in awarding attorneys' fees

² The Fifth Circuit Court of Appeals in Johnson v. Georgia Highway Express, Inc., 488 F.2d 714, 717-19 (5th Cir. 1974) set forth twelve factors for determining reasonable compensation:

- (1) the time and labor required;
- (2) the novelty and difficulty of the questions involved;
- (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 attorneys;
- (10) the "undesirability" of the case;
- (11) the nature and the length of the professional relationship with the client;
- (12) awards in similar cases.

Plaintiff CIT Small Business Lending Corporation pursuant to Florida Statute Section 57.105(7).

A separate Judgment consistent with these findings and rulings shall be entered contemporaneously.

Dated this 7th day of October, 2008.

/s/Arthur B. Briskman
ARTHUR B. BRISKMAN
United States Bankruptcy Judge

NOT FOR PUBLICATION