

Attorney fees
Sanctions
LBR 7007-1(a)
Jurisdiction
LBR 9013-1(b)
LBR 9021-1(d)(3)
Fed. R. Bankr. P. 7037
28 U.S.C. § 1927
Fed. R. Bankr. P. 9011
Inherent Authority

Szanto v. Szanto, Adversary No. 16-3114-pcm
In re Szanto, Case No. 16-33185-pcm7

03/10/2020 pcm

Unpublished

In this adversary proceeding, the debtor filed an adversary proceeding against his family members alleging many claims for damages. The defendants counterclaimed for wrongful use of civil proceedings, and asked the court to declare the debtor a vexatious litigant. The court granted defendants' motion for summary judgment on all of the debtor's claims. After a trial on the counterclaims, it found that the debtor had wrongfully used civil proceedings and declared the debtor a vexatious litigant.

The defendants then sought their attorney fees in defending against the debtor's claims and in prosecuting their counterclaims. The court granted the fees and costs in part.

The debtor raised procedural and substantive arguments. The court held that, although it is unclear whether the pre-filing conferral certification required by LBR 7007-1(a) is required for an application for attorney fees as a sanction, if it is required, the court is not required to deny a motion that fails to include the certification. The court declined to exercise its discretion to deny the application for fees under this rule.

The court rejected the debtor's argument that it lacks jurisdiction to act on the request for fees because the underlying judgment is on appeal. An appeal does not deprive the court of jurisdiction to rule on ancillary matters such as attorney fees.

The court rejected the debtor's argument that the fees must be denied because the defendants failed to give notice of their motion as required by LBR 9013-1(b). That rule applies only to contested matters, and this request for fees arises in an adversary proceeding.

Next, the court rejected the debtor's argument that the defendants waived their right to fees by failing to reply to the debtor's objection to the request. LBR 9021-1(d)(3) allows a party to reply to an objection to a cost bill and provides that, if no objection is filed to a cost bill, the costs may be taxed. The court noted that OBR 9021-1(d) applies to an application for fees and costs as a prevailing party, not to a request for fees and costs as a sanction.

On the merits, the court denied the fees and costs as a discovery sanction under Fed. R. Civ. P. 37(c)(2). Rule 37(c) allows a party to move for reasonable expenses if the other party fails to admit facts that are later proven to be true. Some of the debtor's claims in this adversary proceeding were dismissed because they were barred by the statute of limitations, or for failure to state a claim, not because the denied facts were proved to be true. In addition, even if all of the facts in the requests for admission had been admitted, it is unclear whether the defendants could have avoided the costs of filing their motion for summary judgment. Therefore, they would have incurred the expenses even if the facts had been admitted.

Defendants are not entitled to their attorney fees under 28 U.S.C. § 1927. Although that section applies to pro se litigants such as the debtor, in the Ninth Circuit the bankruptcy court is not authorized to impose sanctions under this statute.

Defendants are not entitled to their fees under Fed. R. Bankr. P. 9011 because they did not file a separate motion as required by the rule, nor did they comply with the safe harbor provision of the rule.

The court awarded the defendants part of their attorney fees and costs as sanctions using the court's inherent authority. The bankruptcy court has inherent authority to impose sanctions for a litigant's bad faith conduct. The debtor had adequate notice that sanctions were being sought for his vexatious, bad faith conduct, and his actions in this case justify an award of the fees and costs the defendants incurred in defending against the debtor's claims. The court did not award fees and costs incurred in prosecuting the defendant's counterclaims against the debtor. The court set out categories of fees and costs that were not allowed, and awarded approximately half of the fees and costs requested.

Below is an opinion of the court.



PETER C. MCKITTRICK
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

In Re:)
PETER SZANTO,) Bankruptcy Case No.
) 16-33185-pcm7
Debtor.)
_____)
PETER SZANTO,) Adversary No. 16-3114-pcm
)
Plaintiff,)
)
v.)
) MEMORANDUM OPINION¹
EVYE SZANTO, VICTOR SZANTO, NICOLE)
SZANTO, KIMBERLEY SZANTO, MARIETTE)
SZANTO, ANTHONY SZANTO, AUSTIN)
BELL, JOHN BARLOW, and BARBARA)
SZANTO ALEXANDER,)
Defendants.)
_____)

Defendants have filed two motions for attorney fees in this
adversary proceeding. First, on May 31, 2018, they filed an Application

¹ This disposition is specific to this case and is not intended
for publication or to have a controlling effect on other cases. It may,
however, be cited for whatever persuasive value it may have.

1 for Attorney's Fees. Doc. 387. This followed the court's entry of
2 judgment against plaintiff after defendants were granted summary judgment
3 on all of plaintiff's claims. Second, on December 11, 2019, they filed
4 their Second Motion for Attorney's Fees, seeking all fees incurred in
5 this adversary proceeding. Doc. 583. This followed the court's entry of
6 judgment for defendants after the trial on their counterclaims. They
7 request a total of \$267,663.50 in fees and \$24,682.02 in costs, for a
8 total of \$292,345.52. For the reasons explained below, I will exercise
9 the court's inherent authority to award as a sanction attorney fees in
10 the amount of \$134,166.50 and \$13,242.47 for costs and expenses.

11 Plaintiff filed three responses to the initial Application for
12 Attorney's Fees. Doc. 392, 393, 401, and one response to the Second
13 Motion for Attorney's Fees, Doc. 604. The court has reviewed the
14 applications and responses, and concludes that the matter can be decided
15 without oral argument.²

16 Plaintiff raises a number of procedural arguments, which I will
17 address before addressing his substantive arguments.

18 First, plaintiff seeks denial of the fees because defendants failed
19 to include the conferral certification required by LBR 7007-1(a). Doc.
20 392.

21 Plaintiff is correct that defendants' first application for attorney
22 fees - and the second application as well - fail to include a pre-filing
23 conferral certification. It is not entirely clear that the conferral
24 certification of LBR 7007-1(a) applies to applications for attorney fees

26 ² Neither party requested oral argument.

1 and expenses sought by a party as sanctions in an adversary proceeding.
2 Assuming that it does, LBR 7007-1(a)(2) allows the court to deny a motion
3 that fails to include the certification; it does not require denial on
4 that basis. I decline to exercise my discretion to deny defendants'
5 applications on the basis of lack of a conferral certification.

6 Second, plaintiff argues that, because the underlying judgment in
7 this adversary proceeding is on appeal, this court lacks jurisdiction to
8 act on the fee request. Doc. 393. Plaintiff is wrong. Although a
9 notice of appeal divests the trial court of jurisdiction over the subject
10 matter of the appeal, it does not prevent the court from deciding
11 ancillary matters such as requests for attorney fees. Masalosaló v.
12 Stonewall Ins. Co., 718 F.2d 955, 956-57 (9th Cir. 1983). Therefore,
13 this court has jurisdiction to rule on the request for attorney fees,
14 even though the judgment is on appeal.

15 Next, plaintiff claims that this court's "murderous rage" toward him
16 deprives the court of jurisdiction to consider the fee application. Doc.
17 604. Plaintiff's assertion that this court has exhibited such conduct
18 toward plaintiff or any other party is belied by the record in this case.
19 The court has jurisdiction to decide whether to award attorney fees and
20 costs in this adversary proceeding.

21 Fourth, plaintiff argues that the application for fees must be
22 denied because defendants failed to give the notice of motion required by
23 LBR 9013-1(b). That rule by its terms applies only in contested matters.
24 This motion for fees and costs is a part of the adversary proceeding.
25 Therefore, the rule does not apply. Plaintiff received notice of the
26 motion through ECF, based on his request, which the court granted, to be

1 an electronic filer.³

2 Fifth, he argues that the application for fees and costs must be
3 denied because defendants waived their right to fees and costs requested
4 in the original application when they did not reply to his objection to
5 that request. He reasons that LBR 9021-1(d)(3)(A) allows a party to
6 reply to any objection to a cost bill within 14 days. LBR 9021-
7 1(d)(3)(B) provides that, if there is no objection filed, the costs
8 requested may be taxed. He also argues that the fees and costs must be
9 denied because the cost bill was not verified as required by LBR 9021-
10 1(d)(2).

11 Defendants seek their fees and expenses as a sanction for
12 plaintiff's bad faith and vexatious behavior, not as fees and costs to be
13 allowed to a prevailing party pursuant to Fed. R. Civ. P. 54(d), made
14 applicable through Fed. R. Bankr. P. 7054(b). Thus, LBR 9021-1(d)
15 relating to objections to a cost bill and the verification of a bill of
16 costs does not apply. Nor does 28 U.S.C. § 1924, which relates to "the
17 taxing of conventional costs as defined in Section 1920 of Title 28, and
18 does not purport to limit the imposition of penalties beyond the ordinary
19 costs" as a sanction. Schauffler v. United Ass'n of Journeymen &
20 Apprentices, 246 F.2d 867, 870 (3d Cir. 1957). Defendants filed
21

22
23 ³ Plaintiff complains that the court struck a document he filed
24 in the main case, Doc. 622 in Case No. 16-33185-pcm7, for failure to
25 comply with LBR 9013-1(b). As I explained in the Order Granting Doc. 883
26 in plaintiff's main bankruptcy case, the court vacated the order striking
the offending document less than a week after it was stricken. Case No.
16-33185-pcm7, Doc. 885. At the time the clerk struck the document, the
rule was new and there was initial confusion in the clerk's office as to
whether to strike documents that failed to include the Notice of Motion.

1 itemizations of their fees and costs, along with declarations signed
2 under penalty of perjury⁴ setting out the time spent by counsel working
3 on the case and the fees incurred in the matter. Therefore, LBR 9021-
4 1(d) does not support denial of defendants' motion for fees and expenses.

5 I turn now to the merits of the motions.

6 The initial request for attorney fees cited two bases for an award:
7 Fed. R. Bankr. P. 7037, which makes Fed. R. Civ. P. 37 applicable in
8 adversary proceedings, and 28 U.S.C. § 1927. The second request for fees
9 incorporated those two bases and added others: Fed. R. Bankr. P. 9011, 11
10 U.S.C. § 105, and the court's inherent authority.

11 Generally, under the American Rule, a prevailing party in federal
12 court is not entitled to an award of attorney fees. See Alyeska Pipeline
13 Serv. Co. v. Wilderness Society, 421 U.S. 240, 247 (1975). A court may
14 award fees if a contract or specific statute provides for a shifting of
15 fees, or as a sanction for bad faith. See In re Macke Intern. Trade,
16 Inc., 370 B.R. 236, 249 n.11 (9th Cir. BAP 2007). Here, defendants seek
17 to shift their fees to plaintiff based on a discovery sanction rule and
18 as a sanction for plaintiff's vexatious, bad faith conduct.

19 1. Discovery Sanctions under Fed. R. Civ. P. 37

20 Defendants assert that they are entitled to attorney fees under Fed.

21 _____
22 ⁴ Plaintiff also argues that counsel's declaration is
23 insufficient to support the request for fees and costs, because 28 U.S.C.
24 § 1924 requires an affidavit. As I have explained, section 1924 does not
25 apply to a request for fees and expenses as a sanction for bad faith
26 conduct. In any event, the use of a declaration instead of an affidavit
is specifically allowed by statute. 28 U.S.C. § 1746 provides that,
whenever a federal statute or rule requires that facts be supported by an
affidavit, with limited exceptions, the support may be provided by a
declaration signed under penalty of perjury.

1 R. Civ. P. 37(c)(2), because plaintiff failed to admit certain facts in
2 defendants' requests for admissions that were later proven to be true.

3 Rule 37(c)(2) provides:

4 If a party fails to admit what is requested under Rule 36 and if the
5 requesting party later proves a document to be genuine or the matter
6 true, the requesting party may move that the party who failed to
admit pay the reasonable expenses, including attorney's fees,
incurred in making that proof.

7 The court must order payment of expenses including fees, unless certain
8 facts exist. Fed. R. Civ. P. 37(c)(2)(A)-(D).

9 Defendants served plaintiff with requests for admission on February
10 27, 2017. Plaintiff responded on March 29, 2017. After a hearing on
11 defendants' motion to deem plaintiff's responses as admissions, the court
12 entered an order deeming plaintiff's responses as denials of the truth of
13 the facts set out in the requests for admission. Doc. 122.

14 The requests for admission on which defendants rely for this request
15 for sanctions are Requests No. 2 through 15, all of which were deemed
16 denied. These requests all sought admissions that plaintiff's claims
17 were unfounded. Defendants argue that many of the requests were proven
18 true when the court entered summary judgment on all of plaintiff's
19 claims. See Doc. 368, 370. Therefore, they argue, they are entitled to
20 their fees and costs in proving those matters true.

21 I will not award costs and attorney fees under Rule 37(c)(2).
22 First, some of the claims that were dismissed on summary judgment were
23 dismissed not because of lack of proof, but because they were barred by
24 the statute of limitations (conversion claim (Doc. 368 at p.9) and
25 emotional distress claim (id. at 26)), or for failure to state a claim
26 (conversion of real property claim (id. at 10), fraud claim (id. at 21),

1 and conspiracy claim (id. at 22 - there is no independent claim for
2 conspiracy)). Although plaintiff also failed to produce evidence in
3 support of these claims, lack of proof was not the basis for the ruling
4 on all of the claims for relief. Defendants are not entitled to their
5 attorney fees and costs for establishing facts that plaintiff denied,
6 where the lack of proof did not provide the basis for dismissal.

7 Second, even if plaintiff had admitted all of the facts for which
8 defendants sought admissions, it is not clear that defendants could have
9 avoided the costs of filing a motion for summary judgment. It is
10 doubtful at best that, had plaintiff admitted the facts in the request
11 for admissions, plaintiff would have voluntarily dismissed this
12 complaint. Defendants would have still needed to file a motion for
13 summary judgment, with all of the expense that entails, in order to
14 obtain dismissal of plaintiff's claims. Therefore, the expenses they
15 seek in this request for attorney fees would have been incurred even if
16 plaintiff had made the admissions as requested. See Mane v. Tri-City
17 Healthcare Dist., 2007 WL 935624 (S.D. Cal. 2007) (no award of expenses
18 where party would have had to file motion for summary judgment even if
19 the requests had been admitted).

20 I conclude that defendants are not entitled to their attorney fees
21 and costs under Rule 37(c)(2).

22 2. 28 U.S.C. § 1927

23 Defendants assert that they are entitled to their fees in this
24 adversary proceeding under 28 U.S.C. § 1927, which provides:

25 Any attorney or other person admitted to conduct cases in any court
26 of the United States or any Territory thereof who so multiplies the
proceedings in any case unreasonably and vexatiously may be required

1 by the court to satisfy personally the excess costs, expenses, and
2 attorneys' fees reasonably incurred because of such conduct.

3 They list a number of actions plaintiff took in connection with the case
4 that they say shows that plaintiff acted unreasonably and vexatiously.

5 Plaintiff argues that section 1927 does not apply to pro se
6 litigants. Although there is case law in other circuits holding that 28
7 U.S.C. § 1927 does not apply to pro se litigants because they are not
8 persons "admitted to conduct cases" in federal courts, see Meadowbriar
9 Home for Children, Inc. v. Gunn, 81 F.3d 521 (5th Cir. 1996) (under
10 section 1927, fees may be awarded only against attorneys or those
11 admitted to practice before the court); Sassower v. Field, 973 F.2d 75
12 (2nd Cir. 1992) (section 1927 does not apply to non-attorney litigants),
13 the Ninth Circuit has held that section 1927 does authorize an award of
14 fees and costs against pro se litigants. See Wages v. I.R.S., 915 F.2d
15 1230, 1236-37 (9th Cir. 1990). Accord Sanai v. Sanai, 2005 WL 8172668
16 (W.D. Wash. 2005) (Wages is still good law); Harrell v. Hornbrook
17 Community Svcs. Dist., 778 Fed. Appx. 472 (9th Cir. 2019) (citing Wages
18 in support of affirming award of sanctions under § 1927 against a pro se
19 litigant). I am bound to follow Ninth Circuit authority, and therefore
20 conclude that section 1927 applies to plaintiff as a pro se litigant.⁵

21 Nonetheless, defendants are not entitled to an award of their fees
22 and costs under this statute. Although there is not nationwide agreement
23 on the issue, in the Ninth Circuit, bankruptcy courts are not authorized
24

25 ⁵ Because plaintiff is wrong that the statute does not apply to
26 pro se litigants, he is wrong that defendants' counsel violated the
ethics rules by arguing that the statute applies to pro se litigants.

1 to impose sanctions under section 1927. See In re Perroton, 958 F.2d
2 889, 895-96 (9th Cir. 1992). This is because the statutory definition of
3 "court of the United States" set out in 28 U.S.C. § 451, which applies to
4 United States Code title 28, refers to federal courts, "the judges of
5 which are entitled to hold office during good behavior." In Perroton,
6 the court held that this language means Article III courts, not Article I
7 courts such as the bankruptcy court. Thus, the court held that
8 bankruptcy courts are not authorized to grant in forma pauperis status
9 under 28 U.S.C. 1915(a).

10 The Ninth Circuit Bankruptcy Appellate Panel has recognized that
11 this interpretation of the definition of "court of the United States" in
12 section 451 applies equally to use of the same phrase in 28 U.S.C.
13 § 1927, and therefore bankruptcy courts are not authorized to sanction
14 under that statute. See, e.g., In re Sandoval, 186 B.R. 490, 495-96 (9th
15 Cir. BAP 1995) (recognizing that the court's reasoning in Perroton
16 applies equally to sanctioning authority under section 1927); In re
17 Patmont Motor Werks, Inc., 2018 WL 4844777 at *8 n.8 (9th Cir. BAP 2018)
18 (unpublished) (recognizing that sanctions under section 1927 are not
19 available in bankruptcy courts). Although there are good arguments why
20 bankruptcy courts should be authorized to award sanctions under that
21 statute, see In re Loyd, 304 B.R. 372, 374-378 (9th Cir. BAP 2003)
22 (Klein, J., dissenting), we are bound by the Ninth Circuit's ruling in
23 Perroton.

24 Defendants argue that bankruptcy courts are authorized to award
25 attorney fees as sanctions under section 1927, citing In re Yochum, 89
26 F.3d 661 (9th Cir. 1996). In that case, the court held that bankruptcy

1 courts are "courts of the United States" authorized to award attorney
2 fees in tax litigation pursuant to 26 U.S.C. § 7430. That statute
3 authorizes an award of litigation costs in a "court proceeding," which is
4 defined as "any civil action brought in a court of the United States
5 (including the Tax Court and the United States Claims Court)." 26 U.S.C.
6 § 7340(c)(6). The court concluded that the definition did not exclude
7 bankruptcy courts. 89 F.3d at 670. However, the court specifically
8 distinguished Perroton, because the definition of "courts of the United
9 States" set out in 28 U.S.C. § 451, on which Perroton was based, does not
10 apply to the Internal Revenue Code, which was at issue in Yochum.

11 Therefore, this court may not award defendants their attorney fees
12 and expenses pursuant to 28 U.S.C. § 1927.

13 3. Bankruptcy Rule 9011

14 Defendants also ask that their fees and costs be awarded for
15 plaintiff's violation of Fed. R. Bankr. P. 9011(b), based on plaintiff's
16 filing of a frivolous complaint to commence this adversary proceeding.

17 Rule 9011 allows a court to award sanctions against an attorney or
18 pro se litigant who files an unfounded or frivolous motion or pleading
19 with the court. "A motion for sanctions under this rule shall be made
20 separately from other motions or requests[.]" Fed. R. Bankr. P.
21 9011(c)(1). Further, the rule contains a safe harbor; a motion for
22 sanctions under Rule 9011 may not be filed unless the moving party has
23 first served the motion on the offending party and that party has not,
24 within 21 days, withdrawn or corrected the challenged document. Fed. R.
25 Bankr. P. 9011(c)(1)(A).

26 Defendants did not file their Rule 9011 motion separately from other

1 motions; they simply included the rule as authority in support of their
2 motion for attorney fees. Further, there is nothing in the record that
3 would indicate that they served the motion on plaintiff at the outset of
4 the case, giving him 21 days to withdraw his adversary complaint.
5 Because defendants failed to comply with the separate motion and safe
6 harbor provisions of the rule, they are not entitled to receive their
7 fees and costs as sanctions under Rule 9011. See In re Deville, 280 B.R.
8 483 (9th Cir. BAP 2002), aff'd, 361 F.3d 539 (9th Cir. 2004)(reversing
9 award of sanctions under Rule 9011 when applicant failed to comply with
10 procedural requirements of the rule).

11 4. Inherent Authority and 11 U.S.C. § 105

12 Defendants also rely on the court's inherent authority and 11 U.S.C.
13 § 105 in support of their request for attorney fees and expenses.

14 Federal courts, including bankruptcy courts, have inherent authority
15 to impose sanctions for a litigant's bad faith conduct. Chambers v.
16 NASCO, Inc., 501 U.S. 32 (1991) (federal courts have inherent authority
17 to sanction); In re Rainbow Magazine, Inc., 77 F.3d 278 (9th Cir. 1996)
18 (bankruptcy courts have inherent authority to sanction bad faith
19 conduct). This authority includes assessing attorney fees against the
20 offending party. Chambers, 501 U.S. at 45. The inherent power to
21 sanction "must be exercised with restraint and discretion." Id. at 44.
22 The award must be compensatory, not punitive, in nature. Goodyear Tire &
23 Rubber Co. v. Haeger, 137 S.Ct. 1178, 1186 (2017).

24 To impose sanctions under the court's inherent authority, I must
25 find that plaintiff acted "in bad faith, vexatiously, wantonly, or for
26 oppressive reasons," Chambers, 501 U.S. at 45-46, or has delayed or

1 disrupted litigation or "taken actions in the litigation for an improper
2 purpose." Fink v. Gomez, 239 F.3d 989, 992 (9th Cir. 2001). The court
3 must explicitly find that the conduct was in bad faith. Primus Auto.
4 Fin. Servs., Inc. v. Batarse, 115 F.3d 644, 648 (9th Cir. 1997). "A
5 finding of bad faith is warranted where [the party] 'knowingly or
6 recklessly raises a frivolous argument, or argues a meritorious claim for
7 the purpose of harassing an opponent.'" Id. at 649. When the court
8 shifts fees, it may "shift only those attorney's fees incurred because of
9 the misconduct at issue." Goodyear Tire & Rubber Co., 137 S.Ct. at 1186.
10 Where a party's conduct is sufficiently egregious, the court may order
11 payment of all reasonable attorney fees and expenses incurred by the
12 party's adversary. Id. at 1187-88; DeVille, 280 B.R. at 496.

13 The first question is whether defendants' motions for fees and costs
14 provided adequate notice that the fees were being sought as a sanction
15 under the court's inherent authority. To comport with due process,
16 plaintiff must have received

17 notice that was reasonably calculated under all the circumstances to
18 apprise [him] of the pendency of the action and afford [him] an
19 opportunity to present [his] objections. . . . Generally, the
notice regarding sanctions must specify the authority for the
sanction, as well as the sanctionable conduct.

20 DeVille, 280 B.R. at 496 (internal citation omitted).

21 Here, defendants asserted a right to attorney fees in their
22 counterclaims, which were filed nearly three years ago, in March 2017.
23 Doc. 66. In addition, defendants' first Application for Attorney's Fees
24 and Costs, Doc. 387, sought their fees and costs under 28 U.S.C. § 1927
25 as a sanction for plaintiff's "unreasonable and vexatious conduct,"
26 setting out eleven categories of actions they claim support the sanction.

1 Their Second Motion for Attorney's Fees and Costs, Doc. 583, states that
2 they are seeking their attorney fees and costs as sanctions for
3 plaintiff's bad faith conduct under a number of sources of authority,
4 including section 1927 and the court's inherent authority. Although
5 defendants do not separately articulate plaintiff's specific conduct that
6 is sanctionable under this court's inherent authority, they do so in
7 their discussion of why sanctions should be imposed under 28 U.S.C.
8 § 1927.

9 The standards for awarding sanctions under section 1927 and the
10 court's inherent authority are functionally the same. "Sanctions
11 pursuant to section 1927 must be supported by a finding of subjective bad
12 faith." New Alaska Dev. Corp. v. Guetschow, 869 F.2d 1298, 1306 (9th
13 Cir. 1989). The conduct that constitutes bad faith for purposes of
14 section 1927 - knowingly or recklessly raising frivolous arguments,
15 arguing a meritorious claim for purpose of harassment, using tactics with
16 the intent of increasing expenses - is essentially the same type of
17 conduct that supports invoking the court's inherent authority to impose
18 sanctions. See id. (setting out conduct that constitutes bad faith under
19 section 1927); Baker v. Urban Outfitters, Inc., 431 F.Supp.2d 351, 361
20 (S.D.N.Y. 2006) (bad faith finding for sanction under inherent power is
21 similar to that under section 1927).

22 Defendants argue that plaintiff's conduct in this adversary
23 proceeding was unreasonable and vexatious, and that plaintiff filed a
24 frivolous case, warranting sanctions under the court's inherent
25 authority. Because that argument was more fully articulated in their
26 discussion of section 1927, and the same bad faith finding is required to

1 support an imposition of sanctions under both section 1927 and inherent
2 power, defendants' motions and counterclaim provided adequate notice that
3 they were seeking their attorney fees and costs under the court's
4 inherent authority. Plaintiff was on notice that defendants were seeking
5 sanctions for his bad faith conduct under section 1927 and the court's
6 inherent authority. Defendants adequately described the conduct that
7 warrants sanctions under section 1927. Because that same conduct
8 supports an award of sanctions under the court's inherent authority, it
9 provides adequate notice.

10 Plaintiff had the opportunity to be heard; he filed responses to
11 each request for fees and costs, Doc. 401, 604, arguing that an award of
12 fees and costs should not be made for various reasons, including that he
13 did not engage in the conduct defendants listed in their motions.

14 Thus, I conclude that defendants' counterclaim and motions provided
15 adequate notice that they were seeking sanctions under the court's
16 inherent authority based on plaintiff's bad faith conduct, including the
17 filing of a frivolous complaint. Plaintiff had the opportunity to
18 respond to the specific allegations made by defendants before sanctions
19 were imposed, and in fact he did so respond.

20 The second issue is whether plaintiff's conduct warrants an award of
21 sanctions. Plaintiff argues that defendants' list of instances of bad
22 faith conduct is not specific enough to apprise him of what conduct is at
23 issue. He complains that defendants say in their brief that they will
24 provide specific citations to each instance of misconduct on request. He
25 then argues that he did not do any of the things defendants list as bad
26 faith conduct, and that he needs discovery and an evidentiary hearing on

1 the specific accusations.

2 Although it is true that defendants' lists of instances of
3 unreasonable and vexatious conduct are somewhat general and listed by
4 category, plaintiff is well aware of the many instances and facts that
5 demonstrate that this litigation was abusive and his conduct was
6 vexatious. This court has observed and been called upon to act on many
7 instances of misconduct that fit within those categories, as plaintiff
8 well knows. The filing of this frivolous adversary proceeding and
9 plaintiff's conduct of the litigation were among the factors that caused
10 this court to enter a pre-filing vexatious litigant order against
11 plaintiff. See Memorandum Opinion/Report and Recommendation, Doc. 571.
12 I found that plaintiff had no objective good faith expectation that he
13 would prevail in this and previous actions against his family members,
14 that plaintiff has been untruthful, that he filed litigation for the
15 purpose of harassing his family members, that he has filed motion after
16 motion, failed to follow rules of discovery, and falsified documents.
17 Id. It can be no surprise to plaintiff that his conduct forms the basis
18 for a request for sanctions.

19 The list all of plaintiff's frivolous and unwarranted actions that
20 have both caused defendants to incur costs of responding and required
21 wasted effort by the court are too numerous to list in their entirety.
22 The court has had to rule on several of plaintiff's arguments and motions
23 that were based more on personal attacks on the parties, lawyers, and the
24 court than on any cogent legal theory. I have found that the filing of
25 the complaint in this adversary proceeding was frivolous. Plaintiff was
26 sanctioned for discovery violations. Doc. 163. Plaintiff filed many

1 motions to extend time for filing documents or to set over hearings, most
2 of which were denied. E.g., Doc. 114 (denied Doc. 116); Doc. 137 (denied
3 Doc. 143); Doc. 294 (denied Doc. 295). He sought reconsideration of
4 rulings of the court, which were denied. E.g., Doc. 18 (denied Doc. 19);
5 Doc. 174 (denied Doc. 194). He raised frivolous objections to forms of
6 order submitted by defendants' counsel. E.g., Doc. 79 (overruled Doc.
7 83); Doc. 177 (order entered Doc. 179); Doc. 178 (order entered Doc.
8 183); Doc. 204 (order entered Doc. 208). He sought Rule 9011 sanctions
9 against defendants' counsel based on the form of order submitted to the
10 court, Doc. 130, which the court denied. Doc. 132. He sought to file
11 counterclaims against defendants' counterclaims, Doc. 97, causing the
12 court to strike the document as an improper pleading. Doc. 136. He
13 sought to vacate defendants' litigation privileges, Doc. 336, which was
14 denied. Doc. 411. He moved to correct clerical mistakes, Doc. 355,
15 which the court denied as frivolous. Doc. 359. He moved to supplement
16 his complaint, Doc. 352, which the court denied, finding that the motion
17 was an attempted end run around the court's ruling on a previous motion,
18 and filed only to delay the proceedings. Doc. 360.

19 These are just a few of the frivolous, unfounded documents and
20 arguments plaintiff filed in this adversary proceeding. Plaintiff's
21 conduct in this adversary proceeding is the most egregious, abusive
22 conduct this court has observed, both on the bench and as an attorney.
23 Plaintiff's filings are often abusive and vitriolic, and without basis in
24 law or fact. Plaintiff has multiplied the proceedings by filing numerous
25 unfounded motions and sought to delay the proceedings and increase costs.
26 Based on the fact that the complaint itself was frivolous and without any

1 objective basis as well as plaintiff's conduct during the course of the
2 adversary proceeding in filing motions and documents that lacked merit
3 and were filed only to create delay or confusion, all of which caused
4 defendants substantial attorney fees and expenses that should never have
5 been necessary, I conclude that this is an exceptional case and that
6 defendants are entitled to an award of all of their reasonable attorney
7 fees and expenses in defending against plaintiff's complaint.⁶ Plaintiff
8 initiated this "case in complete bad faith, so that every cost of defense
9 is attributable only to sanctioned behavior[.]" Goodyear Tire & Rubber
10 Co., 137 S.Ct. at 1188.

11 The court has considered plaintiff's other arguments and rejects
12 them without discussion.

13 The final issue is the amount of fees and costs the court should
14 award. Defendants seek all of the fees and expenses incurred in this
15 adversary proceeding, as well as fees and expenses incurred in related
16 matters. It is reasonable to award the fees and expenses incurred in
17 defending against plaintiff's complaint. However, there are categories
18 of fees and costs that I will disallow. What follows is an explanation
19 of the disallowed fees and expenses, as well as the code for that reason
20 that is used in the attached exhibits to indicate the reason for
21 disallowance.

22
23 ⁶ Although it is doubtful that this sanctions award will deter
24 plaintiff from further abusive and frivolous litigation tactics, see
25 Memorandum Opinion/Report and Recommendation (Doc. 571) at pp. 44-45
26 (finding that monetary sanctions would be inadequate to cause plaintiff
to stop his litigation efforts against his family members), plaintiff's
conduct must have consequences. If ever there was a case that called for
sanctions for frivolous and abusive litigation conduct, this is it.

1 A. Fees and costs incurred in pursuing the counterclaims in this
2 adversary proceeding (CC):

3 I find that defendants are not entitled to their attorney fees and
4 costs in pursuing their counterclaims (for wrongful use of civil
5 proceedings and vexatious litigant designation) against plaintiff.
6 Although the counterclaims may have never been filed if plaintiff had not
7 filed the complaint in this adversary proceeding, it was defendants'
8 choice to file and pursue their counterclaims. The misconduct on which
9 they rely for their request for fees and costs in the second application,
10 which covers the prosecution of the counterclaims, is the same as the
11 conduct relied on in their first application, which related to defending
12 against plaintiff's claims (before summary judgment), with the addition
13 of a twelfth category relating to frivolous appeals and motions to
14 withdraw reference. As I explain below, I will not award fees and costs
15 related to the appeals. To the extent the motion to withdraw reference
16 was litigated in district court, it was done after this court had
17 disposed of plaintiff's claims and affected only the counterclaims.
18 Defendants do not identify any other conduct by plaintiff in his defense
19 of their counterclaims in support of their request for sanctions.
20 Therefore plaintiff will not be required to pay for defendants' fees and
21 costs incurred in prosecuting the counterclaims.

22 B. Fees awarded against Susan Szanto in the California subpoena
23 litigation (SS):

24 Defendants' fee itemization includes some entries that were included
25 in their request for fees in their contempt action against Susan Szanto
26 in the California subpoena litigation. The California court awarded some

1 but not all of the fees requested. However, I am unable to tell from the
2 California court's order which fees were allowed and which were not.
3 Therefore, I will disallow all fees included in both the fee itemization
4 filed in this adversary proceeding and in the request for fees in
5 California, because I cannot tell whether those fees have already been
6 allowed.

7 C. Fees and expenses incurred in pursuing Susan Szanto in the
8 California district court (CDC):

9 Some of the fees and expenses were incurred in pursuing Susan Szanto
10 for contempt, responding to her motions and arguments in the California
11 district court, and attempting to collect the fee award from her.
12 Susan's actions are not directly attributable to plaintiff. Further, the
13 pursuit of Susan's deposition, which led to the contempt matter, related
14 to the counterclaims, not to plaintiff's claims against defendants.
15 Therefore, I will disallow fees and expenses that I can tell relate to
16 the Susan Szanto California district court matter.

17 D. Fees for attorney conferences that were charged by both
18 attorneys (AC):

19 The itemization shows charges by one attorney for conferring with
20 another attorney. Where both attorneys involved in the conference
21 charged for the same conference, I will allow the higher billing rate
22 entry and disallow the lower billing rate entry.

23 E. Fees incurred related to Peter Szanto's main bankruptcy case
24 (MC):

25 There were several entries in the fee itemization that related to
26 counsel's tracking of or involvement in matters related to the main

1 bankruptcy case. Those charges are not directly related to plaintiff's
2 bad faith conduct in this adversary proceeding, and they will be
3 disallowed.

4 F. Fees and costs incurred in plaintiff's appeals of matters in
5 the adversary proceeding (AP):

6 Counsel charged for some work that was done on plaintiff's appeals
7 of decisions in this adversary proceeding, and defendants request
8 expenses relating to appeals. Those charges are not directly related to
9 plaintiff's bad faith conduct in this adversary proceeding and will be
10 disallowed.

11 G. Incomplete entries (IC):

12 Some entries in the fee itemization were incomplete, making it
13 impossible for the court to determine what work was done that supported
14 the charges. As a consequence, I cannot tell whether the charge is
15 reasonable, and the charge will be disallowed.

16 H. Fees incurred in the California domestic violence case (DV):

17 Fees incurred in the California domestic violence case are not
18 directly related to plaintiff's bad faith conduct in this adversary
19 proceeding, and will be disallowed.

20 I. Fees incurred in working on a motion to withdraw reference
21 (WD):

22 The itemization includes fees incurred in drafting a motion to
23 withdraw reference which was not, as far as I can tell, ever filed. It
24 is not reasonable to award fees for that unfiled motion.

25 J. Fees charged that were previously awarded as discovery sanction
26 (DS):

1 The fee itemization contains charges that were awarded as a
2 discovery sanction in 2017. Those fees are duplicative and will be
3 disallowed.

4 K. Fees incurred in Nevada case (NV):

5 The itemization contains fees related to a Nevada hearing and
6 restraining order. That case is not directly related to plaintiff's bad
7 faith conduct in this adversary proceeding. The fees will be disallowed.

8 L. Other (OT):

9 There are a few other fees that will be disallowed for other
10 reasons. These include excessive fees for preparing these fee
11 applications, fees related to monitoring a different adversary proceeding
12 (brought by the United States Trustee to deny plaintiff a discharge),
13 fees in the second application that duplicate fees charged in the first
14 application, as well as other miscellaneous items. Those will be
15 disallowed.

16 M. Block billing (BB):

17 Defendants did not segregate their fees to assure that they are
18 requesting only fees that are reasonably related to this adversary
19 proceeding and have not already been awarded in other contexts. Their
20 failure to segregate their fees has made it more difficult for the court
21 to determine which fees are allowable and which are not. Further, many
22 entries include a variety of tasks billed in a block, without breaking
23 down the amount of time spent for each task. To the extent fees are
24 block billed and include some tasks that are allowable and some tasks
25 that are not, the fees for that entire block of time will be excluded.

26 Attached to this Memorandum is Exhibit A, which sets out attorney

1 fees that are disallowed from defendants' fee itemization from the first
2 application for fees and costs. Only disallowed fees are listed. If
3 only a portion of the itemization entry is disallowed, a description is
4 included. If the entire charge is disallowed, no explanation is provided
5 other than the code showing the reason for disallowance. Attached to
6 this Memorandum is Exhibit B, which sets out attorney fees that are
7 disallowed from defendants' fee itemization from the second application
8 for fees and costs. This exhibit uses the same process for explanation
9 as Exhibit A. Fees not listed in Exhibit A or Exhibit B will be allowed
10 as reasonable fees to be imposed as a sanction for plaintiff's bad faith
11 conduct in this adversary proceeding. The total amount of attorney fees
12 to be awarded on defendants' first and second application for fees is
13 \$134,166.50 (\$267,663.50 minus \$133,497.00). The remainder of the fees,
14 \$133,497.00, are disallowed.

15 Attached to this Memorandum is Exhibit C, which sets out the costs
16 and expenses that are disallowed from defendants' itemization included
17 with their first application for fees and costs. Disallowed costs are
18 designated using the codes set out above. All costs listed in the costs
19 itemization attached to the second application for fees and costs are
20 disallowed, as they all relate to expenses incurred in prosecuting the
21 counterclaims or other matters, not in defending against plaintiff's bad
22 faith conduct in bringing and prosecuting his claims against them. The
23 amount disallowed from the second application is \$1,599.01.

24 The total amount of expenses that will be awarded as a sanction for
25 plaintiff's bad faith conduct is \$13,242.47 (\$24,682.02 minus
26 \$11,439.55). The remainder, \$11,439.55, are disallowed.

1 Counsel for defendants should submit an order allowing the fees and
2 costs as set forth above.

3 ###

4 cc: Peter Szanto
5 Nicholas Henderson
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EXHIBIT A - FIRST APPLICATION FOR FEES - AMOUNTS DISALLOWED

Date and Biller	Charge	Description	Code
3/22/17 NJH	150.00		<u>MC</u>
3/29/17 NJH	187.50	"P. Szanto regarding same (0.3)"; 0.2 unaccounted for	<u>IC</u>
4/10/17 NJH	75.00		CC
4/12/17 NJH	150.00	"email to D. Olsen regarding evidence for vexatious litigation claim" (CC)	BB; CC
4/26/17 NJH	75.00	"review email from client re appeal (0.2)"	AP
5/19/17 NJH	450.00	"Motions to Compel (0.5)"; "email upload link to P. Szanto"	1.2 <u>IC</u>
6/6/17 NJH	1125.00	"Draft Motion for Sanctions (3.0)"	DS
6/9/17 NJH	562.50	"multiple telephone calls to/from V. Szanto and D. Olsen regarding Orange County Domestic Violence paperwork (1.5)"	DV
6/12/17 NJH	187.50	"telephone call to McClurg regarding main case; email to B. Kukso regarding same" (MC)	BB; <u>MC</u>
6/15/17 NJH	150.00	"regarding update (0.2)"; no entry for 0.2 hr	<u>IC (.4 hr)</u>
7/14/17 NJH	412.50	"emails from/to M. Fell and V. Szanto regarding process server" included in Calif Contempt sanction	SS; <u>IC</u>
7/25/17 NJH	600.00	"communications from P. Szanto regarding same" - incomplete. Remainder included in Calif Contempt sanction	SS; <u>IC</u>
7/26/17 NJH	450.00	"prepare outline for S. Szanto deposition; email to P. Szanto regarding deposition" - 1.2 included in SS Calif contempt sanction	SS (1.2 hr)

1	7/27/17	NJH	262.50	"M. Fell regarding same; draft update email to clients" .7 included in SS Calif contempt sanction	SS (.7 hr)
2					
3	7/31/17	NJH	525.00	"Draft petition for enforcement of subpoena; draft related declarations;" "review and revise Motion for Limited Extension of Discovery Cutoff Deadline;" - 1.4 included in SS Calif contempt sanction	SS (1.4 hr)
4					
5	8/8/17	NJH	150.00	"email to C. Mona regarding revised subpoena and service on S. Szanto." - .4 included in SS Calif contempt sanction	SS (.4 hr)
6					
7	8/15/17	NJH	187.50		<u>MC</u>
8	<u>8/17/17</u>	NJH	562.50	"Emails from/to client regarding NV hearing and restraining order; emails from/to L. Ramos regarding service of order;" - relates to Nevada case	NV; BB
9					
10	8/26/17	NJH	187.50		SS
11	8/29/17	NJH	1425.00		SS
12	8/30/17	NJH	1162.50		SS
13	9/4/17	NJH	262.50	"draft Petition to Enforce Subpoena to Susan Szanto (0.2); draft declarations of court reporter and videographer (0.5)."	SS (.7 hr)
14	9/6/17	NJH	750.00		SS
15	9/7/17	NJH	75.00		SS
16	9/8/17	NJH	375.00	"continue drafting motion for contempt regarding deposition of Susan Szanto (1.0);"	SS (1.0 hr)
17	9/11/17	NJH	562.50		SS
18	9/25/17	NJH	1650.00		CDC
19	10/17/17	NJH	375.00		CDC
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1	10/18/17	NJH	2062.50	"Attend preliminary hearing on Motion to Convert;" "attend Special Meeting of Creditors." (MC)	MC; BB
2	10/18/17	NJH	1687.50	(This entry may also be duplicate of previous 10/18/17 entry)	<u>MC</u>
3	<u>10/26/17</u>	NJH	150.00		CDC
4	10/28/17	NJH	112.50		SS
5	11/1/17	NJH	187.50	"conference with C. Sturgeon regarding order compelling S. Szanto deposition, regarding deposition subpoena, and regarding notice of deposition."	SS (.5 hr)
6	11/3/17	NJH	150.00	"review Motion to Vacate CA order filed by Plaintiff."	SS (.4 hr)
7	11/8/17	NJH	675.00		SS
8	11/9/17	NJH	1312.50	"Prepare for and attend 3rd deposition of Susan Szanto;" "review Motion to Quash; draft motion to extend discovery deadling and related declaration." - 1.3 (SS) "reveiw transcript from Special Meeting of Creditors; draft objection to confirmation;" - 2.2 (MC)	SS; <u>MC</u>
9	<u>11/13/17</u>	NJH	1050.00	"review case law regarding plan confirmation standards and bases for objection to confirmation." - (MC)	MC; BB
10	11/14/17	NJH	675.00	"draft declaration regarding motion to extend discovery cutoff; continue drafting declaration for motion for contempt;" - .9 (SS) "continue drafting objection to confirmation." - (MC)	SS (.9 hr); MC; BB
11	11/15/17	NJH	562.50	"Continue drafting" "contempt paperwork." - .5 SS "objection to confirmation, supplemental briefs" - 1.0 (MC)	SS; MC

1	11/16/17	NJH	750.00	"Emails from/to V. Szanto regarding update and Susan Szanto deposition;" "continue drafting motion for contempt and related declaration; continue drafting motion to extend or eliminate deadline for Susan Szanto deposition; continue drafting response to Motion to Quash." - 2.0 (SS)	SS (2.0 hr)
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6					
7	11/20/17	NJH	187.50		<u>MC</u>
8	<u>11/21/17</u>	NJH	1312.50		SS
9	11/22/17	NJH	1050.00		SS
10	11/27/17	NJH	937.50	"email from D. Olsen regarding NV order and removal." - (NV)	NV; BB
11	11/28/17	NJH	375.00		SS
12	11/29/17	NJH	2625.00	"continue drafting response to CA motions;" - 1.0 SS "Prepare for and attend hearing on confirmation and motion to convert;" - 6.0 (MC)	SS; <u>MC</u>
13					
14	<u>12/4/17</u>	NJH	1312.50		<u>MC</u>
15	<u>12/5/17</u>	NJH	937.50	"attend hearing regarding conversion; email to clients regarding same;" - (MC)	MC; BB
16					
17	12/6/17	NJH	187.50	"telephone call to C. McClurg regarding follow-up." - (MC)	MC; BB
18					
19	12/7/17	NJH	300.00	"Emails and telephone call to T. Bell regarding Safeway documents;" "email to P. Szanto regarding motion conferral." - .5 (SS) "telephone call to S. Arnot regarding case information;" - .3 (MC)	SS; <u>MC</u>
20					
21					
22	<u>12/8/17</u>	NJH	150.00		SS
23	12/11/17	NJH	525.00		SS
24	12/12/17	NJH	375.00		SS
25	12/13/17	NJH	150.00		SS
26	12/26/17	NJH	450.00		SS

1	12/27/17	NJH	750.00		SS
2	12/28/17	NJH	300.00	"Conference with J. Tolchin regarding strategy for Susan Szanto; review Response to OSC filed by Susan Szanto;" - .8 (SS)	SS (.8 hr)
3					
4	1/18/18	NJH	2812.50		CDC; CC
5	1/31/18	NJH	112.50	"emails to/from J. Bell regarding Susan Szanto deposition transcript (0.3);" - (CDC)	CDC (.3 hr)
6					
7	2/1/18	NJH	750.00	"conference call with clients regarding strategy and claim preparation;" - (MC)	MC; BB
8					
9	2/2/18	NJH	1687.50	"Continue review of case law and supporting documents for clients' proofs of claim; draft proofs of clam;" - (MC)	MC; BB
10					
11	2/6/18	NJH	562.50	"conference with J. Tolchin regarding Susan Szanto voicemail;" - (CDC)	CDC; BB
12					
13	2/6/18	NJH	1312.50	"continue reviewing documents and drafting POCs for clients; email to clients regarding review of POC." - (MC)	MC; BB
14					
15	2/7/18	NJH	600.00		<u>MC</u>
16					
17	<u>2/8/18</u>	NJH	562.50		<u>MC</u>
18	<u>2/9/18</u>	NJH	375.00	"revise and finalize Victor Proof of Claim." - (MC)	MC; BB
19	2/13/18	NJH	937.50	"Continue drafting claims for clients;" - (MC)	MC; BB
20					
21	2/23/18	NJH	937.50	"draft Response to Dismissal/Conversion;" - (MC)	MC; BB
22	3/1/18	NJH	187.50	"Email from S. Arnot regarding requested information;" - (MC)	MC; BB
23	3/5/18	NJH	525.00	"Review response and motion for testimony filed by Plaintiff/Susan Szanto;" - (CDC)	CDC; MC; BB
24				"Compile documents for S. Arnot; email to S. Arnot regarding same;" - (MC)	
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3/6/18	NJH	525.00	"Review UST complaint" - (OT) "continue review and revise Response to Susan Szanto Motion;" - (CDC)	OT; CDC; BB
4/19/18	NJH	112.50		AP
2/23/17	TGS	63.00	"conference with N. Henderson regarding strategy and discovery issues (0.2)."	AC (.2 hr)
2/28/17	TGS	220.50		CC
3/3/17	TGS	252.00		CDC
4/7/17	TGS	94.50	"telephone call to Bank of America attorney regarding disclosure statement hearing (0.3)."	<u>MC (.3 hr)</u>
4/10/17	TGS	126.00		<u>MC</u>
<u>5/15/17</u>	TGS	63.00	"conference with N. Henderson regarding same (0.5)." - .2 AC (Henderson charged .2 hr)	AC (.2 hr)
7/19/17	TGS	330.00		SS
10/19/17	TGS	126.00		OT
11/20/17	TGS	94.50		<u>MC</u>
<u>11/21/17</u>	TGS	189.00		<u>MC</u>
<u>11/29/17</u>	TGS	567.00		<u>MC</u>
<u>11/30/17</u>	TGS	126.00		CDC
1/9/18	TGS	94.50		CDC
1/16/18	TGS	661.50		<u>MC</u>
<u>1/18/18</u>	TGS	346.50		CDC
1/31/18	TGS	126.00		MC
TOTAL		49755.00		

EXHIBIT B - SECOND APPLICATION FOR FEES - AMOUNTS DISALLOWED

Date and Biller	Charge	Description	Code
4/30/18 NJH	150.00	Included in First Application for Fees	OT
5/2/18 NJH	712.50	Included in First Application for Fees	OT
5/18/18 JGT	162.50		CDC
5/21/18 JGT	455.00		CDC
5/22/18 JGT	130.00		CDC
5/31/18 NJH	562.50	2.5 hours to draft fee application, declaration and exhibits excessive; allow 1.0 hr	OT (1.5 hr)
6/1/18 JGT	97.50		CDC
6/5/18 JGT	585.00		CDC
6/6/18 JGT	617.50		CDC
6/11/18 JGT	1462.50		CDC
6/11/18 NJH	75.00		CDC
6/12/18 JGT	227.50		CDC
6/13/18 JGT	195.00		CDC
6/25/18 JGT	97.50		CDC
6/29/18 NJH	75.00		CC
7/7/18 NJH	112.50		<u>MC</u>
7/9/18 JGT	422.50		CDC
7/9/18 NJH	75.00		CDC
7/12/18 NJH	187.50		CC
7/18/18 NJH	375.00		CC
7/25/18 NJH	750.00		AP
7/30/18 JGT	65.00		CDC
8/1/18 JGT	260.00		CDC

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8/1/18	NJH	187.50		CDC
8/4/18	NJH	112.50		<u>MC</u>
<u>8/9/18</u>	NJH	562.50		AP
8/9/18	NJH	375.00		AP
8/14/18	NJH	187.50		CC
8/27/18	JGT	487.50		CDC
8/30/18	JGT	422.50		CDC
8/30/18	TGS	94.50		CDC
9/4/18	JGT	260.00		CDC
9/5/18	JGT	585.00		CDC
9/5/18	NJH	75.00		CDC
9/14/18	NJH	225.00		CC
9/17/18	JGT	195.00		CDC
9/21/18	NJH	375.00		CC
9/28/18	JGT	780.00		CDC
10/1/18	JGT	130.00		CDC
10/4/18	NJH	75.00	Relates to main case and separate adversary proceeding	MC; OT
10/8/18	JGT	97.50		CTC
10/11/18	NJH	75.00		CC
10/12/18	JGT	357.50		CDC
10/15/18	JGT	195.00		CDC
11/5/18	JGT	65.00		AP
11/15/18	NJH	187.50	"telephone call to A. Arnot regarding funds on hand;" - (MC)	MC; BB
11/21/18	SCG	162.50		WD
11/29/18	SCG	2047.50	Drafted motion to withdraw reference never filed	WD
11/30/18	SCG	162.50		WD

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12/7/18	NJH	3000.00	Appears to relate to motion to withdraw reference that was never filed	WD
1/2/19	NJH	120.00		CC
1/8/19	NJH	400.00		CC
2/5/19	NJH	200.00		CC
2/12/19	NJH	160.00		CC
2/26/19	NJH	160.00	"review most recent Interim Report; email to client regarding analysis." - (MC)	MC; BB
3/18/19	NJH	200.00		AP
5/22/19	NJH	200.00		CC
6/10/19	NJH	200.00		CC
6/18/19	TGS	357.50		CC
6/19/19	TGS	97.50		CC
6/20/19	TGS	65.00		CC
6/25/19	NJH	480.00		CC
6/28/19	TGS	162.50		CC
7/1/19	NJH	200.00		CC
7/2/19	TGS	292.50		CC
7/5/19	NJH	160.00		CC
7/6/19	NJH	120.00		CC
7/10/19	NJH	80.00		CC
7/15/19	NJH	80.00		CC
7/19/19	NJH	120.00		CC
7/24/19	NJH	2400.00		CC
7/25/19	NJH	1920.00	No description of work done	<u>IC</u>
7/26/19	NJH	2400.00		CC
7/26/19	TGS	487.50		CC
7/29/19	TGS	97.50		CC
7/30/19	TGS	260.00		CC

1	7/31/19	TGS	1007.50		CC
2	8/1/19	TGS	585.00		CC
3	8/7/19	NJH	2000.00		CC
4	8/7/19	TGS	130.00		CC
5	8/9/19	NJH	880.00		CC
6	8/12/19	NJH	1840.00		CC
7	8/14/19	JGT	260.00		CDC
8	8/14/19	NJH	2200.00		CC
9	8/16/19	NJH	2480.00		CC
10	8/19/19	JGT	487.50		CDC
11	8/19/19	NJH	1680.00		CC
12	8/20/19	JGT	130.00		CDC
13	8/20/19	NJH	2400.00		CC
14	8/21/19	NJH	2600.00		CC
15	8/22/19	NJH	3600.00		CC
16	8/23/19	NJH	3720.00		CC
17	8/23/19	TGS	1170.00		CC
18	8/24/19	NJH	2200.00		CC
19	8/25/19	NJH	3000.00		CC
20	8/26/19	NJH	4840.00		CC
21	8/26/19	TGS	1072.50		CC
22	8/27/19	NJH	4200.00		CC
23	8/28//19	JGT	130.00		CDC
24	8/28/19	NJH	4600.00		CC
25	8/28/19	TGS	1852.50		CC
26	8/29/19	NJH	1480.00		CC
	9/3/19	JGT	65.00		CDC
	9/4/19	JGT	325.00		CDC
	9/9/19	JGT	130.00		CDC

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9/12/19	NJH	400.00		<u>MC</u>
<u>9/17/19</u>	JGT	32.50		CDC
9/18/19	NJH	80.00	Unclear what this relates to	OT
9/23/19	JGT	65.00		CDC
10/14/19	JGT	227.50		CDC
11/5/19	NJH	400.00		<u>MC</u>
<u>11/18/19</u>	NJH	120.00		CC
12/4/19	NJH	600.00		CC; MC
TOTAL		83742.00		

EXHIBIT C - COSTS DISALLOWED

Date	Amount	Description	Code
7/18/17	40.00	Florida Dept of Hwy Safety & Motor Vehicles; subpoena witness fee	OT
7/25/17	31.00	United States Court of Appeals; audio hearing copy fee	AP
8/9/17	1103.55	Advanced Depositions; Susan Szanto video deposition and transcript	CDC
8/25/17	1050.00	CMI Resources; Process Service: Susan Szanto	CDC
9/1/17	136.10	DDS Legal Support Systems; Process Service: Susan Szanto	CDC
9/1/17	52.00	Douglas County Courts; hearing transcript	CC
9/22/17	47.00	United States District Court; filing fee	AP
10/7/17	20.00	Oregon State Bar; certificate of good standing	CDC
10/18/17	115.00	Szanto	OT
11/2/17	95.00	Szanto	OT
11/7/17	500.00	Advanced Depositions; Susan Szanto deposition	CDC
11/8/17	600.00	CMI Resources; Process Service: Susan Szanto and support services	CDC
11/13/17	34.34	Washington State Bar; Pro Hac Vice Certificate of Good Standing	CDC; OT
11/15/17	377.15	Advanced Depositions; Invoice No. 28851: Susan Szanto Certificate of Non-Appearance	CDC
11/17/17	21.00	Oregon State Bar; Pro Hac Vice certificate of good standing	CDC; OT
11/29/17	39.95	On Legal LLC Invoice No. 11543367; Process Service: Susan Szanto	CDC
11/30/17	215.00	Advanced Depositions Invoice No. 29201; Susan Szanto video services	CDC

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12/27/17	7.50	San Diego Superior Court; filing fee	OT
1/9/18	532.60	Airfare regarding Susan Szanto deposition	CDC
1/9/18	532.60	Airfare regarding Susan Szanto deposition	CDC
1/18/18	27.00	J. Tolchin; airport parking	CDC
1/18/18	1776.50	Advanced Depositions; Invoice No. 29900; Susan Szanto deposition and certified transcript	CDC
1/19/18	27.00	Airport parking	CDC
1/22/18	1275.00	CMI Resources; Process Service: Susan Szanto	CDC
2/23/18	995.00	Advanced Depositions; 01/18/2018 Susan Szanto video services	CDC
2/28/18	189.90	Janice Russell Transcripts; 11/09/2017 Invoice No. 17-245-1: 10/17/2017 & 10/18/2017 Creditors Meeting Transcripts	MC
Second Application	1599.01		
TOTAL	11439.20		