

ROBB EVANS & ASSOCIATES LLC

Receiver of the Assets of

DebtWorks, Inc., and

Andris Pukke

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**Federal Trade Commission v. Ameridebt, Inc., et al.
CASE No. SACV 07-908 JVS (RNBx)**

Minute Order Awarding Attorney's Fees

Filed January 2, 2008

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. SACV 07-908 JVS (RNBx) Date January 2, 2008
 Title Federal Trade Commission v. Ameridebt, Inc., et al.

Present: The Honorable	<u>James V. Selna</u>	
	<u>Karla J. Tunis</u>	<u>Not Present</u>
	<u>Deputy Clerk</u>	<u>Court Reporter</u>
Attorneys Present for Plaintiffs:		Attorneys Present for Defendants:
<u>Not Present</u>		<u>Not Present</u>

Proceedings: (In Chambers) Order Awarding Attorney's Fees

In its Order dated November 30, 2007, this Court awarded Robb Evans & Associates, LLC, as Receiver of the assets of Andris Pukke and Debtworks, Inc. ("Receiver") reasonable attorney's fees and costs incurred in connection with his motion to compel subpoenaed depositions of and document production by Pamela Pukke ("Pukke") and Anthony Mock ("Mock"), brought before Magistrate Judge Hon. Robert N. Block ("Motion to Enforce"). (Docket No. 10.) On December 12, 2007, Receiver's counsel, Gary Owen Caris ("Caris") submitted a declaration describing the costs and fees incurred in connection with the Motion to Enforce as well as fees incurred in connection with the motion to review Magistrate Judge Block's ruling and for attorney's fees and costs ("Motion for Sanctions"). Caris requests \$14,675 in fees plus \$464.95 in costs for a total requested award of \$15,139.95.

I. Legal Standard

In order to determine the proper amount of an attorney's fee award, the Court undertakes a two-part analysis. Fischer v. SJB-P.D., Inc., 214 F.3d 1115, 1119 (9th Cir. 2000). First, the Court calculates the "lodestar figure" by multiplying the number of hours reasonably spent on the litigation by a reasonable hourly rate. Id. (citing Hensley v. Eckerhart, 461 U.S. 424, 433 (1983)). The Court presumes the lodestar figure is the reasonable fee amount, and will adjust it only in rare instances and upon specific evidence that the amount is unreasonable. Van Gerwen v. Guar. Mut. Life Co., 214 F.3d 1041, 1045 (9th Cir. 2000). Second, and only if appropriate, the Court adjusts the lodestar figure based on an evaluation of various factors, including but not limited to the

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time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly. Morales v. City of San Rafael, 96 F.3d 359, 363-64 n.8 (9th Cir.1996) (quoting Kerr v. Screen Extras Guild, Inc., 526 F.2d 67, 70 (9th Cir. 1975)).

II. Discussion

The Court's Order of November 30, 2007 awarded fees to the Receiver for actions on the part of Pukke and Mock in connection with their failure to comply with deposition subpoenas that it found to be "tantamount to bad faith." (November 30, 2006 Order, p. 2.) The only way to make the Receiver whole in this instance is to award him fees and costs incurred in his attempt to enforce the subpoenas as well as in his subsequent fee application. It is, therefore, appropriate to award the Receiver attorneys fees and costs incurred both with regard to his Motion to Enforce as well as the Motion for Sanctions.

Caris has submitted timesheets and a detailed explanation of the fees incurred during specific periods of time and for specific services rendered in this matter. (Caris Decl. ¶ 3.) Caris requests a lodestar figure of \$14,675. This figure includes time billed by Caris (15.4 hours at a rate of \$385 per hour), Lesley Anne Hawes ("Hawes"), co-counsel to the Receiver (18.9 hours at a rate of \$345 per hour), and Angela Mann ("Mann"), an associate of Caris' and Hawes' firm, McKenna Long & Aldridge LLP (10.6 hours at rate of \$210 per hour). (Id.) The services performed by the three attorneys include appearing for Pukke's and Mock's depositions on the dates when the deponents failed to appear, and preparing the papers for and appearing for oral hearing on the motions before Magistrate Judge Block and this Court. (Id., Ex. 1.) The Court finds that the hours are reasonable. Further, the Court finds the billing rates likewise reasonable. Caris has over 27 years of experience as a litigator and nearly 9 years of experience as a specialist in the area of federal equity receiverships. (Id. ¶ 6.) Hawes also has substantial experience in litigation. (Id. ¶ 3(B).) Mann is a first-year associate, which is reflected in her billing rate.

Accordingly, the Court does not find it appropriate to adjust the lodestar figure as calculated by Caris, and awards the Receiver the full amount of fees sought.

The Court also award the full amount of the costs sought, i.e. \$464.95 in court reporter expenses incurred on the dates when Pukke and Mock failed to appear for their

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depositions. (Id., Ex. 2.)

III. Conclusion

In sum, the Court awards the Receiver fees in the amount of \$14,675 and costs in the amount of \$464.95, for a total award of \$15,139.95.

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