

United States Bankruptcy Court
Northern District of Illinois
Eastern Division

Transmittal Sheet for Opinions for Posting

Will this opinion be Published? Yes

Bankruptcy Caption: Jessie M. Knight

Bankruptcy No.: 16 B 32994

Date of Issuance: March 29, 2021

Judge: Jacqueline P. Cox

Appearance of Counsel:

Attorney Steve Miljus, The Semrad Law Firm LLC

Chapter 13 Trustee, M.O. Marshall

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:)	Chapter 13
)	
Jessie M. Knight,)	Case No. 16 B 32994
)	
Debtor.)	Judge Jacqueline P. Cox

Order Requiring Full Accounting (Amended)

This chapter 13 case was filed on October 17, 2016. The Debtor’s plan was confirmed on January 9, 2017. The plan included payments to Toyota Credit Corporation for a secured claim with respect to a 2011 Toyota Camry. Toyota was to receive \$3,918.00 over the term of the plan with a fixed payment of \$19.00 a month. Toyota filed Proof of Claim 8-1 in the amount of \$4,398.92 on December 24, 2016. A chapter 13 Discharge Order was entered on July 17, 2020. That Order states that creditors could not collect discharged debts. Generally, other than mortgage debt, debts provided for in a confirmed Chapter 13 plan are discharged “after completion by the debtor of all payments under the plan . . .” 11 U.S.C. § 1328(a).

The Debtor’s motion states that following entry of the Discharge Order the Debtor contacted Toyota numerous times to arrange the release of the title of the vehicle. Toyota apparently refused to release its lien, insisting that it was still owed funds on the debt.

Debtor’s counsel contacted Toyota on August 4, 2020; the matter was not resolved, although he warned that sanctions would be sought for Toyota’s violation of the Discharge Order. On September 23, 2020, the Debtor’s attorney, Steve Miljus, filed a Motion for Sanctions against Toyota for violation of the discharge injunction for seeking to collect on a discharged

debt. Docket 30.

An order sanctioning Toyota was entered on October 5, 2020. Docket 33. Eventually the court was told that the parties had settled the matter. When Attorney Steve Miljus asked to withdraw the motion on March 1, 2021 the court asked for a copy of the settlement document(s). The matter was continued to March 8, 2021 for presentation of the document(s); nothing was produced. The matter was continued to March 22, 2021. The Settlement Agreement was docketed on March 18, 2021. Settlement Agreement, Docket 47.

The Settlement Agreement and General Release states that the matter was settled for \$8,300. Settlement Agreement, Docket 47, ¶ 3.

Court Approved Retention Agreement

When this case was filed in 2016 an attorney from the Semrad Law Firm LLC sought compensation pursuant to the Court-Approved Retention Agreement (“CARA”). In exchange for a flat fee of \$ 4,000.00 the attorney agreed to represent the Debtor in this case. The attorney agreed, amongst other things, to “[p]repare, file and serve all appropriate motions to avoid liens[.]” and to “[p]rovide any other legal services necessary for the administration of the case.” CARA, Docket 14, p. 12, Section B, ¶¶ 15 & 17.

In addition, the CARA states at ¶¶ F(1) and (4):

Any attorney retained to represent a debtor in a Chapter 13 case is responsible for representing the debtor on all matters arising in the case unless otherwise ordered by the court. For all of the services outlined above, the attorney will be paid a flat fee of \$4,000.00. For all of the services outlined above, the attorney will be paid a flat fee of \$4,000.00 (sic). *Id.*, CARA, Section F(1), p. 13.

In extraordinary circumstances, such as extended evidentiary hearings or appeals, the attorney may apply to the court for additional compensation for these services. Any such application must be accompanied by an itemization of the services rendered showing the date, the time expended, and the identity of the attorney performing the services. The

debtor must be served with a copy of the application and notified of the right to appear in court to object. *Id.*, CARA, Section F(4), p. 14.

The October 5, 2020 Order states that Toyota is to immediately release the title and lien of the Debtor's vehicle (paragraph 1), pay damages of \$100 per day to the Debtor for each day it remains in possession of the title of the vehicle, starting October 6, 2020 (paragraph 2) and pay damages to the Debtor to be proven up, not including the damages set forth in paragraph 2. October 5, 2020 Order for Sanctions, Docket 33.

No attorney has applied for additional compensation, although the Settlement Agreement states that it represents the cumulative per diem penalty in the October 5, 2020 Sanctions Order, "part of which represented attorney's fees incurred by counsel." Settlement Agreement, Docket 47, ¶ 3.

Order for Full Accounting

The court hereby orders Attorney Steve Miljus to submit on the docket a full accounting of how and when the \$8,300 settlement has been expended, divided or disbursed since neither he, nor any other attorney has sought additional compensation herein.

The CARA's 4,000.00 flat fee covers the services rendered in pursuing the Motion for Sanctions. *In re Anderson*, 2016 WL 6833907, *1 (Bankr. N.D. Ill. November 18, 2016) ("Motions to enforce the automatic stay (or the discharge injunction) are legal services necessary for the administration of Chapter 13 bankruptcy cases because they deal with the attempts of creditors to access property of the bankruptcy estate, normally automobiles and homes.").

The full accounting shall be docketed on or before April 7, 2021.

This matter is set for a Status Hearing on the accounting issue on Monday, April 19, 2021 at 11:00 a.m.

The Debtor Jessie M. Knight may participate in the Monday, April 19, 2021 hearing via Zoom for Government: Meeting ID 161 273 2896, passcode 778 135.

Date: March 29, 2021

ENTERED:

Jacqueline P. Cox
United States Bankruptcy Judge