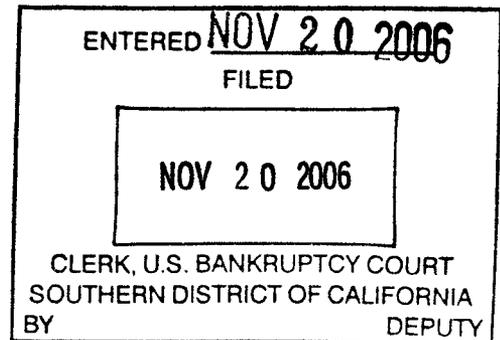


1 **WRITTEN DECISION - NOT FOR PUBLICATION**



11 UNITED STATES BANKRUPTCY COURT

12 SOUTHERN DISTRICT OF CALIFORNIA

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In re)	Case No. 99-32841-B7
)	
JEAN LEONARD HARRIS,)	Adv. No. 06-90289-B7
an individual,)	
)	
Debtor.)	
_____)	ORDER ON WITTMAN'S
)	MOTION FOR FEES
)	
JEAN LEONARD HARRIS,)	
an individual,)	
)	
Plaintiff,)	
)	
v.)	
)	
SANDRA WITTMAN,)	
an individual; et al.)	
)	
Defendants)	
_____)	

22 This matter came on regularly for hearing on the motion of

23 Ms. Wittman for an award of attorney's fees and costs against

24 plaintiff Harris. The Court has subject matter jurisdiction

25 pursuant to 28 U.S.C. § 1334 and General Order No. 312-D of the

26 ///

1 United States District Court for the Southern District of
2 California.

3 Harris does not contest that Ms. Wittman is entitled to
4 recover fees and costs pursuant to the terms of the Settlement
5 Agreement. Nor does he contest the reasonableness of the hourly
6 rates charged by Ms. Wittman's attorneys. However, he contends
7 that the attorneys expended an unreasonable number of hours, and
8 that fees sought for work on the pending appeal are premature.
9 The Court agrees with the latter objection for while Ms. Wittman
10 may ultimately be entitled to fees on appeal, such a request is
11 not presently ripe. The Court calculates that \$4,920.00 of the
12 fees sought are allocable to the appeal. In addition, \$190 as a
13 cost of admission to the Ninth Circuit is disallowed as a cost
14 chargeable to plaintiff.

15 Harris' main area of focus is in the seeming duplication in
16 both the motion to dismiss and to strike, and also as between
17 counsel for Ms. Wittman and counsel for the other defendants.
18 The Court has reviewed, paragraph by paragraph, the two motions
19 filed by Ms. Wittman and agrees that much of the body of both are
20 virtually identical. However, when the billing records were
21 compared, the Court did not find evidence of duplicate billing
22 for drafting of the pleadings. Moreover, much of the work on the
23 pleadings was done by law clerks and paralegals, which is a sound
24 exercise of billing discretion by the firm. In addition, the
25 Court found that of the work billed much was for efforts other
26 than the two motions.

1 The Court also recognizes that Ms. Wittman's attorneys
2 blazed the trial, and earned joinders in their motions. While a
3 significant amount of time and effort was invested in work on
4 this case, the Court finds no duplication, and no theory on which
5 to reduce the fees sought other than as already indicated.

6 Accordingly, fees and costs are allowed as follows:

7		Fees	Costs
8	Sparber Rudolph Annen	\$2,601.00	\$542.70
9	Wingert Grebing Brubaker	\$54,562.50	\$4,029.65
10	& Goodwin		

11

12 Without prejudice to the latter to apply upon appropriate order
13 for fees and costs (not including admission) incurred upon appeal
14 once the appeal is concluded. Applicant should try to ensure
15 that any final order of the final appellate court addresses the
16 issue of what court will have jurisdiction to entertain an
17 application for fees and costs on appeal.

18 Harris has requested in his opposition that the Court stay
19 any award of fees pending appeal. The Court has previously
20 advised counsel that a separately noticed motion for stay is
21 required before such a request will be considered.

22 IT IS SO ORDERED.

23 DATED: NOV 20 2006

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PETER W. BOWIE, Chief Judge
United States Bankruptcy Court