

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA

IN RE: )  
 )  
Rick Lamont Perine, ) Case No. 23-11712  
 )  
Debtor. )

ORDER GRANTING MOTION TO DETERMINE MORTGAGE FEES AND EXPENSES

This case is before the court on the debtor’s motion (doc. 16) to determine mortgage fees and expenses under Federal Rule of Bankruptcy Procedure 3002.1(e). The court has reviewed the motion and response (doc. 20) filed by creditor Southwest State Funding, and also heard the argument of counsel at a hearing.

The debtor challenges the \$650 in fees on the creditor’s Notice of Postpetition Mortgage Fees, Expenses, and Charges under Rule 3002.1 filed in August 2023. The debtor concedes that the creditor is entitled to \$450 in fees, as allowed by Local Administrative Order No. 2022-08, but argues that the \$650 in fees charged for preparing and filing a proof of claim is unreasonable. The creditor contends that because its attorney prepared the proof of claim – including the required Official Form 410A – it should be allowed the full fee of \$650 for its attorney’s time.

The situation here is analogous to cases involving chapter 7 trustees, where this court has held that just because a duty “could be performed by a lawyer does not automatically make the duty one that must be performed by a lawyer.” See *In re Craig*, 651 B.R. 612, 620 (Bankr. S.D. Ala. 2023). Even so, an “attorney may properly be used to file a proof of claim if a reasonable fee is charged.” See *In re Powe*, 278 B.R. 539, 556 (Bankr. S.D. Ala. 2002). While this court appreciates the diligence of creditor’s counsel here, the court agrees with Judge William Sawyer in *In re Ochab*, 586 B.R. 803 (Bankr. M.D. Ala. 2018), that “[a] \$500 fee for filing a proof of

claim on a [mortgage debt] is excessive and unreasonable, whether or not an attorney prepares the proof of claim.” *See id.* at 809-10. Rather, this court has found by Administrative Order that \$450 is a reasonable amount for reviewing the plan and preparing the proof of claim, no matter who prepares the proof of claim. *See, e.g., In re Mandeville*, 596 B.R. 750, 765-66 (Bankr. N.D. Ala. 2019) (approving \$300 in fees for preparing a proof of claim); *In re Chiarenza*, No. 21-10492-MAM (Bankr. S.D. Fla. Sept. 29, 2021) (reducing proof of claim and plan review fees from \$900 to \$500); *In re Zabchuck*, No. 21-10815-EPK (Bankr. S.D. Fla. May 17, 2021) (reducing proof of claim fees from \$950 to \$225). The court thus grants the motion to determine and reduces the fees to \$450.

Dated: October 31, 2023

  
HENRY A. CALLAWAY  
U.S. BANKRUPTCY JUDGE