

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

In the Matter of:

B & B ORGANICS, INC.
Debtor

Case No.: 19-30729

Chapter 7

Order Directing Parties to File a Joint Report Concerning Attorney's Fees

Grimmway Enterprises, Inc., filed its Limited Objection [DE 134] to Warrick & Boyn, LLP's request for \$64,394.50 in attorney fees and \$1,492.47 in expenses. [DE 132 at ¶ 10.] Taylor Farms Retail, Inc., and Pacific Coast Fruit Company agree with Grimmway's Objection and have not filed additional objections. [DE's 135; 136.] Warrick has not responded to the Objection.

I. Background

Warrick & Boyn, LLP is the acting Trustee for Debtor B&B Organics. [DE 4.] Warrick requested the Court appoint it counsel for Trust, and the Court granted its request. [DE 5.] The Trustee moved the Court for an order establishing claims and assets under the Perishable Agricultural Commodities Act ("PACA") under 7 U.S.C. § 499a *et seq.* [DE 23.] The Court granted the motion. [DE 29.]

Warrick, as Trustee, collected the PACA assets. [DE 112.] The total value of the assets in the PACA Trust is \$284,480.80; however, the liquidated value is only

\$175,768.67¹. [DE 112.] See Table 1 below. It does not appear the Trust has compensated any of the PACA claimants.

Table 1: PACA Assets: Scheduled Value v. Liquidated Value			
per BK Doc		<u>scheduled</u>	<u>liquidated</u>
112	<u>PACA assets</u>	<u>value</u>	<u>value</u>
	Accounts receivable	\$126,943.00	\$68,021.47
	Grain Train Natural	\$12,818.00	\$12,818.00
	2004 Dodge Ram	\$4,000.00	\$5,000.00
	Toyota forklift	\$6,000.00	\$3,750.00
	2 electric pallet jacks	\$4,000.00	\$2,400.00
	2016 Ford Transit refrig.	\$15,000.00	\$0.00
	frozen bank accounts	\$4,719.80	\$4,758.42
	cash equivalent	\$66,000.00	\$79,020.78
	2016 Fort Transit 350	\$45,000.00	\$0.00
	<i>Asset total</i>	\$284,480.80	\$175,768.67

II. The Perishable Agricultural Commodities Act (PACA)

Congress enacted PACA during the Great Depression to protect produce sellers, and the Act has been modified since then. *Patterson Frozen Foods, Inc. v. Crown Foods Int'l, Inc.*, 307 F.3d 666, 667 (7th Cir. 2002); *Endico Potatoes, Inc. v. CIT Grp./Factoring, Inc.*, 67 F.3d 1063, 1066 (2d Cir. 1995) (citation omitted). Under PACA, proceeds from the sale of commodities are held in a floating trust for the benefit of unpaid suppliers. *Patterson*, 307 F.3d at 666. "PACA trust rights take priority over the interests of all other creditors, including secured creditors." *Id.* citing *C.H. Robinson Co. v. Trust Co. Bank, N.A.*, 952 F.2d 1311, 1315 (11th Cir. 1992).

¹ The Trustee's Report lists \$175,768.67 as the liquidated value of the PACA Trust. [DE 112.] Grimmway's Objection states \$178,266.57 is in the Trust. [DE 135 at ¶ 1.]

III. Analysis for Examining Requests for Attorney's Fees

In reviewing the request for fees, federal courts frequently use the lodestar method. *Perdue v. Kenny A. ex rel. Winn*, 559 U.S. 542, 551 (2010) (noting the lodestar approach has “achieved dominance in the federal courts”) (citation omitted); *see generally Matter of Env't Waste Control*, 122 B.R. 341, 345 (Bankr. N.D. Ind. 1990) (Chapter 11 bankruptcy case where the Court used the lodestar method). The lodestar method multiplies the number of hours spent on a task by an attorney's hourly rate. *Florin v. Nationsbank of Georgia, N.A.*, 34 F.3d 560, 562, fn. 3. (7th Cir. 1994); *League of Women Voters of Missouri v. Ashcroft*, 5 F.4th 937, 939 (8th Cir. 2021) (noting courts frequently begin their analysis of attorney's fees with the lodestar method).

IV. The Court's Preliminary Findings

In the present case, the Court preliminarily sustains some of Grimmway's objections. Unless Warrick can convince the Court otherwise, the Court will not award Warrick for all the compensation it seeks. The Court presents its proposed findings in Chart 1 below. On the other hand, the Court is inclined to overrule some of Grimmway's objections. Unless the objecting parties prove otherwise, the Court will award Warrick for the legal tasks it performed in Chart 2. Last, in Chart 3, the Court preliminarily determines that if Warrick is compensated for the entries, the entries should be at a reduced rate.

The Court orders the parties to meet and complete the Report below. The Report narrows the parties' potential disagreements. The Court reviewed Grimmway's objections in Exhibits 1-3, and 5 and consolidated the objections in Charts 1-3.

V. Legal Authority to Assist in Determining Appropriate Attorney's Fees

The reasons why the Court preliminarily denies and/or questions some of the fee requests in Charts 1 and 3 include:

- (1) **Requests for payment that are not legal services.** *Cohen & Thiros, P.C. v. Keen Enterprises, Inc.*, 44 B.R. 570, 573 (N.D. Ind. 1984);
- (2) **Entries lacking adequate detail.** *Id.*;
- (3) **Tasks involving multiple attorneys without explaining why the trust needed multiple attorneys.** *Matter of Caribou P'ship III*, 152 B.R. 733, 739 (Bankr. N.D. Ind. 1993) (permitting the use of two attorneys under the circumstances of the case); *Matter of Env't Waste Control*, 122 B.R. 341, 347 (Bankr. N.D. Ind. 1990) (explaining no consensus among courts about whether inter-office conferencing should be allowed in its entirety, disallowed altogether, or somewhere in between);
- (4) **Requests for reimbursement for clerical tasks.** *Id.* (reducing rates for clerical work but acknowledging some courts disallow any fees for clerical tasks); and

(5) **Lumping of services.** *Id.* at 348-49; *Cohen & Thiros, P.C. v. Keen Enterprises, Inc.*, 44 B.R. at 573.

As explained in more detail below and in the Report the parties are to file, if they disagree with the Court's initial findings, including the Court's use of the lodestar method, they must include short explanations in the Report.

VI. Logistics of Completing the Report

- (1) **Parties' Meeting.** The Court ORDERS Warrick & Boyn; Grimmway Enterprises; Taylor Farms; and Pacific Coast Fruit to meet telephonically, via video platform, or by email.
- (2) **Parties' Report.** The parties are to complete the Report. For the parties' convenience the Court will email Warrick, Grimmway, and the other objecting parties a word version. The report is due by **Monday, November 1, 2021.**
- (3) **Settlement.** In lieu of completing the report, the parties may submit a settlement. If the parties reach a settlement, they must file it by the date above.

SO ORDERED.

Date: 9/17/21



PAUL E. SINGLETON
Judge, United States Bankruptcy Court

Chart I: Entries the Court Preliminarily Finds Should be Disallowed

Grimmway Exhibit No.	Entry No.	Entry Date	Issue	Rate	Hours	Amount	Preliminary Finding
1	1	5/1/2019	Draft appearance	\$160.00	0.50	\$80.00	This is a clerical function and should not be compensable.
1	2	5/2/2019	Conference and research related to conflict of interest	\$365.00	0.60	\$219.00	The trust should not have to pay for conflict of interest research or issues related to conflict of interest.
1	3	5/3/2019	Emails about conflict of interest	\$160.00	0.50	\$80.00	The trust should not have to pay for conflict of interest research or issues related to conflict of interest.
1	4	7/12/2019	Interoffice conference re utilities and conferences with Boynton and Clerk's office	\$160.00	1.50	\$240.00	Interoffice communications about utilities and insurance is not related to legal work.
1	5	7/23/2019	Emails with Ron Brunkel re: creditor list and conflict check; conference with RAS re: warehouse owner attorney information	\$160.00	0.40	\$64.00	This entry has two issues. First, the conflict check should not be a compensable item. Second, the conference with RAS may be compensable. However, the task is coupled with the conflict check. It seems unlikely counsel would be able to remember how much time was spent on each of these tasks. The tasks were performed over two years ago. Compensation for the task should be denied in its entirety.
1	6	9/26/2019	Review accounts receivable; research PACA requirements for farmers	\$240.00	3.50	\$840.00	Too much time was spent on these two tasks.
1	7	9/27/2019	Research PACA requirements for farmers.	\$240.00	3.00	\$720.00	Too much time was spent on this task.

1	8	10/25/2019	Review and revise motions to intervene and for additional time to respond to two PACA claimant adversary proceedings; conference with CTP re: the same	\$365.00	0.50	\$182.50	This entry is duplicative. The Court is inclined to award the 10/24/19 entry. This entry is an unnecessary expense.
1	9	10/25/2019	Email M. Telloyan re: his potential response to two adversary complaints by PACA creditors; teleconference with M. Telloyan and C. Harrington re: Trustee's challenge to adversary proceedings - probable motion to dismiss	\$365.00	0.60	\$219.00	This entry is duplicative. The Court is inclined to award the 10/24/19 entry. This entry is an unnecessary expense.
1	10	10/25/2019	Revise, finalize and file motions to intervene and order re: Pacific Coast v. B&B; Grimmway v. B&B	\$160.00	2.50	\$400.00	This entry is duplicative. The Court is inclined to award the 10/24/19 entry. This entry is an unnecessary expense.
1	11	10/25/2019	Draft Motion to Intervene and orders on adversary complaints	\$240.00	1.80	\$432.00	This entry is duplicative. The Court is inclined to award the 10/24/19 entry. This entry is an unnecessary expense.
1	12	11/4/2019	Finalize and file appearance for GDB, DEL and CTP; file prepared appearance	\$160.00	1.00	\$160.00	This is a clerical function and should not be compensable.
1	13	11/7/2019	Review and revise order staying adversary proceedings	\$365.00	0.30	\$109.50	This entry is duplicative of the work performed on 11/6/2019 where the Court is inclined to award \$320 for 2 hours revising stipulation.

1	14	11/7/2019	Revise stipulation	\$160.00	1.50	\$240.00	This entry is duplicative of the work performed on 11/6/2019. As Chart 2 shows, the Court is inclined to grant the request for payment on 11/6/19.
1	15	11/8/2019	Revise stipulation	\$160.00	1.00	\$160.00	This entry is duplicative of the work performed on 11/6/2019. As Chart 2 shows, the Court is inclined to grant the request for payment on 11/6/19.
1	16	11/11/2019	Finalize stipulation	\$160.00	1.00	\$160.00	This entry is duplicative of the work performed on 11/6/2019. As Chart 2 shows, the Court is inclined to grant the request for payment on 11/6/19.
1	18	1/16/2020	Receive copy of personal property tax bill; request research	\$370.00	0.30	\$111.00	This is a clerical function and should not be compensable.
1	19	2/22/2021	Pull files; pull information from files; organize files	\$160.00	1.30	\$208.00	This is a clerical function and should not be compensable.
1	20	4/20/2021	Search through files	\$160.00	0.70	\$112.00	This is a clerical function and should not be compensable.
2	21	5/22/2019	Request information from NABT	\$365.00	0.30	\$109.50	The task is too vague to be compensable.
2	22	5/22/2019	Research PACA statute and procedure	\$240.00	5.20	\$1,248.00	The task is too vague, and too much time was spent, especially considering the trust is being asked to pay for 3.7 hours of research on 5/21/19. See Chart 3.
2	23	5/30/2019	Continue to revise PACA procedure	\$365.00	2.50	\$912.50	Two entries are already related to reviewing PACA procedures. The trust should not have to pay.
2	27	6/3/2019	Research on PACA trust assets	\$240.00	4.50	\$1,080.00	Too much time was spent researching this issue. The explanation is insufficient.

2	28	6/11/2019	Office conference with GDB re: set off against assets and review GDB notes	\$240.00	1.00	\$240.00	The trust should not have to pay for reviewing another attorney's notes. Here, the lawyers did not distinguish between the amount of time it took to review notes and the amount of time that was spent in an office conference. Unless there are records that indicate what happened in 2019, this entry should not be allowed.	
2	29	6/13/2019	Teleconference with Clerk's office re order	\$160.00	0.30	\$48.00	This is too vague to merit compensation.	
4	30	11/4/2019	Finalize and file appearance	\$160.00	1.00	\$160.00	This is a clerical function and should not be compensable.	
Entries the Court Preliminarily Denies							\$8,535.00	

Chart II: Entries the Court Preliminarily Finds Warrick Should be Compensated

Grimmway Exhibit No.	Entry No.	Entry Date	Issue	Rate	Hours	Amount	Preliminary Finding
1	31	6/7/2019	Email debtor's attorney re: status of Federal case	\$160.00	0.30	\$48.00	Compensable, this task is related to the value of the trust.
1	32	6/10/2019	Teleconference with Creditor	\$160.00	0.40	\$64.00	Compensable, this task is related to the value of the trust.
1	33	6/11/2019	Teleconference with Creditor Cannon	\$160.00	0.30	\$48.00	Compensable, this task is related to the value of the trust.
1	34	6/19/2019	Review receivables. Analyze potential preference claims.	\$240.00	4.00	\$960.00	Compensable. Although it would be helpful to have the tasks listed individually, the tasks are similarly related.
1	35	8/12/2019	Email debtor requesting list of payments to creditors within 90-day preference period	\$365.00	0.40	\$146.00	Compensable, this task is related to the value of the trust.
1	36	8/15/2019	Review J. Henry's email re: settlement terms over dispute on PACA rights in one motor vehicle.	\$365.00	0.30	\$109.50	Compensable, this task is related to the value of the trust.
1	37	8/19/2019	Review list of payments in preference period. Conference with CTP re: whether payments of out of trust fund would diminish estate and be within scope of Sec. 547 -- if not property of estate under Sec. 541.	\$365.00	1.50	\$547.50	Compensable. Although it would be helpful to have the tasks listed individually, the tasks are similarly related.

1	38	8/19/2019	Review email correspondence re preferences. Review transaction list.	\$225.00	1.20	\$270.00	Compensable. Although it would be helpful to have the tasks listed individually, the tasks are similarly related.
1	39	8/22/2019	Review email correspondence, accounts payable list and transaction list.	\$225.00	1.30	\$292.50	Compensable. Although it would be helpful to have the tasks listed individually, the tasks are similarly related.
1	40	9/13/2019	Conference with BAS and CTP re: To Do list re: above	\$365.00	0.40	\$146.00	Compensable, this task is related to the value of the trust.
1	41	10/11/2019	Conference with CTP re: Trustee's intervention and response by way of Answer or objection to certain relief	\$365.00	0.60	\$219.00	Compensable, this task is related to the value of the trust.
1	42	10/22/2019	Review motion to intervene and complaint	\$365.00	0.30	\$109.50	Compensable, this task is related to the value of the trust.
1	43	10/24/2019	Draft motion to intervene and answer re: Phillips Mushroom Farm, LLP	\$240.00	3.10	\$744.00	Compensable, this task is related to the value of the trust.
1	44	11/4/2019	Teleconference re motion to intervene and plan to get attorney stipulation for adversary	\$365.00	0.30	\$109.50	Compensable, this task is related to the value of the trust.
1	45	11/5/2019	Work on stipulation	\$160.00	1.00	\$160.00	Compensable, this task is related to the value of the trust.
1	46	11/6/2019	Revise stipulation; draft orders	\$160.00	2.00	\$320.00	Compensable, this task is related to the value of the trust.
1	47	11/19/2019	Email plaintiffs re: stipulation	\$240.00	0.40	\$96.00	Compensable, this task is related to the value of the trust.
1	48	1/7/2020	Revise dismissal in adversary case. Draft, finalize and file order	\$160.00	0.80	\$128.00	Compensable, this task is related to the value of the trust.
1	49	5/19/2020	Teleconference with S. De Falco re: case	\$270.00	0.30	\$81.00	Compensable, this task is related to the value of the trust.

1	50	5/19/2020	Email creditor re: status of case	\$160.00	0.30	\$48.00	Compensable, this task is related to the value of the trust.
1	51	2/21/2021	Respond to creditor re: probable sale	\$370.00	0.30	\$111.00	Compensable, this task is related to the value of the trust.
1	52	3/1/2021	Revise update to S. DeFalco	\$370.00	0.30	\$111.00	Compensable, this task is related to the value of the trust.
1	53	3/1/2021	Email Steve DeFalco	\$160.00	0.40	\$64.00	Compensable, this task is related to the value of the trust.
2	54	5/20/2019	Research PACA Trust claim	\$365.00	0.60	\$219.00	Compensable, this task is related to the value of the trust.
2	55	5/29/2019	Motion re PACA procedure	\$365.00	2.60	\$949.00	Compensable, this task is related to the value of the trust.
2	56	6/6/2019	Review final draft of PACA motion, notice and order	\$365.00	0.80	\$292.00	Compensable, this task is related to the value of the trust.
2	57	6/6/2019	Prepare PACA order and notice	\$160.00	2.00	\$320.00	Compensable, this task is related to the value of the trust.
2	58	7/24/2019	Review order denying PACA motion and conference with BAS	\$365.00	0.30	\$109.50	Although it would have been helpful to have each task listed separately, since only a small amount of time was spent on these tasks, counsel should be awarded for this work.
4	59	10/11/2019	Review adversary complaints; research intervention	\$240.00	2.70	\$648.00	Compensable, this task is related to the value of the trust.
4	60	10/22/2019	Review motion to intervene	\$365.00	0.30	\$109.50	Compensable, this task is related to the value of the trust.
4	61	10/24/2019	Draft motion to intervene and answer	\$240.00	3.10	\$744.00	Compensable, this task is related to the value of the trust.
4	62	10/25/2019	Review and revise motion to intervene	\$365.00	0.50	\$182.50	Compensable, this task is related to the value of the trust.

4	63	10/25/2019	Communication with various parties about complaints and motion to dismiss	\$365.00	0.60	\$219.00	Compensable, this task is related to the value of the trust.	
4	64	10/25/2019	Revise motion to intervene	\$160.00	2.50	\$400.00	Compensable, this task is related to the value of the trust.	
4	65	10/25/2019	Draft motion to intervene	\$240.00	1.80	\$432.00	Compensable, this task is related to the value of the trust.	
4	66	11/5/2019	Work on stipulation	\$160.00	1.00	\$160.00	Compensable, this task is related to the value of the trust.	
4	67	11/6/2019	Revise stipulation to stay proceedings	\$160.00	2.00	\$320.00	Compensable, this task is related to the value of the trust.	
4	68	11/7/2019	Review and revise order staying proceedings	\$365.00	0.30	\$109.50	Compensable, this task is related to the value of the trust.	
4	69	11/7/2019	Revise stipulation and orders	\$160.00	1.50	\$240.00	Compensable, this task is related to the value of the trust.	
4	70	11/8/2019	Revise stipulation to stay adversary proceedings	\$160.00	1.00	\$160.00	Compensable, this task is related to the value of the trust.	
4	71	11/11/2019	Finalize stipulation and email counsel	\$160.00	1.00	\$160.00	Although it would have been helpful to have each task listed separately, since only a small amount of time was spent on these tasks, counsel should be awarded for this work.	
4	72	11/19/2019	Email plaintiffs re: stipulation	\$240.00	0.40	\$96.00	Compensable, this task is related to the value of the trust.	
4	73	1/6/2020	Review stipulation to dismiss; email GDB re the same	\$270.00	0.40	\$108.00	Compensable, this task is related to the value of the trust.	
Entries the Court Preliminarily Grants							\$10,910.50	

Chart III: Entries the Court Preliminarily Finds are Partially Compensable

Grimmway Exhibit No.	Entry N	Entry Date	Entry	Rate	Hours	Amount	Preliminary Finding
1	74	6/11/2019	Teleconference with creditor; Brad at IGL Farms re PACA motion; scan and e-mail	\$160.00	0.40	\$ 64.00	The teleconference is compensable; however, scanning and emailing are clerical functions and not compensable.
1	75	6/21/2019	Research preference payments and confession of judgment	\$240.00	3.10	\$ 744.00	There was too much time spent on the task. The amount should be reduced.
1	76	7/2/2019	Review file; prepare for hearing; research potential objection to lifting stay	\$240.00	3.80	\$ 912.00	These tasks are too distinct, and too much time was spent for these tasks to be lumped together. It seems unlikely that the amount of time spent on each task can be recreated since more than two years have lapsed. The amount claimed should be reduced.
1	77	7/8/2019	Research objection to lift automatic stay for purchase money lien	\$240.00	2.00	\$ 480.00	There was too much time spent on the task. The amount should be reduced.
1	78	8/12/2019	Review email re pref. transfers	\$225.00	1.40	\$ 315.00	These tasks are compensable; however, it would be helpful to have the tasks listed individually. In addition, 1.4 hours is too much time for reviewing emails. This amount should be reduced.
1	79	8/19/2019	Research preferences to PACA creditors	\$240.00	3.10	\$ 744.00	There was too much time spent on the task. The amount should be reduced.

1	80	9/17/2019	Email Ag Farms re: PACA requirements; research PACA license	\$240.00	1.90	\$ 456.00	There was too much time spent on these tasks. The amount should be reduced.
1	81	10/11/2019	Review adversary complaints; research intervention procedure	\$240.00	2.70	\$ 648.00	Reviewing adversary complaints would be compensable. However, too much time was spent researching intervention procedure.
1	82	11/4/2019	Email adversary case plaintiffs (sic) re: stipulation	\$240.00	1.30	\$ 312.00	There was too much time spent on this task. The amount should be reduced.
1	83	1/16/2020	Research personal property taxes in PACA trust	\$270.00	3.80	\$ 1,026.00	There was too much time spent on this task, especially for someone who bills at \$270 per hour.
2	84	5/21/2019	Research PACA statute and procedure	\$240.00	3.70	\$ 888.00	Although the research topic is acceptable, 3.7 hours, without more description, is too much time to be spent on this issue.
2	85	5/23/2019	Various tasks	\$365.00	2.00	\$ 730.00	Although these tasks seem justifiable, they are too distinct to expect the trust to pay for them, especially since a large amount of time was spent on these tasks. The amount requested should be reduced.
2	86	5/28/2019	Various tasks	\$365.00	1.00	\$ 365.00	Although these tasks seem justifiable, they are too distinct to expect the trust to pay for them, especially since a large amount of time was spent on these tasks. The amount requested should be reduced.

2	87	5/31/2019	Review and revise motion	\$365.00	2.50	\$ 912.50	Too much time and too many entries have already been requested for this issue. Without further description, this amount should be reduced.
2	88	5/31/2019	Research statute	\$240.00	4.10	\$ 984.00	Too much time and too many entries have already been requested for this issue. Without further description, this amount should be reduced.
2	89	5/31/2019	Proofread motion	\$160.00	0.80	\$ 128.00	Too much time and too many entries have already been requested for this issue. Without further description, this amount should be reduced.
2	90	6/3/2019	Reviewing motion, conferencing, and several other tasks.	\$365.00	2.00	\$ 730.00	Three attorneys made entries related to drafting the PACA motion. The trust should not have to pay for all three attorneys' time.
2	91	6/3/2019	Review PACA Motion and inter-office conferencing	\$160.00	0.70	\$ 112.00	Three attorneys made entries related to drafting the PACA motion. The trust should not have to pay for all three attorneys' time.
2	92	6/7/2019	Finalize order and notice; file PACA motion; prepare notice for mailing	\$160.00	1.20	\$ 192.00	Filing the motion and order and preparing the notice for mailing are clerical functions. The trust should not have to pay a rate of \$160/hr for those tasks.
2	93	6/17/2019	Prepare revised notice to creditors; scan and file the same; prepare notice for mailing	160	1.30	\$ 208.00	Preparing a notice could be a task that a lawyer should do; however, the trust should not have to pay an attorney rate for scanning, filing, and mailing. The amount claimed should be reduced.

2	94	7/24/2019	Various tasks related to drafting PACA motion and a motion that was denied	\$160.00	2.30	\$ 368.00	This entry should have been broken down to several entries. It is difficult to tell whether the time is related to one motion or two motions. The amount awarded should be reduced.
2	95	7/31/2019	Finalize and file motion; prepare notices for mailing	\$160.00	1.60	\$ 256.00	Although counsel should be compensated for finalizing the motion, preparing the notices for mailing is a clerical function. The trust should not have to pay the attorney rate.
2	96	9/26/2019	Revise and finalize and file motion; prepare notices for mailing	\$160.00	1.00	\$ 160.00	Although counsel should be compensated for finalizing the motion, preparing the notices for mailing is a clerical function. The trust should not have to pay the attorney rate.
4	97	1/7/2020	Revise dismissal in adversary; draft finalize and file order	\$160.00	0.80	\$ 128.00	The trust should pay for drafting; however, the estate should not have to pay for filing the order. Filing is a clerical function.
5	98	5/1/2019	Conference with GDB and DEL	\$160.00	0.50	\$ 80.00	Not every inter-office conference, emails, and/or communication should be compensated, especially when more than one lawyer is billing for the same conversation.
5	99	5/2/2019	Conference with DEL	\$365.00	0.60	\$ 219.00	See entry in row above.
5	100	5/3/2019	Conference with GDB	\$160.00	0.50	\$ 80.00	See entry in row above.
5	101	5/8/2019	Conference with BAS	\$365.00	0.40	\$ 146.00	See entry in row above.

5	102	5/30/2019	Conference re discussions with BMS	\$365.00	2.50	\$	912.50	See entry in row above.
5	103	6/3/2019	Conference with CTP	\$365.00	2.00	\$	730.00	See entry in row above.
5	104	6/11/2019	Conference with BAS	\$365.00	0.30	\$	109.50	See entry in row above.
5	105	7/2/2019	Conference re PACA claim	\$365.00	0.30	\$	109.50	See entry in row above.
5	106	7/2/2019	Conference with GDB	\$160.00	0.50	\$	80.00	See entry in row above.
5	107	7/9/2019	Conference with RAS	\$365.00	0.90	\$	328.50	See entry in row above.
5	108	7/9/2019	Conference with GDB; Conference with BAS	\$225.00	3.30	\$	742.50	See entry in row above.
5	109	7/10/2019	Conference with RAS	\$160.00	1.30	\$	208.00	See entry in row above.
5	110	7/10/2019	Email and conference with BAS	\$225.00	2.80	\$	630.00	See entry in row above.
5	111	7/10/2019	Conference with RAS	\$160.00	0.80	\$	128.00	See entry in row above.
5	112	7/11/2019	Conference with GDB; Conference with BAS	\$225.00	3.20	\$	720.00	See entry in row above.
5	113	7/12/2019	Conference with GDB; Conference with RAS and GDB re insurance and utilities	\$225.00	2.30	\$	517.50	See entry in row above.
5	114	7/12/2019	Conference with RAS and GDB	\$160.00	1.50	\$	240.00	See entry in row above.
5	115	7/15/2019	Conference with GDB and BAS	\$225.00	2.50	\$	562.50	See entry in row above.
5	116	7/17/2019	Conference with GDB	\$225.00	1.00	\$	225.00	See entry in row above.
5	117	7/22/2019	Conference with GDB	\$225.00	2.00	\$	450.00	See entry in row above.
5	118	7/23/2019	Teleconference with Brunkel; conference with BAS	\$225.00	1.70	\$	382.50	See entry in row above.
5	119	7/23/2019	Emails with Brunkel; conference with RAS	\$160.00	0.40	\$	64.00	See entry in row above.
5	120	7/24/2019	Conference with BAS	\$365.00	0.30	\$	109.50	See entry in row above.
5	121	7/25/2019	Email correspondence with BAS and GDB	\$225.00	1.00	\$	225.00	See entry in row above.

5	122	7/29/2019	Email correspondence with BAS and GDB	\$225.00	1.60	\$ 360.00	See entry in row above.
5	123	7/30/2019	Conference with BAS; email correspondence with BAS	\$225.00	0.90	\$ 202.50	See entry in row above.
5	124	7/31/2019	Conference with GDB	\$160.00	0.50	\$ 80.00	See entry in row above.
5	125	7/31/2019	Conference with CTP	\$365.00	0.60	\$ 219.00	See entry in row above.
5	126	8/1/2019	Conference with BAS and GDB	\$225.00	2.20	\$ 495.00	See entry in row above.
5	127	8/2/2019	Email correspondence with GDB and BAS	\$225.00	1.60	\$ 360.00	See entry in row above.
5	128	8/5/2019	Email correspondence with Ron, Cynthia, Mike, BAS and GDB; conference with GDB	\$225.00	1.80	\$ 405.00	See entry in row above.
5	129	8/6/2019	Conference with BAS	\$225.00	0.60	\$ 135.00	See entry in row above.
5	130	8/12/2019	Conference with GDB	\$225.00	1.40	\$ 315.00	See entry in row above.
5	131	8/15/2019	Conference with CTP	\$365.00	0.80	\$ 292.00	See entry in row above.
5	132	8/19/2019	Conference with CTP	\$365.00	1.50	\$ 547.50	See entry in row above.
5	133	8/21/2019	Conference with BAS and CTP	\$365.00	0.30	\$ 109.50	See entry in row above.
5	134	9/13/2019	Conference with BAS and CTP	\$365.00	0.40	\$ 146.00	See entry in row above.
5	135	9/23/2019	Email correspondence with BAS	\$225.00	0.50	\$ 112.50	See entry in row above.
5	136	9/24/2019	Conference with GDB	\$160.00	0.20	\$ 32.00	See entry in row above.
5	137	9/26/2019	Conference with BAS	\$225.00	0.30	\$ 67.50	See entry in row above.
5	138	9/26/2019	Conference with CTP	\$160.00	0.80	\$ 128.00	See entry in row above.
5	139	10/11/2019	Conference with BAS; Conference with CTP	\$365.00	0.60	\$ 219.00	See entry in row above.
5	140	10/25/2019	Conference with CTP	\$365.00	0.50	\$ 182.50	See entry in row above.
5	141	11/5/2019	Conference re: determinations of PACA	\$365.00	0.50	\$ 182.50	See entry in row above.

5	142	11/5/2019	Conference with GDB and CTP	\$160.00	0.70	\$ 112.00	See entry in row above.	
5	143	11/8/2019	Conference with GDB	\$160.00	0.70	\$ 112.00	See entry in row above.	
5	144	5/18/2020	Conference with GDB	\$160.00	0.40	\$ 64.00	See entry in row above.	
5	145	9/14/2020	Conference with GDB	\$160.00	0.30	\$ 48.00	See entry in row above.	
5	146	2/22/2021	Conference with GDB and CTP	\$160.00	1.30	\$ 208.00	See entry in row above.	
5	147	2/23/2021	Conference with GDB and CTP	\$160.00	3.00	\$ 480.00	See entry in row above.	
5	148	2/24/2021	Conference re coolers; Conference with GDB	\$370.00	0.30	\$ 111.00	See entry in row above.	
5	149	4/27/2021	Conference with BAS	\$370.00	0.90	\$ 333.00	See entry in row above.	
5	150	4/27/2021	Conference with GDB	\$160.00	0.50	\$ 80.00	See entry in row above.	
5	151	6/9/2021	Email GDB	\$160.00	0.30	\$ 48.00	See entry in row above.	
Entries the Court Preliminarily Determines Are Partially Compensable							\$ 26,048.50	

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

In the Matter of:

B & B ORGANICS, INC.
Debtor

Case No.: 19-30729

Chapter 7

Parties' Joint Report Concerning Attorney's Fees

I. Instructions for Completing Report

The parties completing this report must limit their explanations to one or two paragraphs. The Court encourages pinpoint citations and explanatory parentheticals. If appropriate, Grimmway, Taylor Farms, and Pacific Coast Fruit, the objecting parties, may collectively respond instead of responding individually.

II. Participants

The parties met [telephonically, via video platform, via email] and agreed to this

Report on: _____, 2021. The following participated:

- (1) _____ from Warrick & Boyn, LLP, counsel retained as attorneys for the Trust;
- (2) _____ from Meurs Law Firm, PL, representing Grimmway Enterprises;
- (3) _____ from Moncrief & Hart, PC, representing Taylor Farms; and
- (4) _____ from the Law office of Marion Quesenbery, representing Pacific Coast Fruit Company.

III. Issue 1: Method of Determining Attorney Fees

Warrick states Perishable Agricultural Commodities Act (PACA) trust cases are rare in Region 10 and require significant factual and legal research. [Application for Allowance of Attorney Fees, DE 132 at ¶ 4.] In Grimmway's Objection [DE 134], it suggests the case is not complex because \$159,860.18 of the \$178,266.57 collected was currently on deposit and required no PACA expertise. *Id.* at p. 7, ¶ B; p. 9 at ¶38.]

Grimmway adds the Court should use its discretion and apply a percentage-of-the-recovery method as opposed to the lodestar method. [*Id.* at pp. 8-9.] The lodestar method multiplies the number of hours spent by an attorney's hourly rate. *Florin v. Nationsbank of Georgia, N.A.*, 34 F.3d 560, 562, fn. 3. (7th Cir. 1994). Here, Warrick submitted its hours using the lodestar method.

(1) Do the parties agree whether this is a complex case? Make the appropriate selection.

Yes, the parties agree. This case [is/is not] complex.

No, the parties do not agree. The parties provide more explanation below.

Responses to Question 1	
Warrick's Response:	
Grimmway's Response:	
Taylor Farm's Response:	
Pacific Fruit's Response:	

In *Florin v. Nationsbank of Georgia*, the Seventh Circuit explained that a court could use its discretion in using either a percentage-of-the-recovery or lodestar method in common fund cases. *Id.* at 566.

(2) Is it reversible error and/or an abuse of discretion if this Court uses the lodestar method? Check all that apply.

- The parties agree. It is reversible error to use the lodestar method.
- The parties agree. It is not reversible error to use the lodestar method.
- The parties agree. It is an abuse of discretion to use the lodestar method.
- The parties agree. It is not an abuse of discretion to use the lodestar method.
- No, the parties do not agree. The parties provide more explanation below.

Responses to Question 2	
Warrick's Response:	
Grimmway's Response:	
Taylor Farm's Response:	
Pacific Fruit's Response:	

IV. Issue 2: Individual Case Entries

Grimmway highlighted its objections to Warrick's entries. [DE 134, Exh. 1, 2, 4 and 5.] The Court compiled the objections and listed them in Charts 1-3. In Chart 1, the court preliminarily disallows Warrick's requested fees. In Chart 2, the court initially finds the requested entries are appropriate, and the Trust should pay Warrick. In Chart 3, the court preliminarily finds the entries are partially compensable.

In the report below, the parties are to indicate whether they reached an agreement on the entries. The "Entry No." column references the entries in the court-created Charts 1-3.

Entry Number	Parties agree, expense should be allowed	Parties agree, expense should not be allowed	Parties agree, expense should be modified to:	Parties disagree. The specifics of the disagreement are listed below.
1.				
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Entry Number	Parties agree, expense should be allowed	Parties agree, expense should not be allowed	Parties agree, expense should be modified to:	Parties disagree. The specifics of the disagreement are listed below.
24.				
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Entry Number	Parties agree, expense should be allowed	Parties agree, expense should not be allowed	Parties agree, expense should be modified to:	Parties disagree. The specifics of the disagreement are listed below.
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Entry Number	Parties agree, expense should be allowed	Parties agree, expense should not be allowed	Parties agree, expense should be modified to:	Parties disagree. The specifics of the disagreement are listed below.
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Entry Number	Parties agree, expense should be allowed	Parties agree, expense should not be allowed	Parties agree, expense should be modified to:	Parties disagree. The specifics of the disagreement are listed below.
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115.				

Entry Number	Parties agree, expense should be allowed	Parties agree, expense should not be allowed	Parties agree, expense should be modified to:	Parties disagree. The specifics of the disagreement are listed below.
116.				
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Entry Number	Parties agree, expense should be allowed	Parties agree, expense should not be allowed	Parties agree, expense should be modified to:	Parties disagree. The specifics of the disagreement are listed below.
139.				
140.				
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Respectfully submitted,

Warrick & Boyn, LLP
Attorneys Retained as Counsel for Trust

Moncrief & Hart, PC
Attorneys for Taylor Farms

Meurs Law Firm, PL
Attorneys for Grimmway Enterprises

Law Office of Marion Quesenbery
Attorneys for Pacific Coast Fruit Company