U.S. BANKRUPTCY COURT
District of South Carolina

Case Number: **25-03188-eg**

ORDER ON MOTION TO DETERMINE FEES, EXPENSES OR CHARGES OF U.S. BANK, N.A.

The relief set forth on the following pages, for a total of 9 pages including this page, is hereby ORDERED.

FILED BY THE COURT
04/06/2026

Entered: 04/06/2026

Elisabetta G. M. Gasparini
US Bankruptcy Judge
District of South Carolina

THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:	C/A No. 25-03188-EG
Sarah Levetta Green,	Chapter 13
Debtors.	**ORDER ON MOTION TO DETERMINE FEES, EXPENSES OR CHARGES OF U.S. BANK, N.A.**

THIS MATTER comes before the Court on the Motion to Determine Fees, Expenses, or Charges ("Motion") filed by Sarah Levetta Green ("Debtor") on March 5, 2026.[1] The Motion was filed in response to the Notice of Postpetition Mortgage Fees, Expenses, and Charges (Claim #11) ("3002.1 Notice")[2] filed by U.S. Bank, N.A., c/o NewRez LLC d/b/a Shellpoint Mortgage ("Creditor"). No objection or response to the Motion was filed. After considering the arguments raised in the Motion and those presented at the hearing, the record before the Court, and the applicable authority and rules, the Court denies Creditor's request for postpetition fees and expenses in the amount of $1,550.00.

FACTUAL BACKGROUND

Debtor filed for relief under chapter 13 of the Bankruptcy Code on August 15, 2025.[3] Creditor timely filed a Proof of Claim on October 24, 2025, asserting a claim in the amount of $87,807.20 secured by Debtor's primary residence (the "Property").[4] The Mortgage and Note were attached to the Proof of Claim. The Property was listed on Debtor's Schedules as having the value of $111,471.00.[5] Debtor's chapter 13 plan was confirmed on December 31, 2025, and

[1] ECF No. 18.
[2] The 3002.1 Notice and Proof of Claim were both signed by Wendy Locke, the Authorized Agent for Creditor, of Aldridge Pite, LLP which appears to be a law firm.
[3] ECF No. 1.
[4] POC 11-1.
[5] ECF No. 1.

provided that mortgage payments would be paid by the Trustee to Creditor through the conduit procedure.[6]

On January 9, 2026, Creditor filed the 3002.1 Notice using Official Form 410S2,[7] claiming expenses incurred on or about October 24, 2025, in the total sum of $1,550.00, itemized as follows: (a) $735.00 for "Bankruptcy/Proof of claim fees"; (b) $490.00 for "Plan Review"; and (c) $325.00 for "Prep/analysis of Official 410A". The Motion seeks the denial of the postpetition fees claimed in the 3002.1 Notice because Creditor provided no explanation to determine their reasonableness. Moreover, through the Motion Debtor requests that, pursuant to Fed. R. Bankr. P. 3002.1(h), the Court preclude Creditor from presenting the omitted information at the hearing and award reasonable expenses and attorney's fees caused by the failure to provide sufficient information.

A hearing was held on March 31, 2026, at which Debtor's counsel ("Debtor's Counsel") and the Chapter 13 Trustee (the "Trustee") were present. Debtor's Counsel explained that when notices of postpetition fees, expenses, and charges are filed in his client's bankruptcy cases pursuant to Fed. R. Bankr. P. 3002.1(c), and the fees and expenses claimed raises questions, he usually contacts the creditor or its counsel to request further information, and those requests are typically responded to with additional information, thus averting the need to file a motion pursuant to Fed. R. Bankr. P. 3002.1(e). In this case, Debtor's Counsel requested additional clarification from Creditor's representative regarding the amounts set forth in the 3002.1 Notice; however, no response was provided.[8] Due to Creditor's lack of response and failure to appear at the hearing,

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[6] ECF No. 15.

[7] Official Form 410S2 provides the following instructions:

> If the debtor's plan provides for payment of postpetition contractual installments on your claim secured by a security interest in the debtor's principal residence, you must use this form to give notice of any fees, expenses, and charges incurred after the bankruptcy filing that you assert are recoverable against the debtor or against the debtor's principal residence. File this form as a supplement to your proof of claim. *See* Bankruptcy Rule 3002.1.

[8] Debtor's Counsel contacted Creditor's Authorized Agent as listed on the Proof of Claim and 3002.1 Notice.

Debtor's Counsel requested that the Motion be granted and the fees disallowed.[9] The Trustee took no position on the matter.

CONCLUSIONS OF LAW

Federal Rule of Bankruptcy Procedure 3002.1, applicable in chapter 13 cases to claims secured by a security interest in the debtor's principal residence, is the controlling rule in the matter before the Court. Rule 3002.1 first went into effect in 2011 to "aid in the implementation of 11 U.S.C. § 1322(b)(5), which permits a chapter 13 debtor to cure a default and maintain payments of a home mortgage over the course of a debtor's plan." *Trudelle v. PHH Mortg. Corp. (In re Trudelle)*, No. 16-60382-EJC, 2017 WL 4411004, at *2 (Bankr. S.D. Ga. Sep. 29, 2017) (citing Fed. R. Bankr. P. 3002.1 Advisory Committee's Note to 2016 amendment). Prior to Rule 3002.1 taking effect, chapter 13 debtors who had successfully completed their plan would sometimes face a substantial and previously undisclosed arrearage that was not discharged. *In re Hale*, No. 14-04337-HB, 2015 WL 1263255, at *1 (Bankr. D.S.C. Mar. 16, 2015). "This outcome was inconsistent with the goal of providing debtor with a fresh start." *Id*. (citing *In re Sheppard*, No. 10-33959-KRH, 2012 WL 1344112, at *2 (Bankr. E.D. Va. Apr. 18, 2012)). Rule 3002.1 was enacted to remedy this issue. The Advisory Committee's Note further states:

> [Rule 3002.1] applies whether the trustee or the debtor is the disbursing agent for post-petition mortgage payments. In order to be able to fulfill the obligations of § 1322(b)(5), a debtor and the trustee must be informed of the exact amount needed to cure any pre-petition arrearage, see Rule 3001(c)(2), and the amount of the post-petition payment obligations. If the latter amount changes over time, due to the adjustment of the interest rate, escrow account adjustments, or the assessment of fees, expenses or other charges, notice of any change in payment amount needs to be conveyed to the debtor and trustee. Timely notice of these changes will permit the debtor or trustee to challenge the validity of any such charges, if necessary, and

[9] At the hearing, Debtor's Counsel made no argument or request that Debtor be awarded attorney fees pursuant to Fed. R. Bankr. P. 3002.1(h)(2) and provided no additional information to the attorney's fee or amount Debtor was seeking. Though it is not clear to the Court whether Debtor has thus abandoned that argument, for the reasons set forth below, no attorney fees will not be awarded in Debtor's favor.

> to adjust post-petition mortgage payments to cover any properly claimed adjustment.

In re Trudelle, No. 16-60382-EJC, 2017 WL 4411004, at *2 (citing Fed. R. Bankr. P. 3002.1 Advisory Committee's Note to 2016 amendment).

Pursuant to 3002.1(c), "[t]he holder of a claim must file a notice itemizing all fees, expenses, and charges incurred after the case was filed that the holder asserts are recoverable against the debtor or the debtor's principal residence." The notice must be filed within 180 days after the fees, expenses, or charges are incurred as a supplement to a creditor's proof of claim. *See* Fed. R. Bankr. P. 3002.1(c)-(d). Here, the 3002.1 Notice supplemented Creditor's Proof of Claim # 11 and was timely filed on January 9, 2026—approximately seventy-eight (78) days after the expenses, fees, and charges were incurred.

Once a notice is filed pursuant to Rule 3002.1(c), a debtor or other party interest may disagree with the amounts asserted. "On a party in interest's motion, the court must, after notice and a hearing, determine whether paying any claimed fee, expense, or charge is required by the underlying agreement and applicable nonbankruptcy law." Fed. R. Bankr. P. 3002.1(e). When such a motion is filed, there are typically two inquiries a court must make: (1) whether the underlying contract requires debtor to pay the fees, charges, or expenses asserted in the Notice of Postpetition Mortgage Fees, Expenses, and Charges; and (2) whether the fees, expenses, or charges are required by applicable nonbanruptcy law. As to the latter, in South Carolina, attorney's fees are generally "not recoverable unless authorized by contract or statute." *Gulfstream Café v. Palmetto Indus. Dev.*, 437 S.C. 247, 252, 878 S.E.2d 13, 16 (S.C. Ct. App. 2022) (citations omitted); *In re Lighty*, 513 B.R. 489, 497 (Bankr. D.S.C. 2014) (citations omitted); *see also In re Devey*, 590 B.R. 706, 726 (Bankr. D.S.C. 2018) (citations omitted). When the underlying contract provides for "reasonable" attorney fees, courts consider these six factors: "[1] the nature, extent

and difficulty of the legal services rendered; [2] the time and labor necessarily devoted to the case; [3] the professional standing of counsel; [4] the contingency of compensation; [5] the fee customarily charged in the locality for similar legal services; and [6] the beneficial results obtained." *In re Lighty*, 513 B.R. at 497 (citing *Dedes v. Strickland*, 307 S.C. 155, 160, 414 S.E.2d 134, 137 (S.C. 1992)); *In re Longhurst*, 607 B.R. 822, 826 (Bankr. D.S.C. 2019).

Unlike with a proof of claim, a Notice of Postpetition Mortgage Fees, Expenses, and Charges is not prima facie evidence of the validity and amount. Fed. R. Bankr. P. 3002.1(d).[10] Because Rule 3001(f) does not apply to a notice for supplemental fees and expenses, it "suggests that the drafters did not intend to afford creditors any special advantage with respect to supplemental fees and charges." *In re Trudelle*, No. 16-60382-EJC, 2017 WL 4411004, at *3 (citing *In re Brumley*, No. DG 16–00819, 2017 WL 3129735, at *2 (Bankr. W.D. Mich. July 24, 2017)). Additionally, it is the creditor who is seeking to "change the status quo by asking for amounts beyond the amount set forth in the original proof of claim—a typical basis for assigning the burden of proof, and the Debtor's request for a 'determination' or declaratory relief under Rule 3002.1(e) does not change this fact." *Id*.

Simply stated, it is the claim holder that bears the burden under Rule 3002.1(e). *Id*; *In re Snow*, 603 B.R. 114, 221 (Bankr. W.D. Okla. 2019). Since it is the claim holder who bears the burden of proving whether the fees, expenses, and charges when a notice of fees is challenged, the failure to respond or provide further information may result in the fees, expenses, and charges being disallowed.

A. Debtor is Required To Pay Reasonable Postpetition Mortgage Fees, Expenses, and Charges Pursuant to the Underlying Contract.

[10] Rule 3002.1(d) expressly states that a notice which supplements a proof of claim using Official Form 410S2 is not subject to Rule 3001(f), which provides that a proof of claim filed in accordance with the Federal Rules of Bankruptcy Procedure is prima facie evidence of the validity and amount.

A court must first determine if Debtor must pay such fees, charges, and expenses based on the underlying mortgage agreement before it can turn to the reasonableness of those fees. Debtor did not dispute that Creditor is entitled to reasonable fees incurred in relation to the bankruptcy case, and at the hearing Debtor's Counsel indicated that he was not focusing on that as he assumed, as is usually the case in mortgage documents, that they would be entitled to reasonable attorney fees. A review of the documents attached to Creditor's Proof of Claim confirms as much. The Mortgage in this case states:

> It is further covenanted that the Mortgagee may (but shall not be obligated to do so) advance moneys that should have been paid by the Mortgagor in order to protect the lien or security of the mortgage, including but not limited to charges for taxes, insurance, public assessments or official fees, and all expenses whatsoever reasonably incurred in order to preserve and protect the security of the mortgage such as repairs, necessary improvements or attorney fees advance to this end and the Mortgagor agrees on written demand to forthwith repay such money . . .

The Note includes an almost identical provision.[11] The Mortgage also states:

> If any action or proceeding is commenced which materially affects the Mortgagee's interest in the property, including, but not limited to . . . bankruptcies . . . then the Mortgagee at its own option upon notice to the Mortgagor may make such appearances, disburse such sums and take such actions as is necessary to protect the Mortgagee's interest and Mortgagor agrees to pay all costs including but not limited to, disbursements of reasonable attorney's fees not exceeding 15% of the unpaid debt and costs of the action.

Thus, the first hurdle is met—the language of the contract contemplates for the payment of such fees.

B. Creditor Has Not Met The Burden of Proof to Establish the Fees, Expenses, and Charges are Reasonable.

[11]"[T]he holder may (but shall not be obligated to do so) advance moneys that should have been paid by the undersigned in order to protect the lien or security of the mortgage, including but not limited to charges for taxes, insurance, public assessments or official fees, and all expenses whatsoever reasonably incurred in order to preserve and protect the security of the mortgage such as repairs, necessary improvements or attorney fees advance to this end and the undersigned agrees on written demand to forthwith repay such money. . . ."

Creditor has failed to prove that the fees, expenses, and charges are reasonable. Once a court determines "[i]f the underlying agreement provides for payment of 'reasonable' attorney's fees by the debtor, then creditors must provide adequate descriptions for the charges contained in notices under Fed. R. Bankr. P. 3002.1(c) for the debtor and Court to determine whether they are reasonable." *In re Mackie*, 623 B.R. 285, 287–88 (Bankr. D.S.C. 2020) (citations omitted). Descriptions such as "Review of Plan" or "Proof of Claim" are not generally adequate and they do not necessarily explain "why the services of an attorney were needed, whether the charges are reasonable on the particular facts of the case, who performed the work, the time spent on the task, the rate charged, etc." *In re Hale*, No. 14-04337-HB, 2015 WL 1263255, at *3.

The only description provided by Creditor of the fees, expenses, and charges incurred were those listed on the 3002.1 Notice. These descriptions provided the bare minimum explanation and were therefore insufficient to determine the reasonableness of the fees listed. *In re Mackie*, 623 B.R. at 288; *In re Hale*, No. 14-04337-HB, 2015 WL 1263255, at *3; *In re Lighty*, 513 B.R. 489, 497 n.5. It is also unclear from the 3002.1 Notice whether the services and work listed were performed by an attorney. It appears that the 3002.1 Notice was signed by a woman employed at a law firm. However, despite Official Form 410S2 providing a line for "attorney's fees" none of the fees, expenses, or charges are listed as attorney's fees. Official Form 410S2 instructs filers to "[i]temize the fees, expenses, and charges incurred on the debtor's mortgage account after the petition was filed." Although the form does not explicitly invite or provide space for a thorough description of the services, this does not preclude Creditor from attaching additional information. *In re Lighty*, 513 B.R. at 497 n.5 (noting that "[t]he length of the line on the form notice is neither an excuse for not providing a better description, as additional pages could have been attached

describing the work performed, nor an indication of the amount of detail that should be included in the description").

Moreover, once a notice of fees is challenged or inquiries are made as to the nature of the services listed and the fees for those services, additional evidence is required for a claim holder to succeed in recovering the fees, expenses, and charges asserted. Here, Creditor failed to meet its burden of proof due to its failure to respond to Debtor's Counsel, respond or object to the Motion, or appear in Court at the scheduled hearing. If a claim holder does not provide an adequate description on Official Form 410S2, they may provide further explanations through a response to a Motion to Determine Fees, Expenses or Charges, testimony, or other evidence. *In re Hale*, No. 14-04337-HB, 2015 WL 1263255, at *3; *see also In re Pittman*, No. 14-03404-HB, 2015 WL 1262837, at *3 (Bankr. D.S.C. Mar. 16, 2015). However, under Fed. R. Bankr. P. 3002.1(h), if a creditor fails to give notice or respond, a court may "preclude the holder from presenting the omitted information in any form as evidence in a contested matter" and may "award other appropriate relief, including reasonable expenses and attorney's fees caused by the failure." Here, Creditor's failure to appear at the hearing or object to the Motion warrants the disallowances of the fees and other charges claimed in the 3002.1 Notice. The Court, however, declines to award Debtor attorney fees given that Debtors failed to present any argument in favor of such relief in the Motion or at the hearing, and Debtor's Counsel has not submitted any information or evidence supporting attorney's fees incurred to file and pursue the Motion. It is therefore,

ORDERED that Debtor's Motion to Determine Fees is granted in part and Creditor's request for postpetition fees totaling $1,550.00 is denied. Debtor's request for attorney's fees is also denied.

AND IT IS SO ORDERED.