

No. 70423-1-I

STATE OF WASHINGTON COURT OF APPEALS  
DIVISION I

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JUDY HA,  
Appellant,

v.

SIGNAL ELECTRIC, INC.,  
Respondent.

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On Appeal from King County Superior Court  
Case No. 12-2-06911-5 SEA  
The Honorable Monica J. Benton

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**REPLY BRIEF OF APPELLANT JUDY HA**

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## I. REPLY ARGUMENT

The crux of this appeal is whether Mr. Tracy had the authority to accept and/or waive service of process on Signal Electric, Inc.'s ("Signal Electric") behalf, and the Court's resolution of this issue will ultimately dictate the outcome of this case.

If the Court determines that Mr. Tracy *did* have the authority to accept and/or waive service of process, then two critical facts cannot be disputed. *First*, it would be undisputed that the trial court had personal jurisdiction over Signal Electric, which means that the trial court had the authority to enter the Order of Default and the Default Judgment. *Second*, it would be undisputed that Mr. Tracy's actions as Signal Electric's attorney were binding on Signal Electric, and his knowledge was imputed to Signal Electric.<sup>1</sup> As a result, Signal Electric's failure to participate in this lawsuit must be deemed willful, and Signal Electric's failure to seek timely relief from the Order of Default must be attributed to a lack of due diligence.

So if the Court determines that Mr. Tracy *did* have the authority to accept and/or waive service of process, then the Order of Default and the Default Judgment were properly entered, and there was no basis for vacating them because Signal Electric's failure to defend was willful and Signal Electric did not timely move to vacate. *Therefore, if Mr. Tracy*

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<sup>1</sup> "Knowledge by the attorney is imputed to the client." *Hill v. Department of Labor & Indus.*, 90 Wn.2d 276, 279, 580 P.2d 636 (1978). Therefore, [i]t is a general rule that notice to the attorney is notice to his client." *Schwabacher Bros. & Co. v. Orient Ins. Co.*, 101 Wn. 449, 452, 172 P. 568 (1918).

***had the authority to accept and/or waive service of process, then the trial court's decision to vacate the Order of Default and the Default Judgment must be reversed.***

The converse is also true. If Mr. Tracy did *not* have the authority to accept and/or waive service of process, then the trial court did not have personal jurisdiction over Signal Electric, which means that the default would not be valid and the trial court's decision must be affirmed.

So the outcome of this litigation ultimately hinges on one issue—the scope of Mr. Tracy's authority—and, as discussed in Ms. Ha's opening brief, there is substantial evidence in the record demonstrating that Mr. Tracy was in fact authorized to accept and/or waive service of process on Signal Electric's behalf. Although Signal Electric tries hard to undermine this evidence, Signal Electric's arguments rely on a series of inaccurate facts, and this is ultimately fatal to Signal Electric's position. Therefore, for reasons discussed below, the Court must reverse the trial court's decision and reinstate the Order of Default and the Default Judgment.

**A. Mr. Tracy Had Authority To Accept Service of Process**

“The critical inquiry in evaluating an attorney's authority to receive process is, of course, whether the client acted in a manner that ***expressly or impliedly*** indicated the grant of such authority.” *In re Focus Media, Inc.*, 387 F.3d 1077, 1083 (9th Cir. 2004) (emphasis added); *see also Vardanyan v. Port of Seattle*, No. C11-1224 RSM, 2012 WL 3278901, at \*2 (W.D. Wash. Aug. 10, 2012) (citing *In re Focus Media, Inc.* for the proposition that “attorneys can have implied authority to

accept service of process”); *Crose v. Volkswagenwerk Aktiengesellschaft*, 88 Wn.2d 50, 58, 558 P.2d 764 (1977) (“However, it is not necessary that express authority to receive or accept service of process shall have been conferred by the corporation on the person served. It is sufficient if authority to receive service may be reasonably and justly implied.”).

In the present case, Signal Electric acted in a manner that both expressly and impliedly indicated that Crocker Law Group had the authority to accept and/or waive service of process on Signal Electric’s behalf.

#### **1. Express Authority**

As articulated in Ms. Ha’s opening brief, when Signal Electric retained Crocker Law Group, Signal Electric gave Crocker Law Group *express written authority* to handle every aspect of every lawsuit brought against the company, and this included the authority to accept and/or waive service of process on Signal Electric’s behalf. (CP 358-59.) Signal Electric makes two arguments in an attempt to avoid the implications of this plain language outlining the scope of Crocker Law Group’s authority, neither of which has any merit.

First, Signal Electric argues that Crocker Law Group was retained solely for the bankruptcy case, and not for purposes of this or any other litigation. Second, Signal Electric argues that regardless of whether Crocker Law Group was authorized to represent Signal Electric in this case, Crocker Law Group was not authorized to accept service of process on Signal Electric’s behalf. As discussed below, these arguments are

fundamentally flawed because the facts upon which they rely are inaccurate.

**a. Crocker Law Group was Retained to Handle the Defense of “Any Action Commenced Against [Signal Electric]”**

First, Signal Electric argues that Crocker Law Group was retained solely for the bankruptcy case, and that “[*n*]o language in Signal Electric’s request regarding its employment of Mr. Tracy asked that he be retained for any other matter.” (Br. of Resp’t at pp. 6-7 (emphasis added).) *This is demonstrably false.*

Signal Electric’s request regarding its employment of Crocker Law Group states that Signal Electric retained Crocker Law Group for the following purposes:

*To take all actions necessary to protect and preserve Debtor’s bankruptcy estate, including the prosecution of actions on Debtor’s behalf. To undertake, in conjunction as appropriate with special litigation counsel, the defense of any action commenced against Debtor, negotiations concerning litigation in which Debtor is involved, objections to claims filed against Debtor in this bankruptcy case, and the compromise or settlement of claims.*

(CP 358 (emphasis added).)

This language makes it clear that Signal Electric retained Crocker Law Group to handle far more than just the bankruptcy matter. Signal Electric retained Crocker Law Group to take “*all actions*” necessary to preserve Signal Electric’s assets, including the prosecution of actions on Signal Electric’s behalf and “*the defense of any action*” commenced

against the company, *in addition to* handling objections to claims filed against Signal Electric in the bankruptcy case.

The language above clearly contemplates that other actions could be commenced against Signal Electric, and it clearly authorizes Crocker Law Group to defend those actions. Accordingly, Signal Electric's representation that there is "[n]o language" indicating that Crocker Law Group was retained for any other matter simply is not true.

Signal Electric tries to bolster its argument by pointing to the declarations of Mr. Tracy and Mr. Kittelson, claiming that they both "agreed that Mr. Tracy was only and solely retained to represent Signal Electric in its bankruptcy case." (Br. of Resp't at pp. 7-8.) *But this too is false. Mr. Tracy's declaration says no such thing* (see CP 287-88), and Mr. Kittelson's statements to that effect are irrelevant because they contradict the plain language above. *Indeed, Signal Electric cannot retroactively alter the scope of Crocker Law Group's representation after expressly retaining the firm to handle the defense of all actions against the company.*<sup>2</sup>

Signal Electric also tries to bolster its argument by referencing evidence that is not before the Court—evidence that Signal Electric has had in its possession since the beginning of this lawsuit, but for reasons

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<sup>2</sup> Moreover, as discussed below, neither of the declarations affirmatively states that Crocker Law Group lacked the authority to accept and/or waive service of process on Signal Electric's behalf. The fact that nobody was willing to make a simple statement, under oath, that Crocker Law Group lacked the authority to accept and/or waive service of process on Signal Electric's behalf completely undermines Signal Electric's position and is ultimately fatal to its argument that the trial court lacked personal jurisdiction.

that are unknown Signal Electric failed to bring it to the trial court's attention, and Signal Electric failed to have it submitted as part of the record on appeal. Signal Electric specifically states as follows:

Finally, if Mr. Tracy's retention was somehow broader, that scope would have been stated in his retention letter, which was an exhibit to Signal Electric's application to the bankruptcy court to employ Mr. Tracy, but which Ms. Ha elected to exclude from the record on appeal.

(Br. of Resp't at p. 31.) This argument has several problems.

First, Signal Electric is implying that Mr. Tracy's "retention letter" contains a narrower scope of representation than what is contained in Signal Electric's request to employ Crocker Law Group, but as discussed above, the retention letter is not part of the record on appeal. Accordingly, it is improper for Signal Electric to speculate about what it does or does not say. Second, Ms. Ha did not "exclude" the retention letter or anything else from the record. Rather, Signal Electric failed to submit it for consideration.

If Signal Electric believed that the retention letter contained information that was helpful to its case, Signal Electric should have submitted it to the trial court for consideration and then taken steps to have it included as part of the record on appeal. But for reasons that are unknown, Signal Electric failed to do so, and having failed to do so, Signal Electric cannot now imply what the document did or did not say, and Signal Electric cannot blame other parties for its absence from the record.

Finally, Signal Electric argues that Mr. Tracy "did not appear in the personal injury action ... or bill Signal Electric for that matter." (Br.

of Resp't at p. 27.) This, according to Signal Electric, demonstrates that Mr. Tracy was not retained for purposes of this case. (*Id.*) ***But both of these statements are false. Mr. Tracy did appear in this case, and he did bill Signal Electric for his work on this case.***

With regard to an appearance, “[a] defendant appears in an action when he or she answers, demurs, makes any application for an order therein, or gives the plaintiff written notice of his or her appearance.” RCW 4.28.210. Executing an acceptance of service with an endorsement thereon of appearance constitutes an appearance within meaning of this statute. *Cornell Univ. v. Denny Hotel Co. of Seattle*, 15 Wn. 433, 436, 46 P. 654 (1896). Executing a stipulation allowing amendment of the complaint also constitutes an appearance. *Robertson Mortgage Co. v. Thomas*, 60 Wn. 514, 516, 111 P. 795 (1910). “Even informal acts, such as written or oral statements to the plaintiff in the action can constitute an appearance.” *State ex rel. Coughlin v. Jenkins*, 102 Wn. App. 60, 63, 7 P.3d 818 (2000).

In the present case, Mr. Tracy executed an Acceptance of Service of Summons and Complaint, which states as follows:

***I, J. Todd Tracy, am one of the attorneys representing defendant Signal Electric, Inc. (“Signal Electric”) in the above-captioned lawsuit, and I have the authority to accept and/or waive service of process on its behalf.***

(CP 88 (emphasis added).) In addition, the document contains a stipulation allowing Ms. Ha to amend the complaint, and the signature line where Mr. Tracy signed his name specifically identifies Mr. Tracy and

Crocker Law Group as “Attorneys for Defendant Signal Electric.” (CP 88-89.)

Given the liberal construction that courts give to the rules regarding notices of appearance, it is beyond legitimate dispute that by executing this document and returning it to Ms. Ha’s attorneys, Mr. Tracy entered an appearance in this litigation. Signal Electric does not credibly argue otherwise.

With regard to billing for his time, *Mr. Tracy did in fact bill Signal Electric for his work on this case.* This is partially reflected in the timesheets submitted as part of the record on appeal. (CP 449.) The timesheets that show most of Mr. Tracy’s work, however, were not available until very recently.

Crocker Law Group submits periodic requests for compensation to the bankruptcy court. When it does, it submits timesheets supporting its request for fees. This is the only way that Ms. Ha has been able to obtain Mr. Tracy’s timesheets. (CP 366-428 and 433-470.)

When Signal Electric filed its motion to vacate, Ms. Ha did not have access to timesheets showing work performed by Mr. Tracy in August 2012 or anytime thereafter (when most of the activity in this lawsuit took place) because Crocker Law Group had not yet requested compensation for that time. As a result, those timesheets did not become part of the trial court record, and they were not submitted to this Court as part of the Clerk’s Papers. (*See* CP 366-428 and 433-470.)

But in July 2013, Crocker Law Group requested compensation for work performed from August 2012 through May 2013. A true and correct copy of Crocker Law Group's Fourth Interim Application for Compensation of Attorneys' Fees and Reimbursement of Costs (the "Fourth Interim Application") is attached hereto as Exhibit 1. A true and correct copy of Crocker Law Group's timesheet for activity from August 2012 through May 2013 (the "Timesheet") is attached hereto as Exhibit 2. Since these documents were not available until *after* this case was already on appeal, Ms. Ha respectfully requests that the Court consider them under RAP 9.11, RAP 1.2, and RAP 18.8.<sup>3</sup>

In the Fourth Interim Application to the bankruptcy court, Mr. Tracy acknowledges working on this case and seeking compensation for his work on this case under the category of "Case/General Administration," where he states as follows:

One of the creditors of the estate obtained relief from the automatic stay to liquidate her claim and to proceed against insurance proceeds. ***CLG accepted service and the matter was delivered to the client for delivery to the insurance company.*** The complaint, through mistake, was delivered to the incorrect insurance company and the creditor obtained a default judgment when no answer was filed. When the error was determined, the appropriate insurance carrier was notified. The default order was vacated by the King County Superior Court, but the creditor has filed a

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<sup>3</sup> It is important to emphasize that these documents were not available to Ms. Ha until *after* this case was already on appeal. That is why they were not submitted to the trial court and made part of the Clerk's Papers, and that is what distinguishes them from the retention letter, which Signal Electric has had in its possession since the beginning of this lawsuit. Accordingly, there are circumstances that justify making reference to the Fourth Interim Application and the Timesheet, whereas no such circumstances exist with respect to the retention letter.

notice of appeal to Division I of the Washington State Court of Appeals.

(Exhibit 1 at p. 4.)<sup>4</sup>

The Timesheet contains the individual billing entries that support Crocker Law Group's request for fees. The Timesheet shows that Mr. Tracy billed Signal Electric for work performed on August 2, 2012 (.3), August 16, 2012 (.3), February 19, 2013 (.5), February 20, 2013 (.4), February 21, 2013 (.2), February 22, 2013 (.2), February 27, 2013 (.4 and .2), March 6, 2013 (.3 and .2), March 15, 2013 (.2), April 1, 2013 (.3), April 3, 2013 (.3), April 15, 2013 (.3), and April 16, 2013 (.3). (Exhibit 2 at pp. 1, 2, and 12-13.)

Given the information contained in the Fourth Interim Application and the Timesheet, it is beyond dispute that Mr. Tracy billed Signal Electric for his work on this case. Signal Electric's representations to the contrary simply are not true.

As indicated previously, Signal Electric's arguments are fundamentally flawed because the facts upon which they rely are inaccurate, and this is ultimately fatal to Signal Electric's claim that Crocker Law Group was retained solely for the bankruptcy case. Accordingly, Signal Electric's first argument fails.

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<sup>4</sup> Interestingly, Mr. Tracy states in the Fourth Interim Application that when he received the summons, complaint, and acceptance of service he delivered this matter "to the client," thus contradicting Signal Electric's claim that it did not learn about this lawsuit until February 2013.

**b. Signal Electric Expressly Authorized Crocker Law Group to Accept Service of Process**

Second, Signal Electric argues that regardless of whether Crocker Law Group was authorized to represent Signal Electric in this case, Crocker Law Group was not authorized to accept and/or waive service of process on Signal Electric's behalf. But this too ignores the plain language of Signal Electric's request to employ the firm.

Signal Electric gave Crocker Law Group express written authority (1) to *take "all actions"* necessary to preserve Signal Electric's estate; (2) to *defend "any action"* against the company; (3) to prepare answers; (4) to *handle negotiations* concerning litigation in which Signal Electric was involved; and, importantly, (5) to *compromise and settle claims*. (CP 358.) This is nothing short of a complete grant of full authority to take any action deemed necessary to manage lawsuits commenced against Signal Electric in order to protect and preserve the company's estate. Signal Electric has offered no contrary explanation for what this language might mean, and none exists. In fact, Signal Electric completely ignores this issue in its response.

Instead of addressing this critical language, Signal Electric argues that Mr. Tracy never asked Mr. Kittelson for permission to accept service of process in July 2012, so Mr. Tracy therefore lacked authorization to do so. (Br. of Resp't at pp. 12, 17.) But this misses the point. Mr. Tracy did not need to ask Mr. Kittelson for permission to accept service of process in July 2012 because he was already authorized to do so by virtue of the language above.

Signal Electric also tries to downplay its failure to submit declarations from Mr. Kittelson and Mr. Tracy clarifying unequivocally that Signal Electric never gave Crocker Law Group the authority to accept service of process. Signal Electric states that this issue is a “red herring” because Mr. Tracy confirmed that he “understood his *only* scope of retention was the bankruptcy,” citing paragraphs 1 and 8 of Mr. Tracy’s declaration which appears at CP 287-88. (Br. of Resp’t at p. 27 (emphasis added).) But this argument highlights perfectly the problem with the declarations, *because Mr. Tracy says no such thing.*

In paragraph 1 Mr. Tracy states that he represents Signal Electric in the bankruptcy action, *but he does not state that his “only scope of retention” was the bankruptcy action, he does not deny representing Signal Electric in other cases, and he does not deny having the authority to accept service of process on Signal Electric’s behalf.* (CP 287.) In paragraph 8, Mr. Tracy states that when he executed the Acceptance of Service of Summons and Complaint, he “did not intend to be signing as counsel for the Defendant, Signal Electric, Inc.,” *but regardless of his intent, he does not deny that he had the authority to accept service of process on Signal Electric’s behalf.* (CP 288.)

So the question still remains, why would Signal Electric, while attempting to overturn a \$2.2 million judgment, submit carefully-worded declarations that skirt the critical issues in this case, instead of clearly-worded declarations that confront the issues directly, particularly after Ms. Ha pointed out these deficiencies in her response to the motion to vacate.

Far from being a red herring, this glaring deficiency speaks volumes about the merits of Signal Electric's position and it completely undermines Signal Electric's attempt to deny that Crocker Law Group had express authority to accept service of process.

Because there is express language giving Crocker Law Group the authority to handle every aspect of every lawsuit commenced against Signal Electric, including the authority to negotiate and to compromise and settle claims, and because there is no evidence at all suggesting that this authority was limited in any respect, the Court must conclude that Mr. Tracy did have express authority to accept service of process.

## 2. Implied Authority

In addition to express authority, Signal Electric also impliedly authorized Crocker Law Group to accept service of process by allowing the firm to do so in at least two other cases. Although Signal Electric argues that the other two acceptances of service are irrelevant because they occurred *after* the acceptance of service in the present case, Signal Electric's argument relies once again on facts that are incorrect.

Signal Electric states that “[f]ive months **after** his acceptance of service in Ms. Ha’s personal injury litigation, Mr. Tracy accepted service on behalf of Signal Electric in the matter of *OMA Construction, Inc. v. Signal Electric*.” (Br. of Resp’t at p. 14 (bold added).) And “[s]even months **after** waving service at Ms. Ha’s request, Mr. Tracy executed another acceptance of service in the matter of *Washington Industrial Coatings, Inc. v. Signal Electric*.” (Br. of Resp’t at p. 14 (bold and

underline added).) Signal Electric then concludes that “Mr. Tracy’s actions **long after** he executed an acceptance of service in the appellant’s personal injury litigation can have no possible bearing on Ms. Ha’s claimed belief that he had implied authority to accept service of process in her litigation during **July 2011.**” (Br. of Resp’t at p. 32 (bold and underline added).) ***But Signal Electric’s timeline of events is inaccurate.***

Mr. Tracy accepted service of process in the OMA Construction, Inc. (“OMA”) case in **December 2011**. (CP 431.) He accepted service of process in the Washington Industrial Coatings, Inc. (“WIC”) case in **February 2012**. (CP 473.) He then accepted service of process in the present case in **July 2012, not July 2011** as Signal Electric claims. (CP 89.) Therefore, contrary to what Signal Electric has argued, Signal Electric allowed Mr. Tracy to accept service of process on two other occasions just seven months and five months **before** he did so in the present case. This easily establishes a course of conduct whereby Signal Electric had impliedly authorized Mr. Tracy to accept service of process by the time he was asked to do so in the present case.

Signal Electric also argues that implied authority could not have existed because none of Mr. Tracy’s time entries specifically references a discussion with an authorized representative of Signal Electric about acceptance of service in the OMA case or the WIC case, thereby implying that Signal Electric was unaware of Mr. Tracy’s conduct. (Br. of Resp’t at p. 32.) But Mr. Tracy’s time entries do in fact make it clear that he “[r]eviewed the Washington Industrial Coatings matter and forward[ed] to

client” on February 3, 2012, so it is beyond legitimate dispute that Signal Electric, at the very least, knew about those proceedings. (CP 443.)

Moreover, although Mr. Tracy does not refer to his “client” by name, the absence of such a specific reference in a lawyer’s time entry is not nearly as notable as the lack of any affirmative statement by Signal Electric or Mr. Tracy indicating that there was no communication regarding the prior acceptances of service. Once again, despite being faced with a \$2.2 million judgment, Signal Electric has avoided making affirmative representations that might help its case, and instead chosen to argue by implication, thereby severely undermining the strength of its position.

Finally, Signal Electric attempts to distinguish the present case from *In re Focus Media, Inc.*, 387 F.3d 1077, claiming that they are factually inapposite. (Br. of Resp’t at pp. 25-26.) Signal Electric argues that in *In re Focus Media, Inc.*, implied authority to accept service of process existed because, in addition to the attorney having accepted service of process, the client in that case had filed a declaration identifying the attorney as his general counsel and attorney in the bankruptcy matter and related matters. (Br. of Resp’t at pp. 25-26.) ***But that is exactly what happened in the present case.***

In addition to accepting service of process in two other cases, Signal Electric filed a petition stating that Crocker Law Group could (1) ***take “all actions”*** necessary to preserve Signal Electric’s estate, (2) ***defend “any action”*** against the company, (3) prepare answers, (4) ***handle***

*negotiations* concerning litigation in which Signal Electric was involved, and (5) *compromise and settle claims*. Once again, this is nothing short of a complete grant of full authority to act as Signal Electric's general counsel, making the present case identical to *In re Focus Media, Inc.*

Because the facts clearly demonstrate that Crocker Law Group had both express and implied authority to accept service of process, and Signal Electric has failed to put forth accurate and competent evidence to the contrary, the trial court erred to the extent that it vacated the Order or Default and the Default Judgment for lack of personal jurisdiction.

**B. Mr. Tracy's Actions Were Binding on Signal Electric, and His Knowledge Was Imputed to Signal Electric**

As indicated previously, once the Court determines that Mr. Tracy had the authority to accept and/or waive service of process, then it is undisputed that Mr. Tracy was acting as Signal Electric's attorney in this case, which means that his actions were binding on Signal Electric and his knowledge was imputed to Signal Electric.

"Absent fraud, the actions of an attorney authorized to appear for a client are binding on the client at law and in equity. The 'sins of the lawyer' are visited upon the client." *Rivers v. Washington State Conference of Mason Contractors*, 145 Wn.2d 674, 679, 41 P.3d 1175 (2002) (footnote omitted). Accordingly, "the incompetence or neglect of a party's own attorney is not sufficient grounds for relief from a judgment in a civil action." *M.A. Mortenson Co., Inc. v. Timberline Software Corp.*,

93 Wn. App. 819, 838, 970 P.2d 803 (1999) *aff'd*, 140 Wash. 2d 568, 998 P.2d 305 (2000).

In addition, “[k]nowledge by the attorney is imputed to the client.” *Hill v. Department of Labor & Indus.*, 90 Wn.2d 276, 279, 580 P.2d 636 (1978). Therefore, [i]t is a general rule that notice to the attorney is notice to his client.” *Schwabacher Bros. & Co. v. Orient Ins. Co.*, 101 Wn. 449, 452, 172 P. 568 (1918).

This is significant because Mr. Tracy knowingly and willfully refused to participate in this lawsuit, and this conduct is binding on Signal Electric because he was acting as its attorney. Moreover, Mr. Tracy’s knowledge of the Order of Default in September 2012 is imputed to Signal Electric, which means that Signal Electric waited eight months to file its motion to vacate. Therefore, as discussed below, there was no basis for vacating the Order of Default and the Default Judgment, and the trial court’s decision must be reversed.

**C. Signal Electric Failed to Meet the Requirements for Vacating a Default Judgment**

A court cannot vacate a default judgment unless the moving party can establish the following four factors:

- (1) That there is substantial evidence supporting a prima facie defense;
- (2) that the failure to timely appear and answer was due to mistake, inadvertence, surprise, or excusable neglect;
- (3) that the defendant acted with due diligence after notice of the default judgment; and
- (4) that the plaintiff will not suffer a substantial hardship if the default judgment is vacated.

*Little v. King*, 160 Wn.2d 696, 703-04, 161 P.3d 345 (2007).

These four factors are not weighted equally. Factors (1) and (2) are primary, while factors (3) and (4) are secondary. *Johnson v. Cash Store*, 116 Wn. App. 833, 841, 68 P.3d 1099 (2003). Moreover, when considering the two primary factors, “[i]f a ‘strong or virtually conclusive defense’ is demonstrated, the court will spend little time inquiring into the reasons for the failure to appear and answer, ***provided the moving party timely moved to vacate and the failure to appear was not willful.***” *Id.* (quoting *White v. Holm*, 73 Wn.2d 348, 352, 438 P.2d 581 (1968)) (emphasis added). “However, when the moving party’s evidence supports no more than a prima facie defense, the reasons for the failure to timely appear will be scrutinized with greater care.” *Johnson*, 116 Wn. App. at 842.

Ms. Ha will address the second and third factors together, and she will address them first because they are dispositive of this case.

**1. Signal Electric’s Failure to Defend Was Willful, and Signal Electric Did Not Timely Move to Vacate**

Courts refuse to find mistake, inadvertence, and excusable neglect where, as here, the defendant simply refuses to participate in the lawsuit. For example, in *Little*, the court found that there was no mistake, inadvertence, surprise, or excusable neglect where the defendant “made the deliberate choice, after being told of the consequence by the trial judge, not to prevent default judgment by filing an answer.” *Little*, 160 Wn.2d at 706. The court ruled that “[t]he decision not to participate does not meet the standard required.” *Id.*

With regard to due diligence, “[a] party must use diligence in asking for relief following notice of the entry of the default.” *Gutz v. Johnson*, 128 Wn. App. 901, 919, 117 P.3d 390 (2005) (internal quotations and citations omitted). *As a matter of law, “three months is not within a reasonable time to respond to an order of default.” In re Estate of Stevens*, 94 Wn. App. 20, 35, 971 P.2d 58 (1999) (emphasis added). Three months is also not within a reasonable time to respond to a default judgment. *Gutz*, 128 Wn. App. at 919. **“Thus, a party that has received notice of a default judgment and does nothing for three months has failed to demonstrate due diligence.”** *Id.* (emphasis added).

In the present case, Signal Electric claims that its failure to participate in this lawsuit was due to a mistake, and that it acted with due diligence when filed its motion to vacate after receiving notice of the lawsuit and the default in February 2013. But Signal Electric’s arguments are premised entirely on the notion that Mr. Tracy was not acting as Signal Electric’s attorney in this case, and that Mr. Tracy’s conduct was not binding on Signal Electric.

But if the Court determines, as it should, that Mr. Tracy had the authority to accept and/or waive service of process, then it is undisputed that Mr. Tracy was in fact acting as Signal Electric’s attorney in this case, and that his conduct was in fact binding on Signal Electric, thus completely undermining Signal Electric’s position.

As indicated above, since Mr. Tracy was acting as Signal Electric’s attorney in this case, his knowing and willful refusal to participate in this

lawsuit is binding on Signal Electric, and his knowledge of the Order of Default in September 2012 is imputed to Signal Electric, which means that Signal Electric waited eight months to file its motion to vacate. Therefore, Signal Electric willfully refused to participate in this lawsuit, and it did not timely move to vacate, so there was no legal basis for vacating the Order of Default or the Default Judgment and the trial court’s decision must be reversed. *Johnson*, 116 Wn. App. at 841 (“If a ‘strong or virtually conclusive defense’ is demonstrated, the court will spend little time inquiring into the reasons for the failure to appear and answer, ***provided the moving party timely moved to vacate and the failure to appear was not willful.***” (quoting *White v. Holm*, 73 Wn.2d at 352) (emphasis added)).

While reversal would be appropriate even if Signal Electric *had* produced substantial evidence supporting a *prima facie* defense, as discussed below, Signal Electric did not—and cannot—come forward with such evidence.

**2. Signal Electric Failed to Provide Substantial Evidence Supporting a *Prima Facie* Defense**

“A party moving to vacate a default judgment must be prepared to show ... that there is ***substantial evidence*** supporting a *prima facie* defense.” *Little*, 160 Wn.2d at 703-04 (emphasis added). “To establish a *prima facie* defense, the affidavits submitted to support vacation of a default judgment must precisely set out the facts or errors constituting a defense and cannot rely merely on allegations and conclusions.” *Johnson*,

116 Wn. App. at 847. If a party fails to produce substantial evidence supporting a *prima facie* defense, “the default judgment of liability must stand.” *Calhoun v. Merritt*, 46 Wn. App. 616, 620, 731 P.2d 1094 (1986).

In the present case, Signal Electric argues as follows: “Here, evidence of Signal Electric’s *prima facie* defense is substantial. Ms. Ha’s complaint articulated no possible causal connection between Ms. Ha’s alleged injuries and any action of Signal Electric.” (Br. of Resp’t at p. 37.) But this circular argument makes no sense. The contents of the Complaint have no bearing on whether Signal Electric has satisfied its independent burden of producing substantial evidence of a *prima facie* defense. Moreover, this is a notice pleading State, so it is unnecessary for plaintiffs to specifically articulate their theory of causation in the complaint.

Signal Electric also claims that “Ms. Mars has admitted she was the sole cause of Ms. Ha’s alleged damages,” ***but this is completely untrue. Ms. Mars admitted no such thing, and it is no surprise that this argument contains no citation to the record.*** (Br. of Resp’t at p. 37.)

Ultimately, Signal Electric simply blames Mr. Mars for being intoxicated and contributing to the accident, but Signal Electric does not explain—and cannot explain—how Ms. Mars’s conduct somehow absolves it of all liability in this case. Indeed, the Washington Supreme Court recently affirmed that while intoxication may render a driver comparatively at fault, it does not necessarily absolve other negligent parties of all liability. *Lowman v. Wilbur*, No. 86584-1, 2013 WL 4018611 (Aug. 8, 2013). Therefore, Signal Electric cannot avoid all

liability in this case simply by arguing that Ms. Mars was intoxicated. It takes something more to avoid liability, and Signal Electric has failed to produce such evidence.

Signal Electric at best sets forth a conclusory argument that could have given rise to joint and several liability and claims for contribution, but by no means did Signal Electric produce *substantial evidence* supporting a *prima facie* defense on the merits, let alone a strong or virtually conclusive defense.

And as indicated in Ms. Ha's opening brief, Signal Electric could not legitimately take the position that it bears no liability for the accident after its own attorneys—while representing a different defendant in this exact same lawsuit—specifically alleged that “Plaintiff’s damages, if any, were the fault of other parties and entities ... including co-defendants, Signal Electric, Inc., and the City of Seattle.” (CP 511.) Signal Electric’s attorneys try to downplay this allegation, but they cannot avoid the fact that they previously represented a different defendant in this exact same lawsuit, and while representing that defendant, they pointed the finger at Signal Electric.

Because Signal Electric (1) willfully refused to participate in this lawsuit, (2) failed to timely move to vacate, and (3) failed to produce substantial evidence supporting a *prima facie* defense, there was no legal

basis for vacating the Order of Default or the Default Judgment and the trial court's decision must be reversed.<sup>5</sup>

**D. Signal Electric Should Not Be Awarded Attorneys' Fees or Costs**

Finally, Signal Electric requests attorneys' fees and costs under RAP 18.1, RAP 18.9, CR 11, and RCW 4.84.185.

As a preliminary matter, it should be noted that CR 11 "is intended for use in superior court, not in the appellate court." *Building Indus. Ass'n of Washington v. McCarthy*, 152 Wn. App. 720, 750, 218 P.3d 196 (2009). "While CR 11 sanctions were formerly available on appeal under RAP 18.7, a 1994 amendment to RAP 18.7 and 18.9 eliminated the reference to CR 11 in RAP 18.7 and provided for sanctions on appeal only under RAP 18.9." *Id.* Therefore, Signal Electric's request for CR 11 sanctions must be denied.

Signal Electric's remaining request for attorneys' fees and costs stems from Signal Electric's belief that Ms. Ha has misrepresented facts and filed a frivolous appeal. With regard to misrepresenting facts, Signal Electric claims that Ms. Ha omitted portions of certain cited materials, thereby skewing the facts of this case. This is completely untrue. Ms. Ha cited the relevant portions of the materials contained in the Clerk's Papers, and those citations are completely accurate. If Signal Electric disagrees, it

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<sup>5</sup> In addition, Ms. Ha would suffer hardship if the default were overturned because she would be forced to start the litigation process all over again and re-commence litigation against the defendants that were previously dismissed without prejudice, which may require her to pay various expenses.

is free to make that argument in its response, but that in no way entitles Signal Electric to fees and costs.

Signal Electric also claims that it was impermissible for Ms. Ha to point out that Signal Electric's attorneys previously certified, pursuant to CR 11, that they had a good faith belief, well-grounded in fact, that Signal Electric is responsible for some portion of Ms. Ha's damages. Signal Electric claims that this statement was untrue, but Signal Electric could not be more mistaken. Signal Electric's attorneys did in fact represent another defendant in this exact same lawsuit, at which point they did in fact assert an affirmative defense that blamed Signal Electric for Ms. Ha's damages and injuries. Signal Electric and its attorneys might not like this fact, but it is a fact nonetheless.

Signal Electric also takes issue with Ms. Ha's characterization of Mr. Tracy as Signal Electric's general counsel, but given the language set forth in Signal Electric's request to employ Crocker Law Group, there is no question that Mr. Tracy was in fact Signal Electric's general counsel, retained to take all actions necessary to preserve the company's estate, including the prosecution of actions on Signal Electric's behalf and the defense of any action brought against the company. This is the only legitimate reading of the language seeking to employ the firm.

Ultimately, there is no basis to Signal Electric's claim that Ms. Ha has misrepresented the facts of this case. And this allegation is somewhat surprising given the large number of inaccuracies contained in Signal Electric's own brief.

Finally, Signal Electric argues that this appeal is frivolous. “An appeal is frivolous if, considering the entire record, the court is convinced that the appeal presents no debatable issues upon which reasonable minds might differ and that it is so devoid of merit that there is no possibility of reversal.” *Lutz Tile, Inc. v. Krech*, 136 Wn. App. 899, 906, 151 P.3d 219 (2007). “And we resolve all doubts to whether an appeal is frivolous in favor of the appellant.” *Id.*

With all due respect, this appeal can hardly be considered frivolous. There is substantial evidence indicating that Mr. Tracy had the authority to accept and/or waive service of process, and he did in fact accept service of process on several occasions. Therefore, he was acting as Signal Electric’s attorney in this case, and his willful and dilatory behavior is imputed to Signal Electric, which means that there was no basis for vacating the Order of Default and the Default Judgment. Far from being frivolous, this appeal has substantial merit and Ms. Ha will likely prevail.

For these reasons, Signal Electric’s request for attorneys’ fees and costs must be denied.

## II. CONCLUSION

For all of the foregoing reasons, the Court must reverse the trial court’s decision and reinstate the Order of Default and the Default Judgment.

Respectfully submitted this 3rd day of October, 2013.

MCDERMOTT NEWMAN, PLLC

By 

\_\_\_\_\_  
Douglas C. McDermott, WSBA #31500  
1001 Fourth Avenue, Suite 3200  
Seattle, Washington 98154  
Telephone: 206-749-9296  
Facsimile: 206-749-9467

*Attorneys for Respondent Sara Robertshaw*

**CERTIFICATE OF SERVICE**

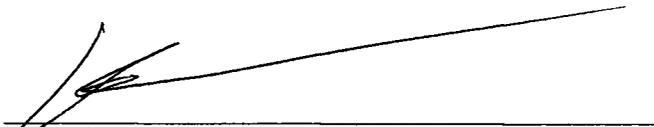
I hereby certify under penalty of perjury under the laws of the State of Washington that on October 3, 2013, I caused a true and correct copy of the foregoing document to be filed with the Washington Court of Appeals, Division I, and to be served on the following in the manner indicated:

J. Todd Tracy  
THE TRACY LAW GROUP, PLLC  
720 Olive Way, Suite 1000  
Seattle, Washington 98101

- Hand Delivery
- U.S. Mail
- Facsimile
- 

Steven G. Wraith  
A. Janay Ferguson  
LEE SMART, P.S., INC.  
1800 One Convention Place  
701 Pike Street  
Seattle, Washington 98101

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Telephone: 206-749-9296  
Facsimile: 206-749-9467

*Attorneys for Appellant Judy Ha*

Executed this 3rd day of October, 2013,  
at Seattle, Washington.

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# **EXHIBIT 1**

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The Honorable Marc Barreca  
Chapter 11  
Hearing Date: July 26, 2013  
Hearing Time: 9:30 a.m.  
Hearing Location: Courtroom 7106  
**Response Date: July 19, 2013**

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

|   |  |
|---|--|
| <p>In re<br/><br/>SIGNAL ELECTRIC, INC.,<br/><br/>Debtor.</p> | <p>No. 11-12105-MLB<br/><br/>FOURTH INTERIM APPLICATION FOR<br/>COMPENSATION OF ATTORNEYS'<br/>FEES AND REIMBURSEMENT OF<br/>COSTS</p> |
|---|--|

Pursuant to 11 U.S.C. §331 and Local Bankruptcy Rule 2016, Crocker Law Group PLLC (“CLG”) counsel for Debtor, hereby makes this fourth application for compensation for services rendered in the amount of \$49,478.50, and reimbursement of costs in the amount of \$1,315.07, for a total request of \$50,793.57 for the period of August 1, 2012, through May 31, 2013, and respectfully represents:

1. Order Authorizing Employment. CLG was employed by Signal Electric, Inc. (“Debtor”) pursuant to an order of this court entered on March 25, 2011. Debtor’s case was filed on February 26, 2011.

FOURTH INTERIM APPLICATION FOR COMPENSATION  
OF ATTORNEYS’ FEES AND REIMBURSEMENT OF COSTS - 1

**CROCKER LAW GROUP, PLLC**  
720 Olive Way, Suite 1000, Seattle, WA 98101  
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2. Statement Regarding Prior Fee Applications. CLG filed its first interim fee application for compensation from February 25, 2011 through June 10, 2011. This Court entered an order on July 8, 2011, allowing compensation to CLG in the amount of \$105,700.00 and expenses in the amount of \$3,130.07.

CLG filed its second interim fee application for compensation from June 11, 2011, through January 20, 2012. This Court entered an order on February 24, 2012, allowing compensation to CLG in the amount of \$90,698.00 and expenses in the amount of \$1,011.88.

CLG filed its third interim fee application for compensation from January 24, 2012, through July 31, 2012. This Court entered an order on September 5, 2012, allowing compensation to CLG in the amount of \$51,644.50 and expenses in the amount of \$1,739.16.

All allowed fees and costs have been paid from a pre-petition retainer and from the unencumbered proceeds of the sale of the Debtor's real property, collection of account receivables and liquidation of other assets.

2. Other Professionals Employed. Louise S. Tieman and VCFO were employed as Debtor's financial advisors by Court order entered April 12, 2011. Williams Kastner was appointed as Counsel for the Unsecured Creditors Committee on May 23, 2011.

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3. Source of Payment. The fees and costs will be paid from unencumbered assets of the Debtor, including accounts receivable and proceeds from the sale of the Debtor's real property.

4. Narrative Summary of Services Provided, Results Obtained, and Benefit to the Estate.

a. Pursuant to Local Bankruptcy Rule 2016, the services performed on behalf of the Debtor has been divided into general categories. A report summarizing the total time by activity is attached. These general categories of service, with the amount of fees and hours of attorney time allocated to each, are as follows:

**Case/General Administration:** Fees in this category are related to the administration of the bankruptcy case.

CLG reviewed monthly operating reports and discussed the same with Louise Tieman, the financial advisor for the Debtor.

CLG responded to inquiries from the Office of the United States Trustee regarding reports and payment of fees.

CLG drafted and filed a motion to approve various joint check agreements, thereby allowing various joint check creditors to be paid, thus resulting in payment to the estate of outstanding receivables.

1 CLG communicated with numerous creditors regarding claims, the status of the  
2 case and remaining issues to be resolved before distributions to creditors. CLG also  
3 prepared numerous changes of address forms and filed them with the Court.  
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8 One of the creditors of the estate obtained relief from the automatic stay to  
9 liquidate her claim and to proceed against insurance proceeds. CLG accepted service and  
10 the matter was delivered to the client for delivery to the insurance company. The  
11 complaint, through mistake, was delivered to the incorrect insurance company and the  
12 creditor obtained a default judgment when no answer was filed. When the error was  
13 determined, the appropriate insurance carrier was notified. The default order was vacated  
14 by the King County Superior Court, but the creditor has filed a notice of appeal to  
15 Division I of the Washington State Court of Appeals.  
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25 CLG also met with counsel for the Unsecured Creditors Committee to review  
26 various avoidance actions involving insiders. Due to its relationship with the insider,  
27 CLG determined that it would support the Committee reviewing and pursuing any  
28 avoidance action involving insiders.  
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35 Approximately \$15,682.50 of the fees and 50.10 hours of legal services are  
36 attributable to this category.  
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40 **Claims Administration and Objections:** Fees in this category relate to the  
41 review of claims in this case.  
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CLG continued to review filed proofs of claim. After discussion with VCFO, CLG filed nine separate omnibus claim objections. CLG responded to inquiries from creditors who received objections and attempted to resolve those issues. The Court has entered orders on all of the omnibus claim objections, which resulted in substantial reduction in the amount of unsecured claims in the case.

CLG also prepared and filed a separate objection to the claim of Fidelity and Deposit Co, the Debtor's bonding company. This matter is still pending and the parties are attempting to reconcile the claims that were paid by the bonding company and compare them to claims against the estate. This has proven to be an extremely time intensive matter that may require formal discovery steps in the future in order to resolve. The matter is now set for July 26, 2013.

Approximately \$28,213.50 of the fees and 138.60 hours of legal services are attributable to this category.

**Fee Applications:** Fees in this category relate to the work related to the third interim fee application filed by CLG. CLG also assisted with the filing of the third interim fee application from VCFO. CLG was involved in discussions between VCFO and the Committee on various concerns about the VCFO fee application. Through a series of negotiations, an agreed order on the VCFO fee application was entered. Finally, CLG began drafting this fourth interim fee application.

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Approximately \$4,462.50 of the fees and 14.10 hours of legal services are attributable to fee applications.

**Litigation:** Fees in this category were related to the Tri-State mediation. This time should have been entered under Claims as all other time related to Tri-State mediation is categorized under Claims Objections.

Approximately \$175.00 of the fees and 0.40 hours of legal services are attributable to fee applications.

**Relief from Stay:** Fees in this category relate to the review of various motions for relief from stay filed in the case.

Merlino Construction filed a motion for relief from stay. CLG reviewed the motion and the attached documents to determine whether to object to the motion. After review and consultation, no objection was prepared.

Approximately \$1,050.00 of the fees and 4.20 hours of legal services are attributable to fee applications.

b. **Benefit to the estate.** The Debtor has been able to comply with its Chapter 11 responsibilities. This has been a very difficult case. The Debtor has liquidated its assets and paid its secured creditors in full. CLG's representation in these efforts has resulted in the Court's approval of the processes, the resolution of significant claims against the estate, collection of receivables, resolution of contracts, and the recovery of assets for the estate.

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Given the extremely difficult position that the Debtor was in at the time it was filed, CLG believes that the efforts to orderly liquidate the assets of the Debtor have been highly beneficial.

c. Itemized Record of Services. Attached hereto as **Exhibit A** is a copy of invoice No. 11184 that sets forth: (a) the date of each service that was rendered; (b) a detailed description of each service rendered; and (c) the total number of hours spent and total amount of compensation requested. Monthly bills were prepared and sent to debtor, but final reconciliation required production of one combined invoice under the particularities of counsel's accounting system.

All of the services billed in connection with this matter were billed at rates equal to CLG's normal hourly rates as follows:

| <u>Name</u>      | <u>Hourly Rate</u> |
|------------------|--------------------|
| J. Todd Tracy    | \$450              |
| Jamie McFarlane  | \$275              |
| Steven J. Reilly | \$225              |
| Thao Nguyen      | \$155              |
| Nancy Hunter     | \$135              |
| Ida Werner       | \$135              |

The normal hourly rates charged by CLG are consistent with or less than other attorneys of equal experience in Seattle. No agreement or understanding exists between CLG and any other person for the sharing of compensation received or to be received for services rendered in, or in connection with this case.

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Also attached hereto, as **Exhibit B**, is an itemization of the invoice, broken down by category code.

7. Itemized Statement of Expenses. Invoice No. 11184 also sets forth the date each expense was incurred, the description of each expense, and the amount of each expense for which reimbursement is sought. Costs set forth in this statement are the same as those routinely billed to clients of CLG.

8. Status of Case. The Debtor is completing the wind down of its affairs. It has sold its personal property and is in the process of completing a sale of its real property.

The Debtor is currently holding at least \$225,283.14 in unencumbered funds.

The Debtor is still collecting approximately \$700,000.00 in accounts receivable and is preparing collection litigation to be filed in King County Superior Court.

The Debtor has filed reports through April 2013. May 2013 will be filed shortly. June 2013 is due by July 15, 2013.

Under present projections, there will be a significant return for unsecured creditors, although the ultimate percentage return is not known at this time.

9. Conclusion. The application for compensation, as discussed above, is reasonable compensation for actual, necessary services rendered by CLG. In our independent judgment, the fees and costs are fair. The rates charged are reasonable for the level of service provided. The application is based on the nature, the extent, and the

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value of the services performed, time spent on such services, and the cost of comparable services other than in a case under Title 11 of the United States Code. Further, the request for reimbursement of costs is for actual and necessary expenses that were incurred for the benefit of the bankruptcy estate.

WHEREFORE, Crocker Law Group PLLC, pursuant to 11 U.S.C. § 330, requests that the Court approve the application for compensation in the amount \$49,478.50 for fees and reimbursement of costs in the amount of \$1,315.07, for a total request of \$50,793.57.

I declare under penalty of perjury that the foregoing is correct.

DATED this 3<sup>rd</sup> day of July, 2013.

CROCKER LAW GROUP PLLC

By /s/ J. Todd Tracy  
J. Todd Tracy, WSBA #17342  
Attorneys for Debtor

# **EXHIBIT 2**

# CROCKER LAW GROUP, P.L.L.C.

720 Olive Way, Suite 1000  
Seattle, WA 98101-1853  
P) 206-624-9894  
F) 206-624-8598

Signal Electric, Inc  
PO Box 6209  
Kent, WA 98064

May 31, 2013

Attn:

**In Reference To:** Chapter 11

**Invoice #:** 11184

|         |    | <b>Professional Services</b>   | <b>Hours</b> | <b>Amount</b> |
|---------|----|--|--------------|---------------|
| 8/01/12 | NH | Telephone calls from claimants re objections to claims.  | 0.40         | 54.00         |
| 8/02/12 | SR | Review of Tri-State reply, accompanying exhibits, formulation of hearing strategy.   | 2.40         | 540.00        |
|         | SR | Telephone conference with Glenn Nelson re hearing on Tri-State's claim and his reply (.6); telephone conference with L Tieman re same and return phone call to Glenn Nelson re same (.2); telephone conference with G. Nelson re possible continuance and communication to T. Tracy re same (.2) | 1.00         | 225.00        |
|         | TT | Review e-mail from counsel for Ha re answer. E-mail N. Hunter re date of acceptance of service.  | 0.30         | 135.00        |
|         | NH | Calls from creditors re claims objections.   | 0.60         | 81.00         |
| 8/07/12 | NH | Prepare and file Change of Address for Clark Nuber.  | 0.20         | 27.00         |
|         | NH | Telephone call from Advanced Traffic Products re rejected claim.   | 0.10         | 13.50         |
| 8/08/12 | SR | VM from N. Hunter, conversation re same; Call from National Construction re status of claim; telephone conference with Ken Matthews re same; VM for K. Matthews re same; confer with T. Tracy re same  | 0.60         | 135.00        |
| 8/09/12 | SR | Return phone call to Mark Elgott re National Barricade claim and review of documents (.3); confer with T. Tracy re same (.1); Return phone call to Mark Elgott re same (.2); review of docket search for amended schedules, review   | 0.80         | 180.00        |

## EXHIBIT A

|         |    |   |      |          |
|---------|----|---|------|----------|
|         |    | of schedules, amendment to SOFA (.6) e-mails to and from T. Tracy re same (x2) (.2)   |      |          |
|         | TT | Confer with S. Reilly re claims objections  | 0.40 | 180.00   |
| 8/13/12 | SR | E-mail from N. Hunter, confer with N. Hunter, e-mail to National Construction re claim amount (.2); E-mail to L. Tieman re Tri-State bid file (.1)  | 0.30 | 67.50    |
|         | TT | Exchange e-mails with S. Aebig re fee applications  | 0.30 | 135.00   |
|         | NH | Prepare and file change of address for Jerry Vosberg.   | 0.30 | 40.50    |
|         | NH | Telephone calls and emails with creditors.  | 0.70 | 94.50    |
| 8/14/12 | TT | Exchange e-mails with M. Johnson re Tapani claims   | 0.30 | 135.00   |
|         | NH | Telephone calls from Regen Capital re distribution percentage (.2); research forwarding address for Integra Telecom and re-mail claims motion (.3)  | 0.50 | 67.50    |
|         | NH | Update Third Interim Fee Application, Supporting Declaration, Combined Notice, and proposed Order.  | 0.80 | 108.00   |
| 8/15/12 | NH | Telephone call from counsel for Perine Danforth re surety payment (.1); update hearing spreadsheet (.9).  | 1.00 | 135.00   |
| 8/16/12 | TT | Telephone call from L. Tieman re Ha litigation, fee applications and case status  | 0.30 | 135.00   |
|         | TT | Finalize fee application; Review notice; sign documents   | 3.80 | 1,710.00 |
|         | NH | Further claims objection work, and update of Hearings Table.  | 1.20 | 162.00   |
|         | NH | Finalize, file/serve Third Fee App, Notice, Declaration, and proposed Order, coordinate mailing to all creditors, and docket/calendar hearing and confirmation dates.   | 1.00 | 135.00   |
| 8/20/12 | SR | Analysis of 2 responses to motion to disallow claims; amount, validity, documentation, etc.; e-mail memo to T. Tracy re same.   | 2.10 | 472.50   |
|         | NH | Confirm hearing on omnibus objections hearing set for 8/24/12.  | 0.10 | 13.50    |
| 8/21/12 | SR | Confer with T. Tracy re claims allowance (.1); telephone conference with National Barricade counsel re same (.1); e-mail to National Fab re same (.1); Review of schedules and loan spread sheet (.5); draft Order (.6) | 1.40 | 315.00   |

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| 8/22/12 | SR | E-mails to and from National Barricade and Hogan Fab re allowance of claims, editing order re same  | 0.40 | 90.00  |
|         | TT | Telephone call with L. Tieman re MOR's  | 0.10 | 45.00  |
|         | TT | Telephone call with L. Tieman re Tapani Underground claim; Send e-mail to M. Johnson re settlement proposal   | 0.50 | 225.00 |
|         | NH | Finalize and file Declaration of No Objections and upload Order re Claims (8-24-12 hearing).  | 0.60 | 81.00  |
| 8/23/12 | NH | Redact and file Monthly Reports for May and June 2012.  | 0.60 | 81.00  |
| 8/29/12 | SR | Review of e-mails, claims, pleadings, drafting of motion, order, notice to approve settlement.  | 2.80 | 630.00 |
|         | NH | Prepare initial draft of motion, notice and order re approval of settlement with Tapani Underground.  | 0.60 | 81.00  |
|         | NH | Prepare Exhibit A re further claims objections.   | 1.20 | 162.00 |
| 8/30/12 | SR | E-mail to and from counsel for Advanced Traffic Products re objection to claim (x2) (.2); VM from and return e-mail to (x2) and from Tri-State counsel (.1)   | 0.30 | 67.50  |
|         | TT | Exchange e-mails with N. Alsop re monthly operating reports and UST fees  | 0.50 | 225.00 |
|         | NH | Further claims objection work.  | 2.00 | 270.00 |
| 8/31/12 | SR | Review of ATP claim with N. Hunter, e-mail to CFO of VCFO and T. Tracy re same (.2); telephone conference with Glen Nelson re Tri-State claim status and VM re same (.2)  | 0.40 | 90.00  |
|         | NH | Review, redact and file July 2012 Monthly Report.   | 0.40 | 54.00  |
| 9/04/12 | SR | Confer with N. Hunter and T. Tracy re ATP, Tapani, and Tri-State claims (.2); e-mail from and to counsel for ATP and e-mail to Nikki at VCFO re same (.3); e-mails to and from Nikki at VCFO re status of ATP and Tri-State claims (x3) and confer with T. Tracy re same (.4) | 0.90 | 202.50 |
|         | TT | Confer with S. Reilly re outstanding issues.  | 0.30 | 135.00 |
|         | TT | Exchange e-mails with J. Lunn re payment of UST fees  | 0.20 | 90.00  |
|         | TT | Exchange e-mails re fee payment.  | 0.30 | 135.00 |

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|         | NH | Prepare Declaration of No Objections, file/serve same and upload Order Allowing & Disallowing Claims (2).   | 0.40 | 54.00  |
|         | NH | Prepare Declaration of No Objections, file/serve same and upload Third Interim Fee Order.   | 0.40 | 54.00  |
| 9/05/12 | SR | E-mail from ATP counsel re executed signed order, review of signed order and forward (.1); Review of order allowing/disallowing claims (.1); e-mail to Tri-State counsel re possible continuance. | 0.30 | 67.50  |
| 9/06/12 | SR | Prepare for Tri-State hearing, outline of argument, etc.  | 1.50 | 337.50 |
|         | NH | Update Hearings Table from signed Orders, prepare Corrected Order and Exhibit A re 8-24-12 hearing.   | 1.10 | 148.50 |
| 9/07/12 | SR | Continue preparation for (.5) and attend hearing on Tri-State's claim for reprourement costs as administrative expense (1.3)  | 1.80 | 405.00 |
|         | TT | Hearing on Tri-State Motion to pay claim (NO CHARGE)  | 0.80 | 0.00   |
| 9/10/12 | SR | Review of claims table and evaluation of validity of filed claims with N. Hunter and T. Tracy (.5); E-mail to VCFO re outcome of hearing on Friday and new information re bid file. (.2)          | 0.70 | 157.50 |
|         | TT | Exchange e-mails with N. Hunter and K. Coghlan re WF Equipment Finance claim  | 0.30 | 135.00 |
|         | NH | Upload Corrected Order (8-24-12 hrg) (.1), meetin with T. Tracy and S. Reilly re further claims objections (1.2).   | 1.30 | 175.50 |
| 9/11/12 | SR | E-mail from VCFO re mediation (Tri-State) and bid file, e-mail to Tri-State counsel re same.  | 0.20 | 45.00  |
|         | NH | Signal/TriState - docket evidentiary hearing and all deadlines prior to hearing.  | 0.60 | 81.00  |
|         | NH | Finalize motion, notice and proposed order re settlement with Tapani Underground.   | 0.60 | 81.00  |
|         | NH | Prepare spreadsheet re questions for N. Alsop re claims objections, email to N. Alsop, update Hearings Table; finalize Objections to Claims (duplicates).   | 3.30 | 445.50 |
| 9/13/12 | NH | Finalize and file Motion, Notice and proposed Order re settlement with Tapani Underground, coordinate mailing to all creditors, docket/calendar hearing and confirming dates.                     | 0.90 | 121.50 |
| 9/17/12 | TT | Exchange e-mails with N. Alsop re MOR   | 0.20 | 90.00  |
|         | NH | Prepare and file Notice of Change of Address for creditor.  | 0.20 | 27.00  |

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| 9/18/12  | SR | VM from and return call to Ken Matthews re status of claim (.1); VM from and return call to WA DOR re refund, request for documentation. (.2)               | 0.30 | 67.50  |
| 9/21/12  | NH | Further prepare claims objections after updates from N. Alsop.  | 1.50 | 202.50 |
| 9/24/12  | SR | VM from and return call to Tri-State counsel re mediation, mediator, etc (.4); Review of Omnibus Objection to Claims and confer with N. Hunter re same (.7) | 1.10 | 247.50 |
| 9/25/12  | SR | Review of order re mediation of Tri-State claim and e-mail to Tri State counsel re same.  | 0.10 | 22.50  |
|          | TT | E-mail to K. Coghlan re claim objection   | 0.10 | 45.00  |
|          | NH | Finalize Objections to Claim and (3rd) Motion to Allow & Disallow Claims.   | 1.30 | 175.50 |
| 9/26/12  | NH | Finalize claims objections, prepare order, docket/calendar for November 9 hearing, file/serve same via CM/ECF, coordinate mailing to all parties.           | 3.10 | 418.50 |
| 9/28/12  | IW | Confirm hearing on motion re Tapani settlement  | 0.10 | 13.50  |
| 10/01/12 | SR | Call from Court re notice of intent to argue that was filed, review of docket, confer with T. Tracy, return call to court re same                           | 0.30 | 67.50  |
| 10/02/12 | TT | Exchange e-mails with M. Johnson re Tapani Underground settlement; Foward claim of Jammies Environmental  | 0.40 | 180.00 |
|          | NH | Confirm hearing, prepare Declaration of No Objections, submit unsigned Order Approving Settlement with Tapani Underground                                   | 0.50 | 67.50  |
|          | NH | Telephone call from Harmsen & Associates and Willey Concrete re status of claim objections.   | 0.40 | 54.00  |
| 10/03/12 | TT | Exchange e-mails with M. Johnson re Tapani settlement   | 0.30 | 135.00 |
| 10/04/12 | TT | Confer with S. Reilly re mediators on Tri-State issue   | 0.30 | 135.00 |
|          | NH | Telephone call from creditor re status of claims objections and distributions.  | 0.20 | 27.00  |
| 10/05/12 | SR | Review of attorneys in case for mediator conflict check (.3); e-mail to Tri-State Counsel re proposed mediators (.2)  | 0.50 | 112.50 |
|          | NH | Prepare initial draft of motion, notice, declaration and order re joint checks.   | 0.80 | 108.00 |

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| 10/11/12 | NH | Telephone call from Riverside Claims (for Communication Supply) re status of claim.   | 0.20 | 27.00  |
| 10/18/12 | SR | E-mail from and to Tri-State Counsel re mediation, confer with T. Tracy re same   | 0.20 | 45.00  |
| 10/29/12 | TT | Respond to inquiry from K. Coughlan re distribution on claims   | 0.20 | 90.00  |
| 10/30/12 | NH | Prepare initial draft of Allow Disallow Motion, Notice, Order and Exhibit A (hearing 12-14-12).   | 3.30 | 445.50 |
| 11/01/12 | SR | E-mail from Tri-State counsel, confer with T. Tracy re same - mediation dates, mediator, etc.   | 0.20 | 45.00  |
|          | TT | Review monthly operating report   | 0.20 | 90.00  |
| 11/05/12 | NH | Redact and file Monthly Financial Report for September 2012.  | 0.40 | 54.00  |
|          | NH | Prepare Declaration of No Objections and upload 10 orders re claims objections re hearing on November 9, 2012.  | 0.90 | 121.50 |
| 11/06/12 | SR | E-mail to VCFO and from Tri-State re mediation details  | 0.20 | 45.00  |
|          | NH | Schedule teleconference re further claims objections.   | 0.10 | 13.50  |
| 11/07/12 | SR | Preparation for and meeting with N. Hunter, conference call with VCFO, T. Tracy and N. Hunter re claims (1.8); telephone conference with with Glenn Nelson re mediation in December. (.3) | 2.10 | 472.50 |
|          | TT | Work on joint check motion  | 2.20 | 990.00 |
|          | TT | Conference call to discuss claims   | 1.00 | 450.00 |
|          | NH | Finalize Exhibit A to Joint Checks Motion.  | 0.90 | 121.50 |
|          | NH | Conference call with L. Tieman, N. Alsop, S. Reilly re claims objections.   | 1.50 | 202.50 |
| 11/08/12 | TT | Telephone call from S. Rediger re representation of committee   | 0.20 | 90.00  |
|          | NH | Prepare claims objections and exhibits for 12-14-12 hearing.  | 4.60 | 621.00 |
| 11/09/12 | SR | E-mail from mediator, Tri-State re timing of initial mediation call, review of calender (x3)  | 0.30 | 67.50  |

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| 11/12/12 | SR | Confer with N. Hunter re omnibus objection to claims, review claims (.5); Preparation and review of engagement letter, etc; E-mail to VCFO re payment of fee for mediation; Follow up e-mail re same (.7)   | 1.20 | 270.00   |
|          | TT | Work on joint check motion  | 3.50 | 1,575.00 |
|          | NH | Meeting w/ S. Reilly re finalizing next round of claims objections.   | 0.50 | 67.50    |
| 11/13/12 | TT | Finish revisions of draft of joint check motion   | 3.10 | 1,395.00 |
|          | NH | Finalize 12-14-12 hearing objections and prepare orders, copy and prepare for mailing to all parties.   | 1.20 | 162.00   |
| 11/14/12 | TT | Finalize motion for joint check authorization   | 2.80 | 1,260.00 |
|          | IW | Assist with service of motion re joint check agreement  | 0.70 | 94.50    |
|          | NH | Revise joint check agreements motion, notice, declaration and order, email declaration to L. Tieman for review and signature, telephone call with L. Tieman re declaration, finalize and file/serve via CM/ECF the joint check agreements motion, notice, declaration and order, coordinate mailing to all parties, docket/calendar hearing, prepare and file Proof of Service. | 2.00 | 270.00   |
|          | NH | Finalize and file/serve via CM/ECF the Objections to Claims and Motion to Allow & Disallow Claims, coordinate mailing to all parties.   | 1.20 | 162.00   |
| 11/15/12 | SR | Preparation for and participation in initial telephonic conference  | 1.20 | 270.00   |
| 11/16/12 | SR | Call from Creditor re distribution timing and amount (Gordon Derr) (.1); Call from creditor re claim 89 - sicklesteel crane (.1); follow up e-mail to VCFO (.2); call from creditor (Scheffler NW) (.1)   | 0.50 | 112.50   |
| 11/19/12 | SR | E-mail from VCFO and to SickleSteel Crane re claim amount (.1); e-mail from Zumar industries, review of spreadsheet and claim information, confer with N. Hunter, e-mail to VCFO re same (.2); E-mail from VCFO, e-mail to Zumar - confer with N. Hunter re amending Order (.2)   | 0.50 | 112.50   |
|          | TT | Confer with N. Hunter re CK billings for October  | 0.10 | 45.00    |
| 11/21/12 | SR | E-mail from mediator, e-mail from and to VCFO re mediation fee (.2); e-mails from VCFO (x3), e-mail to VCFO re engagement letter (.1)   | 0.30 | 67.50    |
| 11/26/12 | TT | Review claim filed by IRS   | 0.20 | 90.00    |

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| 11/28/12 | SR  | Call from Hogan Fab - ; claim allowance. E-mail re same   | 0.20 | 45.00    |
|          | TT  | Review and respond to joint check inquiries   | 0.30 | 135.00   |
| 11/29/12 | SR  | E-mail from Zumar and Sicklesteel Counsel and responses to same re claim objections (.2); review of stipulated order and email to VCFO re possible claims (.6)  | 0.80 | 180.00   |
|          | TT  | E-mail to L. Tieman re Tri-State calculations   | 0.20 | 90.00    |
| 11/30/12 | SR  | Review of Tri-State letter to mediator re 12-12-12 mediation and documents referenced therein.  | 1.70 | 382.50   |
|          | NH  | Revise Exhibit A to Order Allowing & Disallowing Claims (hrg 12-14-12) re Zumar Industries' general unsecured claim, and email to B. Green re same.   | 0.90 | 121.50   |
| 12/03/12 | SR  | E-mail and return call re claim objection and stipulation   | 0.30 | 67.50    |
|          | TT  | Exchange e-mails with N. Alsop and L. Tieman re fee applications for VCFO   | 0.20 | 90.00    |
| 12/05/12 | SR  | Draft mediation statement (5.9); telephone conference with VCFO re mediation (.2); follow up e-mail re same (.1)  | 6.20 | 1,395.00 |
|          | TT  | Review Tri-State information with S. Reilly   | 0.50 | 225.00   |
|          | TT  | Review VCFO fee application and respond to L. Tieman re same  | 0.30 | 135.00   |
|          | TLN | Meeting with S. Reilly re mediation statement (.1); review and edit same(.3)  | 0.40 | 70.00    |
| 12/06/12 | SR  | Telephone conference with Glenn Nelson re amounts owed and mediation.   | 0.20 | 45.00    |
|          | SR  | Preliminary Review of Tri-State's lengthy mediation statement and supporting documents  | 1.80 | 405.00   |
|          | NH  | Update hearing table.   | 0.90 | 121.50   |
| 12/07/12 | SR  | Telephone conference with Glenn Nelson re mediation, documents, additional documents requested, e-mail re same and e-mail to VCFO re same (.3); VM from Tri-State re joint checks motion, review of response re same, confer with T. Tracy re same, return call to Tri-State counsel re same (.5) | 0.80 | 180.00   |
|          | NH  | Tri-State Mediation: create mediation notebook.   | 1.20 | 162.00   |

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| 12/10/12 | SR | Confer with N. Hunter, document review, e-mail to Tri-State counsel re joint check motion and exhibit (.2); e-mail from Tri-State counsel and to VCFO re required information, amounts owed (x3) (.4)   | 0.60 | 135.00   |
|          | TT | Work with S. Reilly and review information re TriState mediation  | 0.60 | 270.00   |
|          | NH | Prepare Declaration re Objections and upload Order Authorizing Joint Checks Agreements.   | 1.00 | 135.00   |
|          | NH | Prepare Declarations of No Objection and upload Orders re December 14 hearing on claims objections.   | 1.60 | 216.00   |
| 12/11/12 | SR | E-mail from and to Tri-State counsel re request for documentation and e-mails to VCFO re documents requested (.4); Brief review of Signal billing info for Tri-State mediation and forwarding e-mail to Tri-State Counsel. (1.1)  | 1.50 | 337.50   |
|          | TT | Telephone calls and e-mails re joint check motion, Tri-State component and creditors with claims on Tri-State jobs  | 0.10 | 45.00    |
|          | TT | Work with S. Reilly preparing for mediation   | 1.00 | 450.00   |
| 12/12/12 | SR | Telephone conference with with Tri-State counsel, review of e-mails between North Coast and Tri-State (.3); e-mail to VCFO re sunset and Duvall (.1); telephone conference with Tri-State Counsel (.1); Preparation for mediation (1.5); Mediation (6.8); Travel to and from (.5) | 9.30 | 2,092.50 |
|          | TT | Follow up with P. Lynd re North Coast/Tri-State component of motion for joint checks  | 0.20 | 90.00    |
|          | TT | Mediation with Tri-State -  | 2.30 | 1,035.00 |
| 12/13/12 | SR | E-mail re 9019 motion to Tri-State counsel  | 0.10 | 22.50    |
| 12/17/12 | SR | Draft motion to approve settlement with Tri-State (2.1); E-mails from VCFO (x2) (.1)  | 2.20 | 495.00   |
| 12/19/12 | SR | Draft motion to approve settlement agreement with Tri-State.  | 3.80 | 855.00   |
|          | TT | Review VCFO fee application and modify after discussions with L. Tieman   | 0.50 | 225.00   |
|          | NH | Prepare initial draft of Notice and proposed Order re settlement with Tri-State Construction, and review Motion.  | 1.00 | 135.00   |
|          | NH | Prepare initial draft of Tieman Declaration, Notice, and proposed Order re 3rd Interim Fee Application.   | 1.20 | 162.00   |

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| 12/26/12 | SR | Continue draft of motion to approve settlement, order, declarations re same   | 1.80 | 405.00   |
| 12/27/12 | SR | Draft declaration of L. Tieman in support of motion to approve settlement, e-mails re same (x2)   | 1.20 | 270.00   |
|          | TT | Exchange e-mails re process to reconsider claims  | 0.20 | 90.00    |
| 12/28/12 | SR | Telephone conference with Tri-State Counsel re draft of motion to approve settlement, order, notice, changes thereto (.3); edits per Tri-State counsel request (.2); completion of notice and proposed order (.7); e-mail from L. Tieman re declaration       | 1.20 | 270.00   |
|          | NH | Finalize and file/serve Notice of Hearing, Motion re Approval of Settlement By and Between Debtor and Tri-State Construction, and Supporting Declaration of Louise Tieman, coordinate mailing to all parties, and docket/calendar hearing and response dates. | 0.90 | 121.50   |
|          | NH | Finalize and file/serve Notice of Hearing, Third Application for Compensation for VCFO, Financial Advisors to Debtor, and Supporting Declaration of Louise Tieman, coordinate mailing to all parties, and docket/calendar hearing and response dates.         | 1.10 | 148.50   |
| 1/02/13  | SR | Review of emails, Petersen Claim, return call re same (.2); telephone conference with with Nikki Alsop re documentation supporting Petersen claim. (.1)   | 0.30 | 75.00    |
| 1/03/13  | NH | Prepare and file Change of Address for Zimmer Construction.   | 0.30 | 42.00    |
| 1/08/13  | SR | Review of Merlino RFS and attached documents, preliminary review of cited case law, e-mail and confer with T. Tracy re same; e-mail to VCFO re same   | 4.20 | 1,050.00 |
|          | NH | Prepare and file Change of Address for creditor.  | 0.20 | 28.00    |
| 1/09/13  | TT | Conference with S. Rediger re insider claims  | 1.00 | 450.00   |
|          | NH | Update Claims Hearing Table.  | 0.40 | 56.00    |
| 1/10/13  | TT | Follow up with L. Tieman re joint check receipts  | 0.30 | 135.00   |
|          | TT | Review e-mails re continuing hearing on VCFO fee application  | 0.20 | 90.00    |
|          | NH | Continue hearing on VCFO 3rd Fee App via CM/ECF, re-docket and re-calendar hearing and confirmation dates.  | 0.30 | 42.00    |

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| 1/14/13 | NH | Prepare and file Change of Address for HD Supply Utilities Ltd.  | 0.40 | 56.00  |
|         | NH | Prepare Declaration of No Objections re settlement with Tri-State Construction, confirmation via CM/ECF, file Declaration of No Objections, and upload unsigned Order.   | 0.60 | 84.00  |
| 1/22/13 | SR | E-mail from and to Tr-State counsel re DNO and entry of order, e-mail to mediator re payment and e-mail to VCFO re same  | 0.30 | 75.00  |
| 1/23/13 | SR | Voicemail from (x2) and return call to counsel for Odyssey Geronimo re status of Signal, subcontract, release of contract.   | 0.20 | 50.00  |
| 1/24/13 | SR | Extensive e-mail from Odyssey Geronimo counsel, re agree order and rejection of contract, e-mail to VCFO re; same.   | 0.40 | 100.00 |
|         | NH | Letter to C. Alston enclosing payment for Signal Electric/Tri-State Construction mediation fees and cc to G. Nelson.   | 0.40 | 56.00  |
|         | NH | Amend VCFO third fee application.  | 0.70 | 98.00  |
| 1/25/13 | SR | Telephone conference with creditor (OG), follow up e-mail to VCFO and return e-mail to creditor (.4) e-mails and other preparation re; exchange of checks with Tri-State (.3) Travel to and from Tri-State office and confer with Tri-State counsel (.9) | 1.60 | 400.00 |
|         | TT | Follow up with N. Alsap re joint checks and Odyssey contract rejection   | 0.30 | 135.00 |
|         | TT | Telephone calls with S. Reddiger and L. Tieman re VCFO fee application hearing   | 0.50 | 225.00 |
|         | NH | Confirm hearing on VCFO Third Fee Application.   | 0.10 | 14.00  |
| 1/30/13 | TT | Telephone call from S. Reddiger re VCFO fee applications and objections x2   | 0.50 | 225.00 |
|         | TT | Telephone call with L. Tieman re fee application and Committee objections  | 0.50 | 225.00 |
| 1/31/13 | TT | Final negotiations re VCFO fee application; revise and submit order  | 1.00 | 450.00 |
|         | NH | Confirm agreement reached on VCFO third fee application, conform and upload Order.   | 0.40 | 56.00  |
| 2/01/13 | TT | Review correspondence re Ha claim and forward to Tieman  | 0.40 | 180.00 |
| 2/04/13 | SR | E-mail from VCFO re payment to vendors, checking e-mails and responsive e-mail to  | 0.30 | 75.00  |

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| 2/07/13 | TT | Exchange e-mails with S. Rediger to set up meeting with L. Tieman   | 0.20 | 90.00  |
| 2/08/13 | TT | Conference with S. Rediger, L. Tieman re case status going forward  | 2.00 | 900.00 |
|         | NH | Prepare initial draft of Objection to Claim No. 156 of Fidelity & Deposit Company of Maryland.  | 0.60 | 84.00  |
| 2/13/13 | SR | Review of e-mail stip and draft order from Odyssey Geronimo, consult with T. Tracy, e-mail to VCFO and return e-mail re same            | 0.30 | 75.00  |
| 2/19/13 | TT | Exchange calls and e-mails with McDermott re Ha insurance status  | 0.50 | 225.00 |
| 2/20/13 | TT | Follow up with J. Silk re documents to insurer re Ha; Follow up with L. Tieman  | 0.40 | 180.00 |
| 2/21/13 | TT | Review notice of deposition of VCFO   | 0.20 | 90.00  |
| 2/22/13 | SR | Follow up e-mail to Signal re OG stipulation and order facts, re-review of same, signing, prepare to file, e-mail to OG counsel re same | 0.80 | 200.00 |
|         | TT | Review notice of deposition of VCFO and forward to L. Tieman  | 0.20 | 90.00  |
|         | TT | Revise objection to claim of Fidelity   | 0.70 | 315.00 |
|         | NH | Finalize and file Stipulation Rejecting Subcontract Between Debtor and Odyssey-Geronimo JV, and upload Order re same.                   | 0.40 | 56.00  |
|         | NH | Finalize, file and serve Objection to Claim 156 of Fidelity & Deposit Company   | 0.50 | 70.00  |
| 2/26/13 | NH | Telephone calls from claimants/former employees re status of distribution.  | 0.50 | 70.00  |
| 2/27/13 | TT | Forward insurance policy and forms to L. Tieman related to Ha litigation  | 0.40 | 180.00 |
|         | TT | Telephone call from B. O'Toole for VCFO on Ha Litigation  | 0.20 | 90.00  |
| 2/28/13 | NH | Redact and file October, November and December 2012 Monthly Reports.  | 0.60 | 84.00  |
| 3/06/13 | TT | Exchange e-mails with J. Silk and other attorneys re Ha litigation  | 0.30 | 135.00 |
|         | TT | Telephone call from B. O'Toole re VCFO deposition   | 0.20 | 90.00  |

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| 3/14/13 | TT | Telephone call from P. deNormandie re CC litigation and status of other claims (.4); Draft e-mails to L. Tieman re updating collection and admin claim analysis (.2) | 0.60 | 270.00 |
|         | TT | Exchange e-mails with N. Alsop re Monthly Operating Reports  | 0.20 | 90.00  |
| 3/15/13 | TT | Telephone call from A. Willig re Ha Litigation   | 0.20 | 90.00  |
| 3/28/13 | NH | Continue hearing on Objection to Claim of Fidelity to May 3, 2013, re-docket and re-calendar same.   | 0.20 | 28.00  |
| 4/01/13 | TT | Exchange numerous e-mails re Ha litigation   | 0.30 | 135.00 |
|         | TT | Telephone call from F. Harden at WDOR Public Works re reporting on certain retaining and certificates of completion; Forward e-mail to L. Tieman re same             | 0.40 | 180.00 |
| 4/03/13 | TT | Telephone call from insurance counsel for Signal in Ha litigation  | 0.30 | 135.00 |
|         | TT | Exchange e-mail with P. deNormandie re updated numbers   | 0.20 | 90.00  |
|         | TT | Telephone call with L. Tieman re Ha litigation   | 0.30 | 135.00 |
| 4/09/13 | TT | Review and revise draft of Ha declaration; Telephone call with A. Moon re same [NO CHARGE]   | 1.50 | 0.00   |
|         | TT | E-mail re Fidelity response to claim objection   | 0.20 | 90.00  |
| 4/10/13 | TT | Work on Ha litigation issues [NO CHARGE]   | 4.00 | 0.00   |
| 4/15/13 | TT | Exchange e-mails with P. deNormandie re case status and identity of others involved in reviewing claims  | 0.20 | 90.00  |
|         | TT | Draft e-mail to A. Willig re case and asset status   | 0.30 | 135.00 |
| 4/16/13 | TT | Telephone call with A. Willig re Ha litigation   | 0.30 | 135.00 |
| 4/18/13 | LC | Research and memo on interest and attorney's fees; work on Objection to Claim #156-1   | 2.70 | 378.00 |
| 4/22/13 | TT | Confer with A.Mauldin re Signal/Fidelity Claim   | 0.20 | 90.00  |
|         | TT | Telephone call from A. Friedrich re Fidelity Claim   | 0.30 | 135.00 |
|         | TT | Telephone call from S. Reddiger re Fidelity Claim  | 0.30 | 135.00 |

|         |     |  |      |          |
|---------|-----|--|------|----------|
|         | LC  | Continue work on Objection to Claim #156-1; begin analysis of Fidelity response with memo  | 6.40 | 896.00   |
| 4/23/13 | TT  | Review and forward e-mail from UST re overdue MOR  | 0.20 | 90.00    |
|         | TT  | Telephone calls and e-mails with client and A. Friedrich re Fidelity claim response and inability to determine who was paid on what contracts. | 1.00 | 450.00   |
|         | LC  | Continue work on Objection to Claim #156-1; continue analysis of Fidelity response with memo   | 7.30 | 1,022.00 |
| 4/24/13 | TT  | Exchange e-mail with N. Alsop re overdue MOR   | 0.10 | 45.00    |
|         | TT  | Exchange e-mails with K. Hefty re payment of 401(k) retirement funds   | 0.30 | 135.00   |
| 4/25/13 | TT  | Review MOR   | 1.00 | 450.00   |
|         | TT  | Review memorandum re interest and attorney fee issues in Fidelity claim  | 0.50 | 225.00   |
|         | LC  | Objection to Claim #156-1; analysis of Fidelity response with memo   | 0.50 | 70.00    |
| 4/26/13 | TT  | E-mail N. Hunter re status of Fidelity claim objection continuance   | 0.10 | 45.00    |
|         | NH  | Continue hearing on Objection to Claim of Fidelity Deposit to May 31, 2013.  | 0.20 | 28.00    |
| 5/02/13 | TT  | Exchange e-mails re check from Lakeside Industries   | 0.30 | 135.00   |
| 5/03/13 | TT  | Telephone call with S. Rediger re case status  | 0.30 | 135.00   |
|         | TT  | E-mail to L. Tieman re updates A/R and admin claims  | 0.20 | 90.00    |
| 5/08/13 | TT  | Review MOR's for Jan, Feb and Mar 2013   | 0.50 | 225.00   |
|         | TT  | Sign stipulations for dismissal of OMA litigation and send to B Hill   | 0.40 | 180.00   |
|         | TT  | Exchange e-mails re updating admin and a/r status  | 0.30 | 135.00   |
|         | TLN | E-mail exchanges with T. Tracy re Jan - Mar MORs (.2); review and work with same (.3); file and serve same with POS (.7)                       | 1.20 | 216.00   |
| 5/14/13 | TT  | Exchange e-mails re pre and post petition nature of retirement funds   | 0.20 | 90.00    |

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|         |    |  |               |                    |
|---------|----|--|---------------|--------------------|
| 5/20/13 | TT | Review April MOR; E-mail L. Tieman re collections  | 0.40          | 180.00             |
|         | TT | Telephone conference with P. deNormandie re Surety claim; Forward additional docs to deNormandie | 0.50          | 225.00             |
|         | TT | Exchange e-mails with A. Friedrich re status of organizing Fidelity claim response               | 0.20          | 90.00              |
|         | NH | Finalize and file/serve April 2013 Monthly Report.   | 0.20          | 28.00              |
| 5/22/13 | TT | Review order vacating default re Ha Litigation and forward to L. Tieman and S. Rediger           | 0.30          | 135.00             |
| 5/24/13 | NH | Confirm hearing on objection to claim of Fidelity & Deposit.                                     | 0.20          | 28.00              |
| 5/29/13 | NH | Request continuance of hearing on Objection to Claim of Fidelity to June 14, 2013.               | 0.20          | 28.00              |
|         |    | For professional services rendered   | <u>207.40</u> | <u>\$49,478.50</u> |

**Costs**

|          |  |                   |
|----------|--|-------------------|
| 8/16/12  | Photocopies - Notice of Hearing on Interims Apps for Comp by Crocker Law Group PLLC & WK | 41.50             |
| 9/11/12  | Photocopies -Notice of Motion for Order Settlement with Tapani                           | 44.50             |
| 9/21/12  | Postage -extension   | 186.40            |
| 9/26/12  | Photocopies -Motion, POS   | 43.00             |
|          | Postage -Notice, etc   | 187.65            |
| 10/05/12 | Pacer  | 18.40             |
| 11/13/12 | Photocopies -Motion/Notice/Order re Claims   | 31.50             |
|          | Postage  | 2.70              |
| 11/14/12 | Postage - 2 motions  | 181.80            |
|          | Postage - special notice   | 44.20             |
| 12/28/12 | Photocopies - VCFO fee app notice  | 82.00             |
|          | Photocopies - Tri-State settlement notice  | 82.00             |
|          | Postage  | 181.35            |
| 12/31/12 | Pacer  | 9.00              |
| 4/30/13  | LexisNexis   | 92.65             |
| 5/08/13  | Photocopies - MORS (Jan-Mar 2013)  | 74.90             |
|          | Postage - Large envelopes  | 11.52             |
|          | Totals   | <u>\$1,315.07</u> |

**Total Fee & Disbursements****\$50,793.57**

|                  |  |           |
|------------------|--|-----------|
|                  |  | 16        |
| Previous Balance |  | 54,036.16 |

**PAYMENT DETAILS**

|           |                                |           |
|-----------|--------------------------------|-----------|
| Sep-04-12 | Payment on Invoice - Ck # 1960 | 53,383.66 |
|-----------|--------------------------------|-----------|

|                       |  |                  |
|-----------------------|--|------------------|
| <b>Total Payments</b> |  | <b>53,383.66</b> |
|-----------------------|--|------------------|

|                        |  |                  |
|------------------------|--|------------------|
| <b>Balance Now Due</b> |  | <b>51,446.07</b> |
|------------------------|--|------------------|

Time Summary  
 Aug 1/2012 To May 31/2013

| Categories/Fee Credit Lawyer           | Value           | %(Value)      | Hours(Hr)     | %(Hrs)        | Rate/Hr       |
|--|-----------------|---------------|---------------|---------------|---------------|
| <b>Client: - Signal Electric, Inc.</b> |                 |               |               |               |               |
| <b> Matter: 1102170820- Chapter 11</b> |                 |               |               |               |               |
| *** Billable ***                       |                 |               |               |               |               |
| 10 - Litigation1                       |                 |               |               |               |               |
| Thao L. Nguyen                         | 70.00           | 100.00        | 0.40          | 100.00        | 175.00        |
| 12 - Relief From Stay                  |                 |               |               |               |               |
| Steven J Reilly                        | 1050.00         | 100.00        | 4.20          | 100.00        | 250.00        |
| 1 - Case Administration                |                 |               |               |               |               |
| Steven J Reilly                        | 1110.00         | 7.02          | 4.80          | 9.52          | 231.25        |
| Todd Tracy                             | 13185.00        | 83.36         | 34.80         | 69.05         | 378.89        |
| Ida Werner                             | 94.50           | 0.60          | 0.70          | 1.39          | 135.00        |
| Nancy Hunter                           | 1212.00         | 7.66          | 8.90          | 17.66         | 136.18        |
| Thao L. Nguyen                         | 216.00          | 1.37          | 1.20          | 2.38          | 180.00        |
| 1 - Claims Administration & Objections |                 |               |               |               |               |
| Steven J Reilly                        | 13575.00        | 47.14         | 60.00         | 42.89         | 226.25        |
| Todd Tracy                             | 6345.00         | 22.03         | 14.90         | 10.65         | 425.85        |
| Ida Werner                             | 13.50           | 0.05          | 0.10          | 0.07          | 135.00        |
| Nancy Hunter                           | 6499.00         | 22.57         | 48.00         | 34.31         | 135.40        |
| Law Clerks                             | 2366.00         | 8.22          | 16.90         | 12.08         | 140.00        |
| 1 - Fee Application/Objection          |                 |               |               |               |               |
| Todd Tracy                             | 3645.00         | 81.68         | 8.10          | 57.45         | 450.02        |
| Nancy Hunter                           | 817.50          | 18.32         | 6.00          | 42.55         | 136.26        |
| <b>Total:</b>                          | <b>50198.50</b> | <b>100.00</b> | <b>209.00</b> | <b>100.00</b> | <b>240.19</b> |

\*\*\* Summary by Task Code \*\*\*

|                                   | Value           | %(Value)      | Hours(Hr)     | %(Hrs)        | Rate/Hr       |
|-----------------------------------|-----------------|---------------|---------------|---------------|---------------|
| *** Billable ***                  |                 |               |               |               |               |
| Litigation1                       | 70.00           | 0.14          | 0.40          | 0.19          | 175.00        |
| Relief From Stay                  | 1050.00         | 2.09          | 4.20          | 2.01          | 250.00        |
| Case Administration               | 15817.50        | 31.51         | 50.40         | 24.11         | 313.84        |
| Claims Administration & Objection | 28798.50        | 57.37         | 139.90        | 66.94         | 205.86        |
| Fee Application/Objection         | 4462.50         | 8.89          | 14.10         | 6.75          | 316.50        |
| <b>Total Billable:</b>            | <b>50198.50</b> | <b>100.00</b> | <b>209.00</b> | <b>100.00</b> | <b>240.19</b> |

\*\*\* Summary by Working Lawyer \*\*\*

|                      | Value           | %(Value)      | Hours(Hr)     | %(Hrs)        | Rate/Hr       |
|----------------------|-----------------|---------------|---------------|---------------|---------------|
| SR - Steven J Reilly | 15735.00        | 31.35         | 69.00         | 33.02         | 228.04        |
| TT - Todd Tracy      | 23175.00        | 46.17         | 57.80         | 27.66         | 400.96        |
| IW - Ida Werner      | 108.00          | 0.22          | 0.80          | 0.38          | 135.00        |
| NH - Nancy Hunter    | 8528.50         | 16.99         | 62.90         | 30.09         | 135.60        |
| TLN - Thao L. Nguyen | 286.00          | 0.57          | 1.60          | 0.77          | 178.75        |
| LawC - Law Clerks    | 2366.00         | 4.71          | 16.90         | 8.09          | 140.00        |
| <b>Firm Total:</b>   | <b>50198.50</b> | <b>100.00</b> | <b>209.00</b> | <b>100.00</b> | <b>240.19</b> |

PORT SELECTIONS - Time Summary

Output Template: All  
 Requested by: Thao  
 Submitted: Wednesday, July 03, 2013 at 11:56:19 AM  
 Date Range: Aug 1/2012 To May 31/2013  
 Matters: 1102170820  
 Include Billed Entries: Yes  
 Include Unbilled Entries: Yes  
 Major Clients: All  
 Include Billable Tasks: Yes  
 Working Lawyer: All  
 Include Write Up/Down Tasks: Yes  
 Responsible Lawyer: All  
 Include No Charge Tasks: Yes  
 Client Intro Lawyer: All  
 Include Nonbillable Tasks: Yes  
 Matter Intro Lawyer: All  
 Signed Lawyer: All  
 Shown by: Task Code  
 Type of Law: All  
 Sorted by Lawyer: No  
 Select From: Active, Inactive, Archived Matters  
 Defaults Only: No  
 Time/Fee: Time Entry Only  
 Rate: 10.03a