

**UNITED STATES BANKRUPTCY COURT
FOR THE
WESTERN DISTRICT OF KENTUCKY**

IN RE:)	
)	
MAZES ELMER BURTON)	CASE NO. 08-10013(1)(7)
ELSIE MARIE BURTON)	
)	
Debtor(s))	
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)	
MAZES ELMER BURTON)	AP NO. 08-1019
)	
Plaintiff(s))	
)	
vs.)	
)	
HAROLD MOUSER)	
JENNIFER HUTCHISON-CORBIN)	
)	
Defendant(s))	
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MEMORANDUM-OPINION

This matter is before the Court on the Motion for Award of Costs against Harold Mouser filed by Plaintiff Mazes Elmer Burton. The Court considered Burton’s Motion and the Affidavit of his attorney Alicia Johnson. The Court being duly advised in the premises, **GRANTS THE MOTION IN PART AND DENIES IN PART.**

PROCEDURAL BACKGROUND

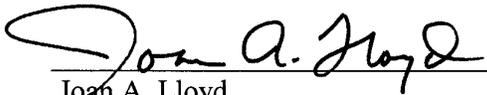
On or about August 20, 2008, this Court entered a default judgment against Defendant Mouser. The Court stated in the Judgment that Burton was entitled to his actual damages and that it would determine punitive damages after the conclusion of the criminal action in Adair County. The criminal action in Adair County was subsequently dismissed.

Burton's attorney, Alicia Johnson, filed an Affidavit claiming damages in the amount of 119.10 hours of attorney's fees at \$150 per hour plus \$314.50 in reimbursable costs. Burton also requests an award of punitive damages against Mouser to deter others from engaging in the conduct set forth in Burton's Complaint and for setting into motion a series of events leading up to his arrest and incarceration.

An award of actual or compensatory damages is designed to compensate a plaintiff for injuries proximately caused by the defendant's conduct. Punitive damages do not compensate for injuries, but serve to punish or deter a person from committing such acts in the future. Burgess v. Taylor, 44 S.W.3d 806, 814 (Ky. App. 2001); KRS 411.184(1)(f). Here, Burton's attorney seeks an award of attorney's fees against Mouser for the entire span of this litigation, including litigation, trial preparation, appeals and trial against Mouser's Co-Defendant, Jennifer Hutchison-Corbin. The Court does not find that an award of attorney's fees for the entire action is appropriate against Mouser. The Court does find that Mouser's actions were the proximate cause for part of the attorney's fees incurred by Burton. Accordingly, the Court will award Burton 50% of the attorney's fees and costs requested, but declines to award any further damages in this case, other than those previously provided for by the Judgment against Defendant Hutchison-Corbin.

CONCLUSION

For all of the above reasons, the Court will enter an Order granting the Motion for award of costs against Harold Mouser. An Order incorporating the findings herein accompanies this Memorandum-Opinion.


Joan A. Lloyd
United States Bankruptcy Judge

Dated: May 17, 2010

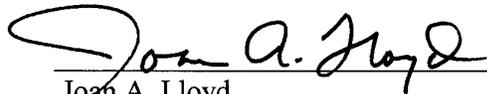
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ORDER

Pursuant to the Memorandum-Opinion entered this date and incorporated herein by reference,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Motion for award of costs against Harold Mouser by Plaintiff Mazes Elmer Burton, be and hereby is, **GRANTED IN PART AND DENIED IN PART**. Plaintiff Mazes Elmer Burton is awarded a Judgment in the amount of \$9,089.75.



Joan A. Lloyd
United States Bankruptcy Judge
Dated: May 17, 2010