

CAUSE NO. 2023-54171

HPFS, INC.,

PLAINTIFF,

v.

SAP TRANSPORTATION, INC.,

DEFENDANT.

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

281ST JUDICIAL DISTRICT

MOTION FOR DEFAULT JUDGMENT

EXHIBIT C

Unofficial Copy Office of Mairly Burges District Clerk

HPFS, INC.,

PLAINTIFF,

v.

SAP TRANSPORTATION, INC.,

DEFENDANT.

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

281ST JUDICIAL DISTRICT

**DECLARATION OF ROBERT J. KRUCKEMEYER IN SUPPORT OF
HPFS, INC.'S MOTION FOR DEFAULT JUDGMENT**

My name is Robert J. Kruckemeyer, my date of birth is July 14, 1959, and my address is 244 Malone Street, Houston, Texas 77007.

1. I have been licensed to practice law in Texas since 1984, and I am duly admitted to practice in good standing in Texas and in various federal courts, including the Southern, Northern and Eastern districts of Texas.

2. I am experienced in state and federal court litigation and Litigation in Texas. Since 1984, I have concentrated my practice on civil litigation matters that include breach of contract, oil and gas, product liability, shareholder disputes, business divorce, business disputes of all kinds, as well as serious personal injury matters. I have represented both plaintiffs and defendants in these types of cases. I was recognized as the "Litigator of the Week" in the May 14, 2012, edition of Texas Lawyer magazine, and I am a Sustaining Life Fellow of the Texas Bar Foundation.

3. I graduated from St. Louis University in 1981 with a Bachelor of Arts degree in Political Science, *magna cum laude*. In 1984, I received my Juris Doctor from the St. Louis

University School of Law, *cum laude*. My son Michael Kruckemeyer graduated from the University of Texas at Austing in 2012 with a Bachelor of Arts in History. In 2017, Michael received his Juris Doctor from the South Texas College of Law.

4. I have represented Plaintiff since 2023 in general and in connection with the above-captioned litigation (the "Litigation") beginning in August of 2023. My customary hourly rate is \$550.00, and Michael's customary hourly rate is \$225.00.

5. Based on my education and experience, described above at paragraphs 2-4, my personal communications with lawyers handling similar types of matters, and my review of court filings, case law, and published literature pertaining to such hourly rates, I am familiar with the hourly rates that lawyers and support staff customarily charge in Houston, Harris County, Texas and elsewhere in complex cases and Litigations, such as this Litigation. Based on the foregoing, I am also familiar with the attorney and support staff time and effort that it takes and can reasonably take to prosecute and defend matters such as the Litigation and what constitutes reasonable and necessary attorneys' fees for doing so. As a result, I am able to offer opinions pertaining to the amount, reasonableness, and necessity of all attorneys' fees sought by Plaintiff in the Litigation. I was also requested to offer opinions pertaining to whether such attorneys' fees are equitable and just.

6. I am familiar with the nature of this case and the work that was performed in the course of this representation. I am familiar with the number of hours spent and the amounts I have charged and what would be a reasonable charge by the Plaintiff's attorneys.

7. I am familiar with and have considered the factors bearing upon the reasonableness of attorneys' fees in Texas, as articulated in Rule 1.04(b) of the Texas Disciplinary Rules of Professional Conduct and the Texas Supreme Court in *Arthur Andersen &*

Co. v. Perry Equipment, 945 S.W.2d 812 (Tex. 1997), which are as follows: (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill required to perform the legal services properly; (2) the likelihood ... that the acceptance of the particular employment will preclude other employment by the lawyer; (3) the fee customarily charged in the locality for similar legal services; (4) the amount involved and the results obtained; (5) the time limitations imposed by the client or by the circumstances; (6) the nature and length of the professional relationship with the client; (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and (8) whether the fee is fixed or contingent on the results obtained or uncertainty of collection before the legal services have been rendered.

8. Specifically, with reference to Paragraph 8 of this Declaration and to form my opinions with regard to the reasonable and necessary attorneys' fees incurred by Plaintiff in this Litigation, I will address the factors bearing upon the reasonableness of attorneys' fees in Texas, as follows:

a. **The Time and Labor Required, the Novelty and Difficulty of the Questions Involved and the Skill Requisite to Perform the Legal Service Properly.** I have considered the time and labor required to handle Plaintiff's claims which has included, without limitation: (1) reviewing the client documentation and determining the proper amount of the claim and the method by which the defendant could be served; (2) filing pleadings; and (3) preparing Plaintiff's Motion for Default Judgment.

b. **The Likelihood, if Apparent to the Client, That the Acceptance of the Particular Employment Will Preclude Other Employment by the Lawyer.** Plaintiff has agreed to pay me on an hourly fee basis. Plaintiff understands that my working for Plaintiff necessarily precludes me from accepting other employment by other clients.

c. **The Fee Customarily Charged in the Locality for Similar Legal Services.** I have been practicing law in Harris County since 1984. Based on my education and experience, described above at paragraphs 2-4, my personal communications with lawyers handling similar types of matters, and my review of court filings, case law, and published literature pertaining to such hourly rates, I am familiar with the hourly rates that lawyers and support staff customarily charge in Houston, Harris County, Texas and elsewhere in complex cases and Litigations, such as this Litigation. My hourly rate of \$550.00 is reasonable. Michael's hourly rate of \$225.00 is reasonable.

d. **The Amount Involved and the Results Obtained.** Plaintiff's seeks recovery of \$96,568.59 principal together with prejudgment interest in the amount of \$1,396.93 as of December 11, 2023, with interest accruing at the rate of \$15.87 per day pursuant to the agreement. Plaintiff anticipates obtaining a judgment for the amount requested.

e. **The Time Limitations Imposed by the Client or by the Circumstances.** No time limitations have been imposed by the client or by the circumstances.

f. **The Nature and Length of the Professional Relationship with the Client.** I have represented Plaintiff since 2023.

g. **The Experience, Reputation, and Ability of the Lawyer or Lawyers Performing the Services.** As noted above, I have been licensed to practice law in Texas since 1984. I was awarded an AV rating by Martindale-Hubbell in 1999 and have been a member of the Bar Register of Preeminent Lawyers since 2005. I was recognized as the

“Litigator of the Week” in the May 14, 2012, edition of Texas Lawyer magazine, and I am a Sustaining Life Fellow of the Texas Bar Foundation.

h. **Whether the Fee is Fixed or Contingent on Results Obtained or Uncertainty of Collection Before the Legal Services Have Been Rendered.** Plaintiff has agreed to pay me an hourly rate. My compensation is not fixed or contingent on the results obtained. My fees are not affected by the uncertainty of collection before the legal services have been rendered.

9. Attached hereto as Exhibit 1 are slip lists that show the work that I have done on this matter. The slip lists total \$5,063.08. Mike and I have performed additional work this month in finalizing the Motion for Default Judgment and I anticipate appearing at a hearing on the Motion for Default Judgment.

10. Based upon my experience, training, and expertise, it is my opinion that Plaintiff’s request for attorneys’ fees in the amount of \$5,000.00 is reasonable and necessary and equitable and just. Further, in the event an appeal to the Court of Appeals is made but is unsuccessful, reasonable attorney’s fees would be an additional \$25,000.00; in the event an appeal is made to the Texas Supreme Court is made but is unsuccessful, reasonable attorney’s fees would be an additional \$25,000.00.

I declare under penalty of perjury that the facts stated herein are within my personal knowledge and are true and correct.

Date: December 12, 2023


Robert J. Kruckemeyer

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HPFS, INC.,

PLAINTIFF,

v.

SAP TRANSPORTATION, INC.,

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IN THE DISTRICT COURT OF

HARRIS COUNTY, T E X A S

281ST JUDICIAL DISTRICT

**DECLARATION OF ROBERT J. KRUCKEMEYER IN SUPPORT OF
HPFS, INC.'S MOTION FOR DEFAULT JUDGMENT**

EXHIBIT 1

Unofficial Copy Office of Malinda Burgess-District Clerk

Selection Criteria

Slip.Transaction Dat Earliest - 12/12/2023
Slip.Classification Open
Clie.Selection Include: HPFS-SAP

Rate Info - identifies rate source and level

Slip ID	Timekeeper	Units	Rate	Slip Value
Dates and Time	Activity	DNB Time	Rate Info	
Posting Status	Client	Est. Time	Bill Status	
Description	Phase/Task	Variance		
25019	Bob	0.50	550.00	275.00
6/22/2023	Manage data	0.00	T	
Billed	HPFS-SAP	0.00		
G:13283	SAP Technologies	0.00		
7/7/2023				
Work on Demand Letter to SAP.				
25028	Bob	2.25	550.00	1237.50
6/26/2023	Manage data	0.00	T	
Billed	HPFS-SAP	0.00		
G:13283	SAP Technologies	0.00		
7/7/2023				
Prepare and serve Mr. Shah with demand letter.				
Communicate with Mr. Khan re same.				
25054	Bob	0.25	550.00	137.50
7/1/2023	Communicat/CLI	0.00	T	
Billed	HPFS-SAP	0.00		
G:13305	SAP Technologies	0.00		
8/1/2023				
Communicate with Mr. Khan re status.				
25177	Bob	0.25	550.00	137.50
8/14/2023	Communicat/CLI	0.00	T	
Billed	HPFS-SAP	0.00		
G:13327	SAP Technologies	0.00		
9/1/2023				
Communicate with Mr. Khan re status and strategy.				
25180	Bob	1.50	550.00	825.00
8/15/2023	Manage data	0.00	T	
Billed	HPFS-SAP	0.00		
G:13327	SAP Technologies	0.00		
9/1/2023				
Prepare Plaintiff's Original Petition. Communicate with Mr. Khan re same.				
25187	Bob	0.25	550.00	137.50
8/16/2023	Manage data	0.00	T	
Billed	HPFS-SAP	0.00		
G:13327	SAP Technologies	0.00		
9/1/2023				
Communicate with Mr. Khan re petition.				
25190	Bob	1.00	550.00	550.00
8/17/2023	Manage data	0.00	T	
Billed	HPFS-SAP	0.00		
G:13327	SAP Technologies	0.00		
9/1/2023				
Revise Petition and attend to filing.				
25191	Bob	1	376.83	376.83
8/17/2023	Court fees			
Billed	HPFS-SAP			
G:13327	SAP Technologies			
9/1/2023				
Fees to file Original Petition.				

Unofficial Copy Office of Malvern Burgess District Clerk

Slip ID	Dates and Time	Posting Status	Description	Timekeeper	Activity	Client	Phase/Task	Units DNB Time Est. Time Variance	Rate Rate Info Bill Status	Slip Value
25214	TIME			Mike				1.00	250.00	250.00
	8/25/2023				Manage data			0.00	T	
	Billed	G:13327	9/1/2023	HPFS-SAP				0.00		
	Attend to service of citation and petition on SAP.			SAP Technologies				0.00		
25215	EXP			Mike				1	80.00	80.00
	8/25/2023				Subpoena fees					
	Billed	G:13327	9/1/2023	HPFS-SAP						
	Constable Fee for service of citation and petition.			SAP Technologies						
25307	TIME			Bob				1.00	550.00	550.00
	9/28/2023				Manage data			0.00	T	
	Billed	G:13352	10/2/2023	HPFS-SAP				0.00		
	Work on service issues. Locate Mr. Shah. Prepare Amended service requests. Attend to filing.			SAP Technologies				0.00		
25495	TIME			Mike				2.25	225.00	506.25
	12/11/2023				Manage data			0.00	T	
	WIP				HPFS-SAP			0.00		
	Work on Motion for Default Judgment.			SAP Technologies				0.00		
Grand Total										
				Billable				10.25		5063.08
				Unbillable				0.00		0.00
				Total				10.25		5063.08

Unofficial Copy Office of Marilyn Burgess District Clerk