



circumstances as established by case law.

A “prevailing party in a bankruptcy case may be entitled to an award of attorney fees in accordance with applicable state law if state law governs the substantive issues raised in the proceedings.” *Ford v. Baroff (In re Baroff)*, 105 F.3d 439, 441 (9th Cir. 1997). But, when the issues involve matters “peculiar to federal bankruptcy law, attorney’s fees will not be awarded absent bad faith or harassment by the losing party.” *Jenkins v. Sroufe (In re Sroufe)*, 261 B.R. 35, 38, 01.1 I.B.C.R. 38 (Bankr. D. Idaho 2001) (quoting *Fobian v. Western Farm Credit Bank (In re Fobian)*, 951 F.2d 1149, 1153 (9th Cir. 1991)).

In this case, the Court denied Debtor’s discharge pursuant to § 727(a)(4)(A). *See* Adv. Doc. No. 100. This was and is an issue of bankruptcy law, and no part of the Court’s decision involved state law issues. Further, Plaintiff has not justified an award based on bad faith or harassment. Accordingly, under the case law and the record herein, Plaintiff’s request for attorney’s fees will be denied.

Under L.B.R. 7054.1 a bill of costs must be supported by a certificate of counsel that the costs are “correctly stated, [were] necessarily incurred and are allowed by law.” Plaintiff has attached a notarized “Verification” to his “Memorandum of Costs.” The gist of the verification is that the costs are correct, however it does not certify they were necessarily incurred or allowed by law. Despite the defects in Plaintiff’s submissions, which could and should have been

avoided, the Court concludes, as it did in *Oldemeyer v. Couch-Russel (In re Couch-Russell)*, 04.1 I.B.C.R. 9 (Bankr. D. Idaho 2004), that “especially in the absence of any objection by Debtor, that these representations satisfy the certification requirements of L.B.R. 7054.1(a).” *Id.* at 11. *See also* L.B.R. 7054.1(c)(9) (burden on opposing party to establish claim incorrectly stated).

Plaintiff claims total costs of \$2,065.65, which include filing and service fees, deposition costs, witness fees and mileage, as well as costs for obtaining and reproducing exhibits. The costs appear to comply with L.B.R. 7054.1 and no objection has been raised, therefore the same will be awarded.

Upon the foregoing and the record herein, the Court ORDERS, and this does Order, that Plaintiff’s request for award of attorney’s fees is DENIED, and Plaintiff’s request for allowance of costs in the amount of \$2,065.65 is GRANTED. The Clerk is hereby ORDERED to tax costs and serve copies of the cost bill upon all parties of record.

DATED: June 27, 2006



A handwritten signature in black ink, appearing to read "Terry L. Myers".

TERRY L. MYERS  
CHIEF U. S. BANKRUPTCY JUDGE