IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
WELDED CONSTRUCTION, L.P., *et al.*,[1]	Case No. 18-12378 (LSS)
Debtors.	(Jointly Administered)
WELDED CONSTRUCTION, L.P.,	
Plaintiff,	
vs.	Adv. Pro. No. 19-50194 (LSS)
THE WILLIAMS COMPANIES, INC., WILLIAMS PARTNERS OPERATING LLC, and TRANSCONTINENTAL GAS PIPE LINE COMPANY, LLC,	**Ref. Adv. Docket No. 457**
Defendants.	

WELDED'S APPLICATION FOR ATTORNEYS' FEES AND EXPENSES

In accordance with the Court's Opinion entered on February 4, 2025 [Adv. D.I. 442] (the "Opinion"), the Court's Letter Ruling on April 21, 2025 [Adv. D.I. 455] (the "Letter Ruling"), and the Court's entry of Final Judgment on May 8, 2025 [Adv. D.I. 457] (the "Final Judgment"), Welded Construction, L.P. ("Welded"), the plaintiff in the above-captioned adversary proceeding (the "Adversary Proceeding"), by and through its undersigned attorneys, respectfully submits this application (the "Application") for entry of a judgment order directing Transcontinental Gas Pipe Line Company, LLC ("Transco") to pay attorneys' fees and expenses to Welded as the substantially prevailing party at trial pursuant to the Opinion, the Final Judgment, and the

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Welded Construction, L.P. (5008) and Welded Construction Michigan, LLC (9830). The mailing address for each of the Debtors is P.O. Box 470, Perrysburg, OH 43552-0470.

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Pennsylvania Contractor and Subcontractor Payment Act, 73 Pa. Cons. Stat. §§ 501–517 ("CASPA"). As detailed below, Welded respectfully requests an award of attorneys' fees in the amount of $10,588,011.47 and expenses in the amount of $2,140,496.08. In support of this Application, Welded contemporaneously submits the declaration of Michael S. Neiburg (the "Neiburg Declaration") and respectfully states as follows:

BACKGROUND

I. The Dispute Between Welded and Transco

1. Before its bankruptcy, Welded was a mainline pipeline construction contractor. In August 2016, it entered into a contract (as amended, the "Contract") with Transco to construct a portion of the Atlantic Sunrise pipeline, a natural-gas pipeline connecting gas-producing regions in Pennsylvania to markets in the Mid-Atlantic and southeastern states. The Contract utilized a cost-reimbursable, fixed-fee structure under which Transco would reimburse Welded's construction expenses at cost and would pay Welded an additional fixed amount as profit.

2. On October 4, 2018, after 9½ months of paying Welded's invoices in the ordinary course, but within hours of receiving federal regulatory approval to operate its pipeline, Transco had a letter drafted, signed, and sent, informing Welded that Transco was withholding payment of nearly $24 million due to Welded the next day. After this withholding, Transco refused to pay Welded anything owed under the Contract, regardless of whether particular items were disputed and without offering timely or precise justification for its refusal to pay.

3. Concurrently with its letter, also on October 4, 2018, Transco filed (but did not serve) a complaint in Oklahoma state court (the "Oklahoma Complaint"), asserting nearly $24 million in claims against Welded for breach of contract. Specifically, in its October 4 letter and the Oklahoma Complaint, Transco sought to recover a schedule-related penalty and asserted eight claims against Welded for alleged overbilling.

4. On October 22, 2018 (the "Petition Date"), Welded and its affiliate (collectively, the "Debtors") filed for chapter 11 protection in the United States Bankruptcy Court for the District of Delaware (the "Court").

5. On February 28, 2019, Transco filed two proofs of claim. In claim number 632 ("Claim 632"), Transco contended that it had identified "a number of anomalies/defects covered by Debtor's warranty under the Contract" and sought estimated repair costs. In claim number 636 ("Claim 636"), Transco contended that Welded owed Transco $94,291,513.58 for: (i) 13 claims of alleged overbilling ($45,611,991.00); (ii) five claims for violating municipal regulations and billing for allegedly non-reimbursable expenses ($7,605,609.63); (iii) one claim for the schedule-related penalty ($1,928,571.00); and (iv) voluminous claims for Welded's alleged failure to pay subcontractors and suppliers ($39,145,341.95).

6. On May 3, 2019, Welded initiated the Adversary Proceeding by filing a complaint and objection to Claims 632 and 636 (the "Complaint"), alleging, among other things, that Transco breached the Contract and violated CASPA by failing to fulfill its payment obligations to Welded under the Contract.

7. Specifically, Count I of the Complaint alleged, among other things, that:

- "Transco breached the Contract by failing to fulfill its payment obligations to Welded under the Contract";
- Transco breached the Contract by failing to pay Welded for the items identified in Transco's October 4 letter and Oklahoma Complaint;
- "Transco's failure to remit the Withheld Funds to Welded constitutes a material violation of the Contract"; and
- "Welded is entitled to an award of damages in an amount to be determined at trial incurred as a result of Transco's breaches of the Contract and its (or Williams's) intentional and wrongful retention of the Withheld Funds . . . ."

Compl. ¶¶ 262–269.

8. Counts VIII and IX objected to Claims 632 and 636, respectively.

9. And Count XI of the Complaint asserted claims under CASPA, including claims that:

- "Transco has violated CASPA by withholding payment for work that was completed according to the specifications of the Contract";
- "Transco failed and refused to pay Welded strictly in accordance with the terms of the Contract, in violation of 73 Pa. Cons. Stat. § 505(a)";
- "Transco's withholding of payments due to Welded is in contravention of the terms of the Contract and is thus in violation of 73 Pa. Cons. Stat. § 506"; and
- "Transco withheld payment from Welded in violation of the Contract and CASPA . . . ."

Compl. ¶¶ 341–358. Welded also sought interest, penalties, and attorneys' fees for Transco's violations of CASPA.

10. On November 13, 2019, Transco filed its answer [Adv. D.I. 63] to Welded's Complaint. Transco's answer asserted several affirmative defenses, including that Welded's own prior material breach of the Contract barred Welded's claims and that Transco was entitled to set off any amounts it owed Welded against the amounts that Welded allegedly owed Transco. *Id.* at 48.

11. Transco also asserted counterclaims, principally based on arguments raised in its proofs of claim, the October 4 letter, and the Oklahoma Complaint. In Count I of its counterclaims, Transco alleged largely the same breach-of-contract claims against Welded that Transco had identified in Claim 636. In Count I, however, Transco asserted that its damages from Welded's alleged failure to pay to subcontractors and suppliers had ballooned from approximately $39 million to more than $71 million. *Id.* at 57.[2] Count II of Transco's

[2] Transco was on notice, however, that Welded's surety had already paid more than $66 million of the subcontractors' and suppliers' outstanding claims. *See, e.g.*, *Federal Insurance Company's Opposition to Williams's*

counterclaims appeared to roughly correspond to Claim 632. *Id.* at 57–61. And Count III of Transco's counterclaims added another five or so new claims that Welded had billed improperly under the post-petition commitment letters. *Id.* at 61–64.

12. Finally, on May 9, 2022, Transco submitted the expert report of Joseph Slavis of FTI Consulting, Inc., which identified more than a dozen new claims for trial. Indeed, at trial, most of the claims that Transco presented (more than $38 million) were never identified in Transco's proofs of claim or counterclaims. Exhibits A and B to Welded's post-trial brief provided tables identifying the new contentions and tracking the dozens of shifting claims that Transco asserted over the course of the litigation. *See* [Adv. D.I. 433 at 29–34 & Exs. A, B].

II. The Litigation Between Welded and Transco

A. Discovery

13. Discovery in this matter was extensive, with more than two years of document productions and depositions occurring during the Coronavirus global pandemic. Among other things, Welded took or defended 29 depositions and reviewed and analyzed more than one hundred thousand documents. The many claims and arguments that Transco raised were a significant factor in driving the extensive fact discovery.

14. But another significant driver was Transco's ongoing refusal to comply with Court orders requiring it to produce documents related to the audit performed by Oil and Gas Contracts Services ("OGCS"). During the project and the litigation, Transco repeatedly asserted that audit as the basis for its claims and defenses. Among other things, Transco used OGCS's allegedly independent audit (and a declaration from OGCS's auditor) to oppose Welded's initial motion for summary judgment. *See* [Adv. D.I. 71].

Motion to Abstain or Transfer Venue at 1 [Adv. D.I. 42] ("Federal has received bond claims in this case totaling over $73 million and has paid over $66 million of such claims to date.").

15. Accordingly, on January 8, 2020, Welded served requests for production seeking materials related to the audit. And on March 16, 2020, Welded subpoenaed OGCS.

16. But, despite its reliance on the audit, Transco spent years attempting to deny Welded discovery into the audit. Indeed, on June 8, 2020, about three hours after Judge Sontchi denied Welded's summary-judgment motion, Transco sent Welded's counsel a letter asserting that OGCS's audit had not been "independent." According to Transco, as of June 29, 2018, OGCS's work had been "taken over" by counsel and "was no longer simply an accounting exercise" but was "work product prepared at the direction of counsel and in anticipation of claims and litigation." Transco took the position that "the majority, if not all, materials" related to the audit were "covered by the attorney work product privilege."

17. On July 27, 2020, Welded moved to compel Transco to produce the audit documents [Adv. D.I. 135] (the "Motion to Compel"). And on September 9, 2020, Judge Sontchi ruled that "Defendants have complete[ly] waived the protection of the attorney client privilege and work product doctrine in connection with the Audit." [Adv. D.I. 155, ¶ 5] (the "Waiver Order"). Judge Sontchi ordered Transco to "produce and instruct OGCS to produce, without redaction, all documents related to the Audit . . . ." *Id.* at 3.

18. Transco produced some audit documents but continued to withhold others. On September 23, 2020, Transco sought "clarification that the [Waiver] Order does not require the Defendants to produce opinion work product" [Adv. D.I. 159, ¶ 3]—even though the Waiver Order had not excluded opinion work product and Transco had never argued that it should.

19. On February 15, 2021, Judge Sontchi denied the request for reconsideration with prejudice.[3] The Court explained that "its prior ruling clearly included Opinion Work Product and

[3] On January 28, 2021, the Court denied Transco's initial motion for clarification as moot. [Adv. D.I. 212]. On February 5, 2021, Transco filed a further motion for reconsideration because it continued to assert it could withhold

required its production . . . ." [Adv. D.I. 236, ¶ 14]. The Court thus ordered Transco to produce the audit documents in 14 days. *Id.* ¶ 21.

20. Instead, Transco sought intervention from the District Court. On March 2, 2021, Transco filed a notice of appeal and a motion for leave to appeal or for a writ of mandamus [C.A. No. 21-0063, D.I. 1] (the "Appeal/Mandamus Motion").

21. On June 30, 2021, the District Court heard argument on the Appeal/Mandamus Motion. During the hearing, the District Court strongly affirmed Judge Sontchi. Not only did the District Court not believe that Judge Sontchi had erred as a matter of law, but the District Court also expressly stated: "I think his decision was sufficient, and frankly I think it was appropriate." District Court Hr'g Tr. at 96:22–23 (June 30, 2021).[4] The District Court also emphasized that Judge Sontchi's conclusion that Transco had "compete[ly] waive[d]" work-product protection "was the appropriate language to use in this case." *Id*. at 96:11–12.

22. The District Court went so far as to say that "there's an argument [Transco] defrauded the Court." *Id*. at 68:13–14. It further stated: "I think that the circumstances [Judge Sontchi] was presented with frankly border on if they don't cross the line of deceiving the Court, but I don't have to make that kind of definitive determination." *Id*. at 95:6–9.

23. The District Court thus denied the Appeal/Mandamus Motion and closed the case.

24. After a further request from Welded, Transco made a production of some audit documents on July 9, 2021, but continued to redact 28 documents related to the audit. On

audit documents that it deemed to contain opinion work product. [Adv. D.I. 226]. On February 6, 2021, the Court vacated the order that had denied Transco's initial motion for clarification as moot. [Adv. D.I. 230].

[4] Excerpts from the District Court transcript are attached as Exhibit L to Welded's motion to enforce the Waiver Order. [Adv. D.I. 267].

August 20, 2021, Transco sent Welded a letter indicating that it would not produce the 28 audit documents without redactions.

25. On August 24, 2021, Welded filed a motion [Adv. D.I. 267] for entry of an order (i) directing Transco to comply with the Court's orders and produce the audit documents and (ii) imposing sanctions. In its motion, Welded explained that it had been forced to prepare for 18 depositions—including taking fact depositions of Transco's auditors, Phil Burke and Adrian Green—without the benefit of documents that the Court had ordered Transco to produce nearly a year before. And, of course, Welded had needed to expend inordinate hours and substantial funds over the course of a year to get the audit documents.

26. Ultimately, the Court granted Welded's motion in part, declining to impose sanctions but directing Transco to produce the documents without any redactions within seven days. [Adv. D.I. 276, at 10].

B. Trial

27. The work required to prepare for trial was also extensive. Welded sought partial summary judgment on key issues, such as CASPA and contract interpretation, and opposed Transco's competing motion for partial summary judgment. *See* Neiburg Decl., ¶ 37. Welded engaged three expert witnesses, exchanged opening and rebuttal expert reports with Transco, and conducted depositions of both sides' expert witnesses. *Id.* Welded drafted motions *in limine* and responses to Transco's motions *in limine*. *Id.* Welded also performed extensive pretrial work, including drafting deposition designations and objections, preparing witness and exhibit lists, preparing trial demonstratives, analyzing documents and compiling Welded trial exhibits, reviewing and analyzing Transco's proposed trial exhibits, participating in meet-and-confers regarding objections to the parties' trial exhibits, and preparing for trial with Welded's fact and expert witnesses. *Id.*

28. In the parties' proposed Joint Pretrial Order [Adv. D.I. 390] (the "PTO"), they each listed the legal issues to be determined by the Court. Welded requested that the Court determine that Transco breached the Contract and violated CASPA by failing to pay Welded's invoices. *See* PTO at 34. In turn, Transco identified 37 separate issues of law for trial, including that Oklahoma law governs the Contract, that Welded wrongfully diverted payments from Transco, and that Welded committed 21 individual breaches of the Contract. *See* PTO at 35–42. Welded identified approximately 650 exhibits for trial, and Transco identified more than 2,100.[5]

29. From August 22, 2023, through September 7, 2023, the Court held a trial with respect to the claims and counterclaims asserted by Welded and Transco. At trial, Welded offered fact testimony from two of its former CEOs, its former CRO, and its former Senior Project Manager, and expert testimony focused on quantifying Welded's claims for damages under the Contract and on issues of schedule analysis.

30. After the prolonged document production dispute, Transco changed course and presented no evidence related to the OGCS audit, relying instead on new interpretations of the Contract by Transco's expert witness (an accountant). Transco presented no fact witnesses with first-hand knowledge of the Contract. And, as the Court noted in its Opinion, on several issues Transco did not present any affirmative evidence.

31. Despite it being five years since Welded completed its work under the Contract, most of the claims that Transco presented at trial were never identified in Transco's proofs of claim or counterclaims. Transco invented more than $38 million in claims that had never been asserted in its proofs of claim or counterclaims. For example, at trial Transco sought a $6

[5] The parties identified 2,898 exhibits in total (128 joint (JX) exhibits, 655 Welded (PX) exhibits, and 2,115 Transco (DX) exhibits).

million refund for standby equipment (more than five years after paying the invoice for that equipment), even though Transco had never asserted this claim during the project or in its October 4 letters, proofs of claim, or counterclaims. Welded argued Transco failed to adequately preserve its new claims, but Welded was forced to defend against them nonetheless.

C. Post-Trial Proceedings

32. Following 10 days of trial, the parties submitted a combined 120 pages of post-trial briefing. Welded explained how it prepared, documented, and submitted the invoices that Transco refused to pay and how this refusal violated CASPA. Welded also provided a detailed refutation of the dozens of individual claims that Transco asserted. [Adv. D.I. 433]. Transco, for its part, argued that Welded had committed dozens of individual breaches of the Contract by wrongly billing Transco for certain construction costs. Transco also argued that the Court should preclude Welded from invoking CASPA. [Adv. D.I. 434].

33. On February 4, 2025, the Court entered its Opinion in favor of Welded and against Transco. *See, e.g.,* Op. at 169. According to the Court, "Welded argues, with some justification, that the litigation was a pretext for withholding payment." Op. at 166. Among other things, "[t]he October 4, 2018 letter was based on the initial findings of the OGCS audit, which Transco largely, if not altogether, abandoned." Op. at 166–67. Accordingly, "Transco's argument that it was justified in its position that Welded was improperly billing for certain costs rings a bit hollow even if some of its claims have been borne out by [the Court's] findings." Op. at 167. The Court thus concluded that Welded was "the substantially prevailing party" entitled to attorneys' fees under CASPA § 512(b):

> [H]aving presided over the trial and written this opinion, I conclude that Welded is the "substantially prevailing party." While Transco was successful in some of its arguments regarding improper charges, Welded ultimately prevailed on the

> primary claims at issue. An attorney fee will be awarded in an amount to be determined once a submission is made.

Op. at 168.

34. On April 21, 2025, after the submission of letter briefs by the parties, the Court issued its Letter Ruling regarding post-judgment interest and penalties.

35. Transco filed a notice of appeal with the respect to the Court's opinion [Adv. D.I. 443], and Welded filed a notice of appeal with respect to the Letter Ruling [Adv. D.I. 462] (collectively, the "Appeals").

36. On May 8, 2025, the Court entered the Final Judgment in favor of Welded and against Transco. Among other things, the Final Judgment awarded Welded attorneys' fees as the substantially prevailing party:

> Pursuant to 73 Pa. Cons. Stat. § 512(b), as the substantially prevailing party, Welded is awarded its attorneys' fees and expenses in this Adversary Proceeding. Welded shall make a submission regarding its attorneys' fees and expenses no later than forty-five (45) days from the date of entry of this Judgment.

Final Judgment ¶ 4.

37. Pursuant to the Court's Final Judgment, this Application is Welded's submission regarding its attorneys' fees and expenses.

III. Young Conaway's Billing Practices

38. On October 29, 2018, the Debtors filed an application [Main D.I. 119] to retain Young Conaway as their bankruptcy counsel *nunc pro tunc* to the Petition Date. The Debtors stated in their application that they had reviewed Young Conaway's hourly rates, including rates for bankruptcy services, compared those rates to outside law firms that they had used, and found Young Conaway's hourly rates to be reasonable. Young Conaway sets its billing rates based upon a particular lawyer's or paralegal's experience level, reputation, and area of practice. *See*

Neiburg Decl., ¶ 22. Every year, Young Conaway conducts a careful review of standard billing rates to ensure that its rates are competitive with rates charged by peer law firms. *Id.*

39. The Court approved Welded's retention of Young Conaway as debtors' counsel on November 15, 2018 [Main D.I. 234].

40. As counsel to Welded, Young Conaway recorded and charged Welded for (i) paralegal, law clerk, and attorney billable time in 6-minute intervals and (ii) costs and expenses associated with the preparation, commencement, and prosecution of the Adversary Proceeding, through trial, and to the present. *See* Neiburg Decl., ¶ 16. Each time entry includes the: (i) date of service; (ii) identity of the timekeeper performing the task; (iii) narrative description of the task performed; (iv) task code (explanation provided below); (v) time spent on the task; and (vi) amount billed (collectively, the "Billing Practices"). Young Conaway continues to maintain these Billing Practices. *Id.*, ¶ 17. Young Conaway prepared contemporaneous monthly invoices with the Billing Practices described above. *Id.*, ¶ 18. The original monthly invoices are prepared in the regular course of business and maintained in the records of Young Conaway. *Id*.

41. A detailed explanation of the legal services performed by Young Conaway in connection with the Adversary Proceeding is provided in the Neiburg Declaration.

42. To differentiate time billed to the Adversary Proceeding and Appeals from time billed generally to the Debtors' chapter 11 cases (jointly administered under Case No. 18-12378 (LSS)), Young Conaway created and utilized a separate billing task code—B768—beginning in May 2019. *See* Neiburg Decl., ¶ 19. Despite best attempts to limit time entries applicable to the Adversary Proceeding to task code B768, from time to time, some timekeepers utilized the general "Other Adversary Proceeding" task code of B011 (or other related task code entries) to

record time that should have been recorded under task code B768. *Id.*, ¶ 20. Young Conaway has performed a detailed review of its invoices and time entries in connection with the Adversary Proceeding and Appeals to ensure that only the fees and expenses associated with services performed in connection with the Adversary Proceeding and Appeals are sought through this Application. *Id.*, ¶ 21. To the extent Young Conaway could not identify with a high degree of certainty that time billed to non-B768 task codes was time appropriately billed to the Adversary Proceeding and/or Appeals, the fees associated with such time entries are not sought through this Application. *Id*.

A. Young Conaway Fee Applications Prior to the Plan Effective Date

43. From the Petition Date through July 31, 2020 (the "Plan Effective Date"), Young Conaway submitted (i) monthly applications for allowance of compensation for services rendered and reimbursement of expenses as counsel to the Debtors [Main D.I. 347, 420, 513, 566, 656, 746, 799, 885, 957, 1004, 1061, 1120, 1171, 1191, 1226, 1265, 1316, 1387, 1512, 1532, 1575] (collectively, the "Pre-Plan Effective Date Fee Applications"), (ii) quarterly interim fee requests [Main D.I. 496, 729, 730, 945, 1098, 1099, 1230, 1231, 1378, 1379, 1538, 1539] (collectively (the "Pre-Plan Effective Date Interim Fee Requests"), and (iii) a final fee application [Main D.I. 1575] (the "Final Fee Application"). *See* Neiburg Decl., ¶ 23.

44. In its Pre-Plan Effective Date Fee Applications, Young Conaway represented that the amounts requested were fair and reasonable given the (i) complexity of the cases, (ii) time expended, (iii) nature and extent of services rendered, (iv) value of such services, and (v) costs of comparable services other than in a case administered under chapter 11. *Id.*, ¶ 24.

45. Welded then submitted certificates of no objection with respect to each of the Pre-Plan Effective Date Fee Applications, certifying that no party in interest had filed an objection to the respective Pre-Plan Effective Date Fee Applications [Main D.I. 406, 474, 562, 625, 716, 795,

847, 940, 996, 1050, 1093, 1154, 1192, 1219, 1256, 1304, 1352, 1423, 1536, 1560, 1599]. *See* Neiburg Decl., ¶ 25.

46. In addition to the Pre-Plan Effective Date Fee Applications, Welded submitted the Pre-Plan Effective Date Interim Fee Requests (as supplemented from time to time) applying for interim quarterly allowance of compensation and reimbursement of expenses and incorporating the corresponding Pre-Plan Effective Date Fee Applications [Main D.I. 496, 729, 730, 945, 1098, 1099, 1230, 1231, 1378, 1379, 1538, 1539]. *See* Neiburg Decl., ¶ 26.

47. Welded then submitted certifications of counsel with respect to each of the Pre-Plan Effective Date Interim Fee Requests, certifying that no party in interest had filed an objection to the respective Pre-Plan Effective Date Interim Fee Requests [Main D.I. 544, 778, 974, 1136, 1257, 1420, 1563]. *See* Neiburg Decl., ¶ 27.

48. Upon review of Pre-Plan Effective Date Interim Fee Requests and certifications of counsel, the Court approved the fees and expenses incurred by Welded on an interim basis as requested in the Pre-Plan Effective Date Fee Applications and Pre-Plan Effective Date Interim Fee Requests [Main D.I. 551, 785, 980, 1149, 1257, 1437, 1566]. *See* Neiburg Decl., ¶ 28.

49. On August 27, 2020, Young Conaway filed the Final Fee Application, requesting, among other things, final approval of fees and expenses for the "Final Fee Period" of October 22, 2018, through and including July 31, 2020 [Main D.I. 1575]. On October 14, 2020, counsel to the Post-Effective Date Debtors filed a certification of counsel [Main D.I. 1621] stating that no objections to the Final Fee Application had been received. *See* Neiburg Decl., ¶ 29.

50. On October 15, 2020, the Court entered its *Omnibus Order Approving Final Fee Applications of Professionals* [Main D.I. 1623], which granted the Final Fee Application, among

other final fee applications, and granted Young Conaway final allowance of the fees and expenses requested. *See* Neiburg Decl., ¶ 30.

51. Relevant excerpts from the Pre-Plan Effective Date Fee Applications detailing Young Conaway's fees and expenses incurred during the applicable period in connection with the Adversary Proceeding are attached to the Neiburg Declaration as Exhibits 1 through 20. Through this Application, and with respect to the Pre-Plan Effective Date Fee Applications, Welded seeks (i) the fees billed utilizing the B768 task code, (ii) fees associated with those non-redacted time entries utilizing other task codes (typically B011) that Young Conaway has confirmed relate to the Adversary Proceeding, and (iii) the non-redacted Young Conaway expenses incurred in connection with the Adversary Proceeding.

B. Young Conaway Fee Applications After the Plan Effective Date

52. After the Plan Effective Date, Young Conaway continued to record time, costs, and expenses associated with the Adversary Proceeding and Appeals. *See* Neiburg Decl., ¶ 32. Consistent with the Billing Practices employed prior to the Plan Effective Date, Young Conaway generated monthly invoices for the fees and expenses incurred during the applicable month (the "Post-Plan Effective Date Invoices"). *Id*.

53. Relevant excerpts of the Post-Plan Effective Date Invoices, beginning with services provided by Young Conaway in August 2020, are attached to the Neiburg Declaration as Exhibits 21 through 69. Through this Application, Welded seeks (i) the fees billed utilizing the B768 task code, (ii) fees associated with those non-redacted time entries utilizing other task codes (typically B011) that Young Conaway has confirmed relate to the Adversary Proceeding and/or Appeals, and (iii) the non-redacted Young Conaway expenses incurred in connection with the Adversary Proceeding and/or Appeals.

54. With respect to the Post-Plan Effective Date Invoices, Young Conaway has redacted in full those time entries billed in connection with the chapter 11 cases that do not relate to the Adversary Proceeding or the Appeals. Welded is not seeking to recover the fees associated with those time entries. *See* Neiburg Decl., ¶ 34.

55. Young Conaway also applied redactions to certain time entries in which privileged information appeared in the time entries, but only to the extent necessary. Welded is seeking to recover those fees associated with these time entries (coded B768 or B011), which have minimal redactions aimed at preventing the unnecessary disclosure of privileged information or work product. *Id.*, ¶ 35.

ARGUMENT

56. Welded is entitled to attorneys' fees and expenses in the total amount of $12,728,507.55, plus any further attorneys' fees and expenses associated with collecting on the Final Judgment, including the Appeals, and collecting the fees and expenses themselves. As set forth below, Welded is entitled to attorneys' fees under section 512(b) of CASPA because, as the Court determined, Welded is the "substantially prevailing party." Final Judgment ¶ 4, Op. at 167–168; *see also* CASPA § 512(b).

57. Section 512(b) of CASPA provides that "[n]otwithstanding any agreement to the contrary, the substantially prevailing party in any proceeding to recover any payment under [CASPA] shall be awarded a reasonable attorney fee in an amount to be determined by the court or arbitrator, together with expenses." CASPA § 512(b).

58. The legislative determination to use the word "shall" in section 512(b) "can only be interpreted as a legislative mandate, and where the trial court has determined that one party is 'substantially prevailing,' the award of attorneys' fees must follow."[6]

59. Determining who is the substantially prevailing party is left to the discretion of the trial court.[7] And here, the Court concluded that Welded was the substantially prevailing party: "[H]aving presided over the trial and written this opinion, I conclude that Welded is the 'substantially prevailing party.' While Transco was successful in some of its arguments regarding improper charges, Welded ultimately prevailed on the primary claims at issue." Op. at 168; *see also* Final Judgment ¶ 4.

60. The attorneys' fees and expenses that Welded seeks are entirely reasonable. Indeed, in approving the final fee applications for Welded's professionals, Judge Sontchi found that "the fees allowed hereby represent reasonable compensation for actual and necessary services rendered by the Professionals" and that "the expenses allowed hereby represent actual and necessary expenses incurred by the Professionals in the performance of their duties in these chapter 11 cases . . . ." [Main D.I. 1623, at 1]. No one objected to the reasonableness of the Final Fee Application, or to the 21 Pre-Plan Effective Date Fee Applications and 12 Pre-Plan Effective Date Interim Fee Requests, which all were approved by the Court without objection. *See* Neiburg Decl., ¶¶ 25, 27, and 29.

61. The reasonableness of the fees incurred and rates charged by Welded's attorneys and other timekeepers is further set forth and fully described in the Neiburg Declaration and the exhibits attached thereto. As set forth in the Neiburg Declaration, the fees incurred and rates

[6] *Zimmerman v. Harrisburg Fudd I, L.P.*, 984 A.2d 497, 505 (Pa. Super. Ct. 2009) (quoting *Imperial Excavating & Paving, LLC v. Rizzetto Constr. Mgmt., Inc.*, 935 A.2d 557, 564 (Pa. Super. 2007)).

[7] *Zavatchen v. RHF Holdings, Inc*., 907 A.2d 607, 610 (Pa. Super. Ct. 2006).

charged by Welded's attorneys and other timekeepers at Young Conaway for services performed in connection with this Adversary Proceeding are more than reasonable given the size and complexity of the Adversary Proceeding, the time period over which the Adversary Proceeding was litigated, and the various discovery, procedural, and substantive disputes that arose and were litigated during the course of the Adversary Proceeding. *See* Neiburg Decl., ¶¶ 36–41.

62. There is also a strong presumption that the attorneys' fees and expenses that Welded seeks here are reasonable. In determining a reasonable fee award, "[t]he most useful starting point for determining the amount of a reasonable fee is the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate . . . ."[8] This calculation, called a "lodestar," is "strongly presumed to yield a reasonable fee."[9] According to the Third Circuit, courts "should calculate the lodestar—'the number of hours worked multiplied by the prevailing hourly rate'—which carries a 'strong presumption' of 'reasonable[ness]' and 'includes most, if not all, of the relevant factors constituting a "reasonable" attorney's fee.'"[10] Courts may deviate from the lodestar "but only in the 'rare circumstances in which the lodestar does not adequately take into account a factor that may properly be considered in determining a reasonable fee.'"[11]

63. The attorneys' fees that Welded seeks are consistent with the lodestar methodology and reasonable. Indeed, if anything, using the lodestar methodology here likely understates a reasonable fee award for Welded. The $10,588,011.47 in fees sought in the Application is based on 18,601.1 hours of work by Young Conaway at an average blended hourly

[8] *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983).

[9] *Wash. v. Phila. Cty. Ct. of Common Pleas*, 89 F.3d 1031, 1035 (3d Cir. 1996); *Large Audience Display Sys., LLC v. Tennman Prods., LLC*, 745 F. App'x 153, 157 (Fed. Cir. 2018) (the lodestar method "provides a presumptively reasonable fee award").

[10] *Souryavong v. Lackawanna Cty.*, 872 F.3d 122, 128 (3d Cir. 2017) (quoting *Perdue v. Kenny A ex rel. Winn*, 559 U.S. 542, 543–44, 546, 552 (2010)).

[11] *Id.* (quoting *Perdue*, 559 U.S. at 543–44).

rate of $569.21. *See* Neiburg Decl., ¶ 15. But as noted in the Neiburg Declaration, in 2021, pursuant to a Court-approved agreement, Welded's attorneys agreed to suspend periodic rate increases above the standard billing rates charged to Welded in connection with the Adversary Proceeding, provided that Young Conaway may increase its rates in the future upon written agreement of the parties to the agreement. *See* Neiburg Decl., ¶ 13. At the same time, however, the fees incurred in connection with this Adversary Proceeding were exacerbated in large part by Transco's case-wide strategy of delay and diversion. Welded was forced to fend off motions asking the Court to abstain, transfer venue, or dismiss the Adversary Proceeding and to withdraw the reference with respect to the Adversary Proceeding.[12] And because Transco refused to comply with the Court's orders to produce highly probative audit documents, Welded was forced to spend nearly an entire year on a single motion to compel.

64. Moreover, as Welded explained in its post-trial brief, Transco came up with more than 40 arguments over the course of the litigation to attempt to whittle down the amounts it owes to Welded. Transco went through multiple lawyers and advisors and repeatedly invented, abandoned, and adjusted its arguments and legal theories according to the exigencies of the moment. In its letter dated October 4, 2018, Transco initially asserted nine claims. By the time of trial, however, nearly half of these claims were gone. Transco itself discarded three of them—one because it was inconsistent with the Contract interpretation that Transco offered at trial.[13] The Court rejected a fourth claim at the summary-judgment stage, ruling that Transco's

[12] The District Court several times characterized Transco's arguments in support of withdrawing the reference as "specious." District Court Hr'g Tr. at 4:9, 5:3, 11:25, 23:9 (June 30, 2021) (attached as Ex. L to [Adv. D.I. 267]).

[13] Initially, Transco asserted that "show up time" and "wait time" were not "actual Work performed" under the Contract. *See, e.g.*, [Adv. D.I. 71 at 25]. For trial, however, Transco adopted the position that "'actual Work performed' equated to the actual 'wages and benefits' paid to NPLA Personnel and Field Personnel" under Article 2.D of the Contract—which clearly included show-up time and wait time. *See, e.g.,* [Adv. D.I. 311 at 5].

interpretation of the Equipment Fee for per diem benefits was contrary to the plain and unambiguous language of the Contract.

65. In its proofs of claim and counterclaims, Transco added 17 claims to its tally. At trial, Transco discarded several more of these claims, such as its claim for the Equipment Fee for paid time-off and holidays (another claim inconsistent with the Contract interpretation that Transco adopted for trial) and its claim for unpaid vendors and suppliers (a claim that Transco never attempted to prove up at trial after fighting to preserve the claim at summary judgment). In fact, as detailed in Exhibits A and B to Welded's post-trial brief, most of the claims that Transco ultimately presented at trial were never identified in Transco's proofs of claim or counterclaims.

66. Accordingly, given Transco's litigation tactics here and the substantially discounted rates charged by Welded's lawyers, the attorneys' fee and expenses sought in this Application, while entirely reasonable, are also likely significantly understated.

67. Finally, the Court should also award Welded attorneys' fees and expenses incurred collecting on the Final Judgment, including fees and expenses incurred during Transco's appeal (the "Collection-of-Judgment Fees"), as well as the fees and expenses incurred to collect on the Collection-of-Judgment Fees (the "Collection-of-Fees Fees").

68. In *Zimmerman*, the court held that CASPA allows the substantially prevailing party to recover the fees and expenses associated with collecting on the judgment and on the fees and expenses themselves.[14] This also applies to appellate proceedings.[15] In *Zimmerman*, as here,

[14] *Zimmerman*, 984 A.2d at 505–06; *see also C.J. Hughes Constr. Co. Inc. v. EQM Gathering Opco, LLC*, No. 2:18-CV-168, 2022 WL 18581023, at *8 (W.D. Pa. Nov. 21, 2022) (approving a reasonable fee award under CASPA that included "fees incurred throughout this litigation in addition to attorneys' fees and expenses incurred in preparing [the contractor's] Motion for Interest, Penalties, Attorneys' Fees, and Expenses or otherwise . . . incurred in collecting the fees, interest, and penalties owed to it" (cleaned up)), *aff'd*, 2024 WL 1652341 (3d Cir. Apr. 17, 2024).

[15] *See Zimmerman*, 984 A. 2d at 504.

Collection-of-Judgment Fees are "those attorney fees and expenses incurred in [an] effort to collect the award and include[] the Superior Court appeal" by the owner.[16] According to the *Zimmerman* court, CASPA allows a contractor who has obtained a judgment against an owner to recover these Collection-of-Judgment Fees:

> the language "any proceeding to recover any payment under this act" encompasses any phase of the litigation, including the collection-of-judgment phase. We hold that § 512(b)'s award of attorney fees and expenses incurred in order to *collect* the judgment are literally encompassed within § 512(b) because these fees and expenses are incurred in "recovering any payment due under this act."
>
> Our construction of § 512(b) recognizes how Pyrrhic a victory would be for a contractor who, to collect his just due, is required to expend his "paper recovery" on attorney fees necessitated by a defendant's obstructionist tactics.[17]

69. The *Zimmerman* court ruled that the contractor was also entitled to recover its Collection-of-Fees Fees—i.e., "those fees and expenses incurred to establish the entitlement to and collection of the Collection-of-Judgment Fees and the fees and expenses thus incurred in the process."[18] According to the *Zimmerman* court, the "question concerning the allowance of *Collection-of-Fees* Fees under CASPA is, in reality, no different than the question concerning

[16] *Id.*

[17] *Id.* at 505. The *Zimmerman* court agreed with the reasoning of Justice Baer, who filed a statement dissenting from a *per curiam* disposition in *Eagle I. Electrical, Inc. v. J.J. Hilferty & Son Builders, Inc.*, 853 A.2d 1009 (Pa. 2004), in which the Pennsylvania Supreme Court (without analysis) declined to review a subcontractor's petition for appeal. In the *Eagle I. Electrical* case, a contractor failed to pay a subcontractor for its work, and the subcontractor obtained a judgment, including attorneys' fees, penalties, and interest under CASPA. 853 A.2d at 1009–10 (Baer, J., dissenting). After defeating the contractor's appeal, the subcontractor sought attorneys' fees in connection with the appeal. *Id.* (Baer, J., dissenting). The Superior Court denied the request for additional attorneys' fees, and the subcontractor sought review by the Pennsylvania Supreme Court. *Id.* at 1010 (Baer, J., dissenting). That court declined the appeal without commentary, but Justice Baer (joined by Justice Saylor) filed a dissenting statement cautioning that the summary disposition should not "be construed to signify . . . this Court's view that the language of Section 512(b) of CASPA precludes an award of attorney fees or expenses by an appellate court for costs incurred during appellate proceedings." *Zimmerman*, 984 A.2d at 504 (quoting *Eagle I. Elec.*, 853 A.2d at 1010 (Baer, J., dissenting)). Rather, section 512(b) of CASPA "**appears broad enough to encompass proceedings in appellate courts**, and an award by such a court." *Id.* (quoting *Eagle I. Elec.*, 853 A.2d at 1010 (Baer, J., dissenting)).

[18] *Id.*

Collection-of-Judgment Fees."[19] The *Zimmerman* court thus remanded to the trial court with instructions to determine the attorneys' fees and expenses owed to the contractor in connection with its efforts both to collect on the judgment and to collect its fees and expenses.[20]

70. Here, Welded is similarly entitled to recover attorneys' fees and expenses incurred collecting its Collection-of-Judgment Fees and its Collection-of-Fees Fees, including attorneys' fees and expenses related to the Appeals.

CONCLUSION

71. For the reasons set forth herein, Welded respectfully requests the Court grant this Application and find that Welded is entitled to attorneys' fees and expenses in the total amount of $12,728,507.55, plus the post-award attorneys' fees and expenses associated with collecting on the Final Judgment, including the Appeals, and collecting the fees and expenses themselves. A proposed judgment order is attached hereto.

Dated: June 23, 2025
Wilmington, Delaware

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[19] *Id.* at 505.

[20] *Id.* at 505–06.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
WELDED CONSTRUCTION, L.P., *et al.*,[1]	)	Case No. 18-12378 (LSS)
Debtors.	)	(Jointly Administered)
WELDED CONSTRUCTION, L.P.,	)	
Plaintiff,	)	
vs.	)	Adv. Pro. No. 19-50194 (LSS)
THE WILLIAMS COMPANIES, INC., WILLIAMS PARTNERS OPERATING LLC, and TRANSCONTINENTAL GAS PIPE LINE COMPANY, LLC,	)	**Related to Adv. D.I. ____**
Defendants.	)	

JUDGMENT ORDER AWARDING ATTORNEYS' FEES AND EXPENSES

Upon consideration of the application (the "Application")[2] filed by Welded Construction, L.P. ("Welded") to recover attorneys' fees and expenses pursuant to section 512(b) of the Pennsylvania Contractor and Subcontractor Payment Act, 73 Pa. Cons. Stat. §§ 501–517 ("CASPA"), in the connection with the Adversary Proceeding and/or the Appeals; and the Court finding that, as set forth in the Court's Opinion [Adv. D.I. 442] and Final Judgment [Adv. D.I. 457], Welded is the "substantially prevailing party" under section 512 (b) of CASPA; and the Court finding that attorneys' fees and expenses requested in the Application are reasonable;

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Welded Construction, L.P. (5008) and Welded Construction Michigan, LLC (9830). The mailing address for each of the Debtors is P.O. Box 470, Perrysburg, OH 43552-0470.

[2] All capitalized terms used but not defined herein shall have the meanings ascribed to them in the Application.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. The Application is GRANTED as set forth herein.

2. In accordance with the section 512(b) of CASPA and the Court's Opinion and Final Judgment, Welded is awarded its attorneys' fees in the amount of $10,588,011.47 and expenses in the amount of $2,140,496.08. Transco is directed to pay $12,728,507.55 to Welded for its attorneys' fees and expenses.

3. In accordance with the section 512(b) of CASPA and the Court's Opinion and Final Judgment, Welded is entitled to recover, in an amount to be determined and set forth in a further order of the Court, attorneys' fees and expenses associated with collecting on (i) the Final Judgment, including attorneys' fees and expenses related to the Appeals, and (ii) the Court's award of attorneys' fees and expenses.