

In the United States Bankruptcy Court

for the Northern District of Iowa

DAVID LEWIS SNOOK and MARCIA GRACE SNOOK
Debtors.

Bankruptcy No. 92-62249LW
Chapter 13

ORDER

This matter came before the undersigned on December 8, 1993 for hearing on the Application for Attorney Fees filed by Stanford J. Patterson, attorney for Debtors David and Marcia Snook. Stanford J. Patterson appeared on his own behalf. John F. Schmillen appeared for the U.S. Trustee who filed comments regarding the application. After hearing the arguments, the Court took the matter under advisement. This is a core proceeding pursuant to 28 U.S.C. 157(b)(2)(A).

STATEMENT OF FACTS

Attorney Stanford J. Patterson represented Debtors in their bankruptcy case. Debtors filed their Chapter 7 petition on December 7, 1992. The U.S. Trustee filed a Motion to Dismiss on March 11, 1993 alleging Debtors' finances would support a Chapter 13 plan. Within a month, Debtors filed a notice of conversion from Chapter 7 to Chapter 13. They proposed a Chapter 13 Plan followed by two amended plans filed in June and July 1993.

Mr. Patterson filed his Application for Attorney Fees on August 3, 1993. He requests total fees of \$4,360.50 and expenses of \$54.46. The U.S. Trustee filed comments regarding the application. He asserts that the billing statement requests compensation for preparation of the fee application which is not compensable. He also objects to Mr. Patterson's request for fees for future services. Further, the U.S. Trustee notes that abbreviations in the statement are difficult to decipher.

In response to the U.S. Trustee's comments, Mr. Patterson produced a copy of the billing abbreviations used in his office. He makes a professional statement that "all action was reasonable and necessary in addition (sic) a majority of the actions were required because of the United States Trustees (sic) demands." Mr. Patterson also explains that the future services will consist of a monthly review of the file during Debtors' performance of their five-year plan.

CONCLUSIONS OF LAW

The provision relevant in this case is 11 U.S.C. 330(a)(1), which provides that the court may award a debtor's attorney reasonable compensation for actual, necessary services rendered by such . . . attorney . . . based on the nature, the extent, and the value of such services, the time spent on such services and the cost of comparable services other than in a case under this title.

The standards for Court review of an attorney fee application are extensively discussed in In re Burmester, No. 86-00710M, slip op. at 2-7 (Bankr. N.D. Iowa Dec. 11, 1987).

The appropriate starting point is the calculation of the actual and necessary hours reasonably expended at a reasonable rate -- the lodestar or initial point of reference. To calculate the lodestar amount, the court considers the hours expended by [] the attorneys, examines the services performed, eliminates the time which cannot be compensated, and estimates the reasonable time required to perform the compensable services.

Id. at 5 (citations omitted); see also In re Apex Oil Co., 960 F.2d 728, 731 (8th Cir. 1992) (describing the lodestar analysis).

To be compensable, services provided by a debtor's attorney must benefit the bankruptcy estate. In re Cargo, Inc., No. X90-00200S, slip op. at 8 (Bankr. N.D. Iowa Jan. 24, 1992). The court has authority to preclude the use of estate property for payment of attorneys fees as an administrative expense where services benefit only the debtor and not the estate. In re Holden, 101 B.R. 573, 575 (Bankr. N.D. Iowa 1989). "A debtor's counsel should not be compensated for services which benefit only the debtor or which are within the province of the trustee." Burmester, slip op. at 3 (citations omitted).

Services which an attorney for a Chapter 7 debtor performs generally include the following: analyzing the debtor's financial condition; rendering advice and assistance to the debtor in determining whether to file a petition in bankruptcy; the actual preparation and filing of the petition, schedules of assets and liabilities, and the statement of affairs; and representing the debtor at the Section 341 meeting of creditors. Holden, 101 B.R. at 576; Burmester, slip op. at 2-3. "Other services performed by a debtor's attorney on any other matter are not compensable as an administrative expense." Burmester, slip op. at 3.

Chapter 13 proceedings require services essentially identical to those in Chapter 7, plus considerations of the probability of a plan and drafting and obtaining acceptance and confirmation of such a plan. See 1 Collier Bankruptcy Practice Guide 7.02[3], at 7-4 (Asa S. Herzog and Lawrence P. King, eds., 1993). The court may consider the "normal and customary" fees for Chapter 13 debtors' attorneys along with calculating the lodestar amount. In re Boddy, 950 F.2d 334, 338 (6th Cir. 1991).

In re Courson, 138 B.R. 928, 933 (Bankr. N.D. Iowa 1992), held that compensation to attorneys for preparation of fee applications is not warranted in this district. This Court has also held that upward adjustment from the lodestar amount is only appropriate in rare and exceptional circumstances. In re Morris Plan Co., 100 B.R. 451, 455 (Bankr. N.D. Iowa 1989); see also Apex Oil, 960 F.2d at 732 (holding that upward adjustment is only appropriate in rare and exceptional circumstances supported by specific evidence in the record).

Courson points out that, unlike the Southern District of Iowa, the Northern District does not have strict parameters attorneys must follow in their fee applications. 138 B.R. at 934. More general rules apply in this District which prohibit "lumping" of fees, In re Wagner, No. X90-00310M, slip op. at 6 (Bankr. N.D. Iowa Jan. 31, 1992), and vagueness in the billing statements. In re Network Comm., Inc., No. X90-02242S, slip op. at 5 (Bankr. N.D. Iowa July 13, 1993); In re Voster, X88-00878F, slip op. at 5 (Bankr. N.D. Iowa Dec. 17, 1991). No compensation will be granted for work performed which is inadequately explained. Voster, slip op. at 5. Nor will the court indulge in guesswork or undertake extensive labor to justify fees not justified in the application itself. In re River Family Farms, Inc., No. 85-00041D, slip op. at 15 (Bankr. N.D. Iowa July 22, 1986).

In this regard, In re Bank of New England Corp., 142 B.R. 584 (D. Mass. 1992), is instructive. A fee application should be self-contained and include sufficient material for the court to review. Id. at 587. Failure to provide detailed records warrants reduction or disallowance of fees. Id. The court need not spend court resources to isolate every entry and delineate each disallowance and the reason for it. Id. at 586. At the same time, application of a mechanical formula or complete abandonment of time records is inappropriate. Id.

Applying these general principles, Mr. Patterson's Application for Attorney Fees is deficient. The Court has reviewed the entire application and billing statement. Many of the entries are unintelligible because of the almost exclusive use of abbreviations. Even Mr. Patterson's list of abbreviations fails to shed light on the meaning of a substantial number of the billing entries. The two entries on 2/22/93 pointed out by the U.S. Trustee are illustrative of the problem:

pc. to c. BofDeleware and Vic/Vic limited .3 (A) FR-DTS-PCC .2 (C)

Mr. Patterson's cryptic style of describing his services provides an insufficient explanation of the services rendered. Some of the entries which are decipherable indicate billing for services which do not benefit the estate and thus are not compensable. The billing statement contains extensive references to: "Receipt, review, examination of any documents,

letters, files, etc." Review of file and receipt of letters and documents are not a service of benefit to the estate absent further explanation.

Mr. Patterson asks for approval of approximately \$1,600.00 in fees for unspecified work "to be completed from August 1993 through March 1998". Because 330(a)(1) provides for compensation of "services rendered", the Court does not approve compensation to Mr. Patterson for undescribed services not yet rendered.

Based on the foregoing, reduction of fees is required. Using the lodestar approach, the number of hours reasonably expended is multiplied by a reasonable hourly rate. Mr. Patterson's fee of \$95 per hour is a reasonable hourly rate. After reviewing the entire fee application, the Court finds that it has a sufficient basis for determining the number of hours Mr. Patterson reasonably expended in providing the type of actual and necessary services generally provided in Chapter 7 and Chapter 13 cases. A review of the file leads to the conclusion that no rare or exceptional circumstances exist which would authorize fee enhancement beyond the lodestar amount. Mr. Patterson has presented no evidence which would provide a basis for fee enhancement. Mr. Patterson complains that extra services were necessary because of the U.S. Trustee's Motion to Dismiss which led to conversion of the case from Chapter 7 to Chapter 13. The Court does not find this circumstance warrants additional fees above the lodestar amount.

In conclusion, the amount that Mr. Patterson requests for attorney fees is excessive. The Court declines to make a line by line analysis of the billing statement. Having considered the entire statement, the Court concludes that the number of hours reasonably expended by Mr. Patterson as Debtors' attorney is 16.0 and the reasonable hourly rate is \$95. Therefore, the Court approves attorney fees in the amount of \$1,520.00. The Court further finds that Mr. Patterson has sufficiently documented reasonable expenses of \$54.46 which are also approved.

RULING

WHEREFORE, fees of \$1,520.00 and expenses of \$54.46 are allowed to attorney Stanford J. Patterson for services rendered to David and Marcia Snook, Debtors.

FURTHER, the remainder of Mr. Patterson's Application for Attorney Fees is **DENIED**.

SO ORDERED this 11th day of January, 1994.

Paul J. Kilburg
U.S. Bankruptcy Judge