In the United States Bankruptcy Court

for the Northern District of Iowa

MORAMERICA FINANCIAL CORPORATION	Bankruptcy No. 93-10268LC
MORRIS PLAN LIQUIDATION COMPANY	Bankruptcy No. 93-10269LC
Debtors.	Chapter 11

ORDER RE: APPLICATION OF WILDMAN HARROLD ALLEN & DIXON FOR INTERIM ALLOWANCE OF ATTORNEYS' FEES

The above captioned matter came on for hearing on April 26, 1994 on the First Application of Wildman, Harrold, Allen & Dixon for Interim Allowance of Attorneys' Fees and Reimbursement of Expenses. John Costello appeared on behalf of the Wildman firm. John Schmillen appeared for the U.S. Trustee.

The Wildman firm seeks interim compensation for services rendered and expenses incurred in representation of the Official Unsecured Creditors' Committee of Morris Plan Liquidation Co. The U.S. Trustee filed a comment to the fee application stating that time expended in preparation of fee applications is not compensable under 11 U.S.C. § 330. Exhibit D of the firm's fee application lists 32.4 total hours for fees of $3,162.00 under the category "Professionals and Fee Application Preparation".

Applicant responds that fees for services rendered through July 8, 1993 relate to formulating pleadings to permit its employment to represent the Committee or monitoring retention of other professionals. Fees on Exhibit D through July 8, 1993 total $1,026.00. The firm argues that these services are compensable even if time spent preparing the fee application is not compensable.

In support of its Application, the firm states that the rule in this district disallowing compensation for time spent preparing the fee application is a departure from the clear majority rule. It argues that preparation of fee applications qualifies as an "actual, necessary" service for which compensation should be provided by the estate. The firm also points out that minimal time was spent in preparation of the application and that the firm utilized its legal assistants to provide a much lower billing rate.

The most recent analysis of this issue in the Northern District of Iowa is contained in In re Courson, 138 B.R. 928, 933 (Bankr. N.D. Iowa 1992). Judge William Edmonds held that attorneys should not be compensated by the estate for services rendered in preparation of fee applications and that such services represent a part of the attorney's cost of doing business. Id. District and bankruptcy courts are admittedly split on the issue. Id. at 932; see, e.g., In re Pothoven, 84 B.R. 579, 586 (Bankr. S.D. Iowa 1988); In re Seneca Oil Co., 65 B.R. 902, 909 (Bankr. W.D. Okla. 1986) (listing cases on both sides of the issue). However, while divergent views clearly exist, the Court can not agree with applicant's assertion that the Courson rule is contrary to a "clear majority rule" adopted by an "overwhelming majority of courts."

Applicant has not persuaded this Court to change its existing rule. As was the case when Courson was decided, rigorous fee application requirements do not exist in this district, unlike districts where fee application preparation is compensable. Courson, 138 B.R. at 934; see Pothoven, 84 B.R. at 586 (given the court's requirements for specificity, time spent on fee application preparation is compensable). Preparation of the fee application in this case was not oppressive, burdensome, complex or rigorous. See Courson, 138 B.R. at 934. No extraordinary effort appears to have been expended in preparing the fee application. As an example, it is noted that the applicant, which is located in Chicago, cites fee application requirements based on Illinois law rather than modifying the body of its fee application to conform to Iowa law requirements.

A secondary issue relates to legal assistant or paralegal compensation. This Court concludes that employing the services of a legal assistant or paralegal in preparing the fee application does not transform noncompensable time into compensable time. Even in districts where time spent in preparing fee applications is compensable, the time spent preparing the fee statement itself is ordinarily not compensable. Seneca Oil, 65 B.R. at 910. One court held that compensation for preparing fee applications "certainly should not include an award for time spent for collating the time logs into one single document by the staff, even if this task is performed by a paralegal." In re Bicoastal Corp., 121 B.R. 653, 655 (Bankr. M.D. Fla. 1990). Time spent by a paralegal in editing or proofing time entries and recording expenses is clerical in nature and not compensable. In re CF&I Fabricators, 131 B.R. 474, 493 (Bankr. D. Utah 1991). Courson also recognizes that in most cases bills are prepared by clerical personnel with forms for fee applications adapted to each case. 138 B.R. at 935.

The Court has reviewed Exhibit D of the Wildman firm's fee application. The Court agrees that the time entries for services rendered through 07/08/93 are compensable. These services relate to employment of professionals, not merely preparation of the fee application. Therefore, fees arising from Exhibit D should be allowed for those time entries for a total amount of $1,026.00.

The time entries on Exhibit D for services rendered after 07/08/93 all relate to preparation of the fee application. Services rendered for this task are not compensable by the estate under Courson. Furthermore, time spent by the firm's paralegal entering and editing time entries is clerical in nature and not compensable. Therefore, fees for time spent preparing the fee application as shown on Exhibit D are disallowed in the total amount of $2,136.

WHEREFORE, the First Application of Wildman, Harrold, Allen& Dixon for Interim Allowance of Attorneys' Fees and Reimbursement of Expenses is GRANTED IN PART and DENIED IN PART.

FURTHER, fees in the amount of $2,136 arising from time spent preparing the fee application as set out on Exhibit D are DENIED.

FURTHER, the remainder of the fee application is GRANTED and compensable by the bankruptcy estate.

SO ORDERED this 16th day of May, 1994.

Paul J. Kilburg
U.S. Bankruptcy Judge