

Not Intended for Publication or Citation

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN RE: CASE NO. 08-13109)
)
JUSTIN LEE STUCKEY)
TERESA ROSE STUCKEY)
)
Debtors)
)
)
JAMES CRAVER)
JANE CRAVER)
)
Plaintiffs)
)
vs.) PROC. NO. 09-1046
)
)
JUSTIN LEE STUCKEY)
TERESA ROSE STUCKEY)
)
Defendants)

DECISION AND ORDER

At Fort Wayne, Indiana, on January 5, 2011.

By a decision and order entered on April 26, 2010, the court determined that plaintiffs were “entitled to recover their reasonable costs, expenses and attorney fees associated with the motion for discovery sanctions filed on January 27, 2010.” The order gave counsel fourteen days within which to file an affidavit itemizing any such fees and expenses, following which the defendants had fourteen days to file any objections. Plaintiff’s counsel filed and served the required affidavit on April 27, 2010 and the matter is now before the court for a decision concerning the reasonableness of the amount sought.¹

¹The decision of April 26 also determined that the debtors’ discharge should be denied. Defendants appealed both the denial of their discharge and the award of fees to the District Court. Given the appeal of the underlying decision, this court issued an order on May 25, 2010 indicating that it would defer ruling on the amount of fees and expenses plaintiffs could recover until after the

Since the focus of the award was the fees and expenses “associated with the motion for discovery sanctions filed on January 27, 2010,” Decision and Order, April 26, 2010, p.17, the court was expecting to receive information concerning counsel’s labors from around that general time frame.² Instead, the affidavit includes fees for services going back to July 21, 2009, months before the date designated by the court, for a total of \$29,310 in fees and \$416.70 in expenses. The request goes far beyond what the court authorized and as such, on its very face, is patently unreasonable. If counsel thought that the fees and expenses awarded by the order of April 26 were for some reason too limited he should have filed a cross appeal, rather than simply including the additional desired amounts in his affidavit.

An unreasonable request for attorney fees may be sanctionable under Rule 9011. Matter of Central Ice Cream Co., 836 F.2d 1068, 1074 (7th Cir. 1987). Even without the specter of Rule 11, submitting an unreasonable request for fees constitutes sufficient cause to deny the request in toto, rather than sifting through it to sort the wheat from the chaff. Id.; Brown v. Stackler, 612 F.2d 1057, 1059 (7th Cir. 1980); Matter of Pierce, 165 B.R. 252, 255 (Bankr. N.D. Ind. 1994).

Plaintiffs’ attorney fees and expenses requested in response to the court’s order of April 26, 2010, are DENIED.

SO ORDERED.

/s/ Robert E. Grant
Chief Judge, United States Bankruptcy Court

appeal had been concluded. The appeal was dismissed, with prejudice, on November 17, 2010 and the court received the District Court’s mandate returning jurisdiction on December 30, 2010. See, N.D. Ind. L.R. 200.1(e).

²This is especially so since the court reminded counsel at the hearing on March 1, 2010, that the fees and expenses sought were to be limited to those associated with its motion to compel.