

George Carlson & Associates v. United States Bankruptcy Court (In re Zamora) No. 00-K-589, opinion issued by Judge Kane on August 14, 2000, on appeal of Case No. 99-16787 DEC

The District Court ruled that all fee requests must be accompanied by an itemized application.

Summary:

Attorneys appealed the Bankruptcy Court's denial of attorney fees for time spent in preparing an prosecuting a fee application. In affirming the Bankruptcy Court, the District Court found that the absence of an objection to fees by the trustee did not mandate that such fees be awarded, and that a motion for reconsideration was only appropriate where a court has made a mistake not of reasoning but of apprehension, or if there has been a significant change or development in the law or facts since the order entered. The District Court further ruled that the Bankruptcy Court did not abuse its discretion in partially denying the fee request, because the attorney did not adequately explain many of the charges in the application, which appeared to be overhead expenses, and because the fee litigation did not benefit the estate and was unnecessary because the initial fee application was vague and the short form application was filed for an amount above the maximum dollar amount then permitted by the Bankruptcy Court. According to the District Court, the Bankruptcy Court is charged with the duty of reviewing every fee application, even those which are uncontested, and every fee application must be accompanied by an itemized statement of the services performed, in compliance with 11 U.S.C. §330(a)(3) and (4). The use of the "short form" fee application currently permitted by the Bankruptcy Court is unacceptable. Instead, fee applications must be compiled from contemporaneous time records kept by attorneys. If contemporaneous records are kept, submitting them to the court becomes essentially a secretarial function, and use of less efficient methods will not justify increased compensation.

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