
In the United States Bankruptcy Court
for the
Southern District of Georgia
Brunswick Division

In the matter of:)
)
ANTHONY L. WATERS) Chapter 7 Case
)
) Number 94-40372
)
Debtor)

**ORDER ON APPLICATION FOR
ADDITIONAL ATTORNEY'S FEES**

Debtor filed Chapter 13 bankruptcy on February 21, 1992. Pursuant to a contract of representation, Debtor paid his attorney, Kevin J. Street, \$200.00 prior to filing and \$550.00 through the plan. On November 15, 1995, Debtor converted his case from Chapter 13 to Chapter 7, at which time Debtor agreed to pay Mr. Street an additional \$950.00 for services associated with Debtor's Chapter 7 case.

On January 12, 1996, the United States Trustee objected to the attorney's fees charged by Mr. Street. The Trustee contended that the additional fee was excessive in light of the amount previously paid and the fact that Debtor's only remaining debt was to the Internal Revenue Service and would likely remain nondischargeable. On March 14, 1996, this Court held a hearing and approved \$440.00 of Mr. Street's fee while reserving judgment

on the remaining \$510.00 until the conclusion of the adversary proceeding against the Internal Revenue Service. In an effort to ascertain the reasonableness of Mr. Street's fee, the Court ordered Mr. Street to file supplemental time records at the adversary's conclusion. On September 26, 1996, the parties settled Adversary Proceeding No. 92-40372 under a consent order. On October 15, 1996, Mr. Street filed his supplemental time records along with an amended application for additional attorney's fees of \$784.50. Thus, Mr. Street now requests the Court to approve the original requested compensation of \$950.00 and an additional amount of \$784.50 for a total of \$1,734.50.¹

First and foremost, this case is a "no-asset" Chapter 7. Accordingly, there are no assets within the estate to pay Mr. Street's fee and, therefore, he must seek reimbursement from another source. At the hearing on March 14, 1996, Mr. Street when addressing the United States Trustee's objection to the amount of his \$950.00 Chapter 7 fee stated that the fee included work that Mr. Street expected to perform in an adversary proceeding to determine the dischargeability of a tax debt. As a result, Mr. Street agreed to provide his time records at the conclusion of the adversary proceeding in order to support the reasonableness of his fee. However, when Mr. Street submitted his time records, he included an additional request of \$784.50 representing his fee for time spent on behalf of the

¹ Mr. Streets amended application contains a request of \$1,654.50. Apparently, the Debtor already has paid \$80 of this fee.

Debtor from the motion for conversion through the conclusion of the adversary proceeding.²

In support of Mr. Street's initial application for attorney's fees in the amount of \$950.00, Mr. Street has proffered revised time sheets that indicate that the value of the time spent by him and his firm is \$784.50. Because the client agreed to a fee of \$950.00 and the actual time devoted to the case approximates that level of fee, I will allow a total of \$950.00 for Chapter 7 services. Because Mr. Street has offered no proof to demonstrate that he has achieved an extraordinary result for his client, I hold that any amount above \$950.00 is excessive. *See* Norman v. The Housing Authority of the City of Montgomery, 836 F.2d 1292 (11th Cir. 1988)("If the result was partial or limited success, then the lodestar must be reduced to an amount that is not excessive." Norman, 836 F.2d at 1302; *See* Matter of Trinity Industries, Inc., 876 F.2d 1485, 1495 (11th Cir.1989). Furthermore, the Court of Appeals made it clear that when claims for fees seem excessive or are supported by inadequate fee applications, a court, sitting as an expert, may draw on its own knowledge and experience concerning reasonable and proper fees and form an independent judgment with or without the aid of witnesses as to value. *See* Norman, 836 F.2d at 1303. Thus, after noting that this Chapter 7 case raised only one issue concerning Debtor's sole creditor and

² After reviewing Mr. Street's attached time sheet, it is clear that the \$748.50 additional request includes work done in the underlying Chapter 7 and is not limited to work performed in the adversary proceeding. *See* Time Sheet ("Motion filed for conversion, .25 hrs." "341 Meeting of Creditors, .50 hrs." and "Filed conversion schedules, .25 hrs."). Moreover, 2.2 attorney hours and 1.75 support hours were proffered in support of both the initial and subsequent fee applications.

was ultimately resolved by consent order, I hold Mr. Street is entitled to a reasonable fee of \$950.00.

O R D E R

IT IS THEREFORE THE ORDER OF THIS COURT that Debtor's attorney, Kevin J. Street, is entitled to a total fee award of \$950.00 in this Chapter 7 case. This amount includes any interim award made previously by this Court³ and shall be reduced accordingly by any amount already paid by the Debtor.⁴ In no event shall this amount be paid for from any assets of the estate.

Lamar W. Davis, Jr.
United States Bankruptcy Judge

Dated at Savannah, Georgia

This ____ day of December, 1996.

³ At the March 14 hearing, this Court awarded Mr. Street \$440.00 in interim attorney's fees. This Order affirms that interim decision and approves an additional award of \$510.00.

⁴ After reviewing the amended fee application it appears that the Debtor has paid Mr. Street at least \$80.00.