

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

IN RE:

CC HOLDINGS 2000 LLC

Debtor

Civil No. 3:18-cv-2139 (JBA)

September 10, 2020

CC HOLDINGS 2000 LLC,

Appellant,

v.

D. WASHBURN INVESTMENTS LLC

Appellee.

ORDER DENYING ATTORNEY'S FEES

On December 27, 2018, CC Holdings 2000 LLC's Notice of Appeal [Doc. # 1] was received by this Court. Appellee, D. Washburn Investments ("Washburn") filed a motion to dismiss on January 8, 2020 [Doc. # 13], which was denied [Doc. # 16] for failing to state adequate grounds for dismissal. After full briefing by both parties, Appellant CC Holdings' appeal was dismissed by this Court on March 24, 2020 [Doc. # 19] because Appellee "demonstrated neither that the order of the Bankruptcy Court was based on any clear error of fact, nor that the Bankruptcy Court abused its discretion." (Order Dismissing Appellant's Appeal [Doc. # 19] at 7.) Thirty days later, on April 23, Appellee Washburn filed this motion for attorney's fees incurred in responding to Appellant's appeal. (Appellee's Appeal Allowance Att'y's Fees [Doc. # 21] at 1.) Appellee Washburn uses the term "legal fees" in its motion without differentiating between "attorney's fees," as the motion is titled, and other types of legal fees. (Appellee's App. at 1.) Appellee's submitted accounting [Doc. # 21-1] is simply a record of Appellee's attorneys' billable hours. Appellant CC Holdings has not responded.

While Appellee Washburn offers no authority for his claim for fees, the bankruptcy rules applicable to awarding attorney's fees and costs are Federal Rules of Bankruptcy 8020 or 8021. Under Rule 8020, attorney's fees may be awarded if "an appeal is frivolous." F.R.B.P. 8020. Where frivolity is claimed, the Rule requires "a separately filed motion" on the nature of the appeal and a "reasonable opportunity to respond." *Id.* However, Appellee's motion for fees offers no analysis as to the claimed frivolity of Appellant's appeal and will be denied.

Bankruptcy Rule 8021 provides that "if an appeal is dismissed, [as here,] costs are taxed against the appellant." F.R.B.P. 8021(a), but "costs" do not include attorney's fees.

F.R.B.P. 8021(c) (listing the costs "taxable [] for the benefit of the party entitled to costs" and excluding attorney's fees). Moreover, to be awarded "costs," "an itemized and verified bill" is required to be filed with the clerk "within 14 days after entry of judgment on appeal." F.R.B.P. 8021(d). Since Judgment was entered on March 24 [Doc. #20], and Appellee filed this motion thirty days later, such a motion for costs would be time barred.

For the foregoing reasons, Appellee's Application for Allowance of Attorney's Fees is DENIED.

IT IS SO ORDERED.

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Janet Bond Arterton, U.S.D.J.

Dated at New Haven, Connecticut this 10th day of September, 2020.