

SUPREME COURT OF NEBRASKA

Sellers v. Reefer Systems, Inc.

305 Neb. 868 (2020) · No. No. S-19-082 · Decided May 22, 2020

SUMMARY

The Nebraska Supreme Court held that an employee seeking statutory appellate attorney fees under Neb. Rev. Stat. § 48-125(4)(b) need not provide the details of the attorney-client fee agreement. The court concluded that the submitted affidavit sufficiently justified the extent and value of appellate services and reversed and remanded for determination of the reasonable fee amount.

CASE DETAILS

COURT	Supreme Court of Nebraska
WRITING FOR THE COURT	Freudenberg, J.; Heavican, C.J.; Miller-Lerman, J.; Cassel, J.; Stacy, J.; Funke, J.; Papik, J.
JURISDICTION	Nebraska
DECIDED	May 22, 2020
DOCKET	No. S-19-082
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Sellers sought further review of the Nebraska Court of Appeals' denial of his motion for statutory appellate attorney fees following affirmance of his workers' compensation award.
STANDARD OF REVIEW	Statutory interpretation and construction of Nebraska Supreme Court rules are reviewed independently as questions of law. A decision awarding or denying attorney fees is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published Nebraska Supreme Court opinion; precedential.
PARTIES	Reefer Systems, Inc. v. William Sellers

TOPICS

- workers compensation
- statutory interpretation
- appellate procedure
- remedies
- standard of review

PRACTICE AREAS

- workers' compensation
- appellate procedure
- attorney fees
- statutory interpretation
- remedies

QUESTIONS PRESENTED

1. Whether an affidavit supporting a request for statutory appellate attorney fees under Neb. Rev. Stat. § 48-125(4)(b) and Neb. Ct. R. App. P. § 2-109(F) must disclose the existence and terms of the attorney-client fee agreement.
2. Whether Sellers' affidavit sufficiently justified the extent and value of appellate legal services to permit a meaningful determination of reasonable attorney fees.
3. Whether the Nebraska Court of Appeals abused its discretion by denying Sellers' motion for appellate attorney fees.

HOLDINGS

1. The details of the attorney-client fee agreement are not a necessary component of an affidavit supporting a request for statutory reasonable attorney fees under Neb. Rev. Stat. § 48-125(4)(b) and Neb. Ct. R. App. P. § 2-109(F).
2. Reasonable attorney fees under § 48-125(4)(b) are not dependent on the terms of an attorney-client fee agreement or on proof that the fees were incurred pursuant to that agreement.
3. Sellers' affidavit sufficiently justified the extent and value of the appellate services to permit a meaningful determination of reasonable attorney fees; a detailed log of every task and time entry was not required.

KEY QUOTATIONS

"We now hold that in order to recover statutory "reasonable" attorney fees under § 48-125(4)(b), the details of the attorney-client agreement is not a necessary component of the affidavit submitted pursuant to § 2-109(F) for justification of appellate attorney fees." (305 Neb. at 874)

"When § 48-125(4)(b) of the Nebraska Workers' Compensation Act does not specify that reasonable attorney fees must have been "incurred," it is improper for us to add it." (305 Neb. at 875)

"That determination depends on the extent and value of services provided and is not dependent upon a fee agreement." (305 Neb. at 877)

FACTUAL BACKGROUND

William Sellers was injured while working for Reefer Systems in 2007, and the Workers' Compensation Court awarded him permanent total disability benefits in 2019. Reefer Systems appealed, but the Nebraska Court of Appeals affirmed the award without reducing it. Sellers requested statutory appellate attorney fees and submitted an affidavit stating the total hours worked, hourly rate, examples of tasks performed, reliance on business records, and counsel's opinion that the hours and rate were reasonable; the affidavit also mentioned a contingency fee agreement without describing its terms.

PROCEDURAL HISTORY

The Workers' Compensation Court awarded Sellers permanent total disability benefits. Reefer Systems appealed, but the Nebraska Court of Appeals affirmed the award in all respects. The Court of Appeals denied Sellers'

motion for appellate attorney fees because his supporting affidavit did not sufficiently justify the amount sought and did not provide the details of the attorney-client fee agreement. The Nebraska Supreme Court granted further review, reversed, and remanded for determination of the amount of reasonable attorney fees.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Nebraska Court of Appeals must determine the amount of reasonable appellate attorney fees owed to Sellers under Neb. Rev. Stat. § 48-125(4)(b).

CASES CITED

- Sellers v. Reefer Systems, No. A-19-082, 2019 WL 4940200 (Neb. App. Oct. 8, 2019)
- Saylor v. State, 304 Neb. 779, 936 N.W.2d 924 (2020)
- Hotz v. Hotz, 301 Neb. 102, 917 N.W.2d 467 (2018)
- State ex rel. Peterson v. Creative Comm. Promotions, 302 Neb. 606, 924 N.W.2d 664 (2019)
- Escobar v. JBS USA, 25 Neb. App. 527, 909 N.W.2d 373 (2018)
- Dale Electronics, Inc. v. Federal Ins. Co., 205 Neb. 115, 286 N.W.2d 437 (1979)
- Black v. Brooks, 285 Neb. 440, 827 N.W.2d 256 (2013)
- Stewart v. Nebraska Dept. of Rev., 294 Neb. 1010, 885 N.W.2d 723 (2016)
- TransCanada Keystone Pipeline v. Nicholas Family, 299 Neb. 276, 908 N.W.2d 60 (2018)
- Bortolotti v. Universal Terrazzo & Tile Co., 304 Neb. 219, 933 N.W.2d 851 (2019)
- St. John v. Gering Public Schools, 302 Neb. 269, 923 N.W.2d 68 (2019)
- Hauptman, O'Brien v. Turco, 273 Neb. 924, 735 N.W.2d 368 (2007)
- Pan v. IOC Realty Specialist, 301 Neb. 256, 918 N.W.2d 273 (2018)
- Kercher v. Board of Regents, 290 Neb. 428, 860 N.W.2d 398 (2015)
- Neeman v. Otoe County, 186 Neb. 370, 183 N.W.2d 269 (1971)
- Rinderknecht v. Rinderknecht, 204 Neb. 648, 284 N.W.2d 569 (1979)
- Lippincott v. Lippincott, 152 Neb. 374, 41 N.W.2d 232 (1950)
- Specht v. Specht, 148 Neb. 325, 27 N.W.2d 390 (1947)
- Yost v. Yost, 143 Neb. 80, 8 N.W.2d 686 (1943)