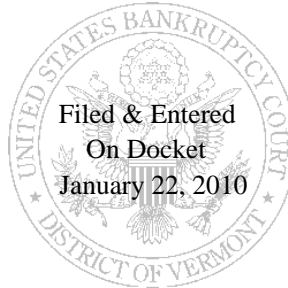


UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

In re:

Michael F. Montagne,
Debtor.



Chapter 12 Case
08-10916

Bourdeau Brothers, Inc.,
Plaintiff,

v.

Michael F. Montagne, Diane Montagne,
and Montagne Heifers, Inc.,
Defendants.

Adversary Proceeding
08-1024

Appearances: James Spink, Esq. and Mary Peterson, Esq., for Bourdeau Brothers, Inc.
Jess Schwidde, Esq. and John Harrington, Esq., for Michael Montagne

ORDER


**GRANTING PLAINTIFF'S RENEWED MOTION TO DISMISS AMENDED COUNTERCLAIMS OF DEBTOR
AND GRANTING PLAINTIFF'S REQUEST FOR AN AWARD OF ATTORNEY'S FEES**

For the reasons set forth in the memorandum of decision of even date, the Court grants Bourdeau Brothers, Inc.'s renewed motion to dismiss the amended counterclaims of the Debtor (doc. # 273). The Court adds the caveat that with regard to the Debtor's objection to claim cause of action in his Amended Counterclaim, it is dismissed without prejudice to the Debtor being able to participate in the evidentiary hearing focused on the objection to BBI's claim, on the issue of whether BBI has met its burden of proof.

In addition, the Court grants BBI's motion for attorney's fees to the extent BBI is able to show that the fees are reasonable and attributable to its motion to dismiss Counts IV (objection to proof of claim) and VII (equitable subordination) of the Debtor's Counterclaim. In the absence of a stipulation between the Debtor and BBI, BBI must file a fee application setting forth a detailed accounting of the amount of time spent on these two components of the motion to dismiss, a clear specification of the tasks performed, the hourly rate of the attorney(s) who performed the work, and total award sought. See In re Fibermark, 349 B.R. 385 (Bankr. D.Vt. 2006).

SO ORDERED.

Rutland, Vermont
January 22, 2010


Colleen A. Brown
United States Bankruptcy Judge