

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF

DUANE RALPH WALKER and  
CAROL ANN WALKER,

Debtors

HENRY E. DART and  
NORMA J. DART,

Plaintiffs

vs.

DUANE RALPH WALKER and  
CAROL ANN WALKER,

Defendants

CASE NO. BK79-1530

A80-164

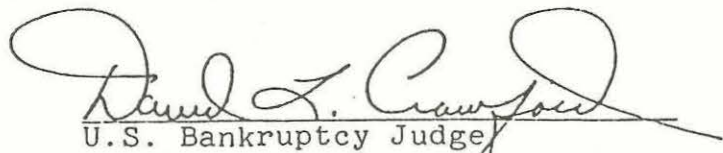
MEMORANDUM AND ORDER

Defendant's motion for attorney's fees is presumably based on §523(d) of the Bankruptcy Code which generally requires the taxing of attorney's fees as costs where a debtor-defendant prevails in an action concerning the dischargeability of certain types of consumer debts. Section 101(7) of the Code defines "consumer debt" as a "debt incurred by an individual primarily for a personal, family, or household purpose." The debt at issue here was incurred while the debtor was engaged in business and is not a consumer debt as to the debtor. Without specific statutory authority, attorney's fees are generally not taxable as costs. See 6 Moore's Federal Practice, para. 54.77(2) at 1703(2d ed. 1976). Accordingly, it is

ORDERED that defendant's motion for the allowance of attorney's fees be, and it hereby is, denied.

DATED: May 12, 1981.

BY THE COURT:

  
U.S. Bankruptcy Judge

Copies mailed to each of the following:

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