

Bond Case Briefs

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In re Old Cutters, Inc.

United States Bankruptcy Court, D. Idaho - April 18, 2013 - Slip Copy - 2013 WL 1686676

Property owner, but not third-party beneficiary bank, entitled to attorneys' fees pursuant to the terms of an annexation agreement between property owner and city as the prevailing party in litigation.

Property owner and commercial bank brought action to recover attorneys' fees as the prevailing parties in an annexation dispute with city.

The bankruptcy court ruled that the property owner was entitled to attorney's fees pursuant to the terms of the annexation agreement.

The bankruptcy court held that the bank, in its action to recover amounts owed by property owner under the annexation agreement, was not entitled to attorneys' fees, as it was not a party to the annexation agreement, and thus there existed no "commercial transaction" between bank and city, a requirement for the recovery of attorneys' fees under Idaho statute.