

~~U.L. v. Carter~~
CA - Sayreville

[^{no} date]

Memo In Opposition To Motion For Payment
of Fees

DI # 960

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File

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
MIDDLESEX COUNTY
Docket No. C 4122-73

URBAN LEAGUE OF GREATER NEW
BRUNSWICK, et als., :

Plaintiffs :

vs. :

Civil Action

THE MAYOR AND COUNCIL OF THE
BOROUGH OF CARTERET, et als., :

Defendants :

MEMORANDUM IN OPPOSITION TO
MOTION FOR PAYMENT OF FEES

ALAN J. KARCHER,
Borough Attorney
Borough of Sayreville
61-67 Main Street
Sayreville, New Jersey 08872

Plaintiffs seek an order of this Court directing payment of so-called "expert fees" for Ernest Erber and Alan Mallach. The Borough of Sayreville respectfully requests that said application be denied inasmuch as it is unwarranted and unjustified under the present circumstances.

The Borough of Sayreville calls the Court's attention to the fact that the plaintiffs had the option to proceed, if they had chosen to do so, under Rule 4:14-7 (b). Since they did not seek the protection of that rule and did not give defendants adequate notice as to potential liability for out-of-pocket expenses, they should be foreclosed from now seeking reimbursement.

The Borough of Sayreville's primary opposition however is premised on the fact that the prosecution of this litigation by the plaintiffs was done in a fashion that could only be called "in house". The nature and quality of the relationship between Mr. Erber and Mr. Mallach and the "financiers" of this particular litigation is such that it would appear that no further argument need be made. For plaintiffs to contend that these gentlemen were some how independent expert witnesses deserving reimbursement from the defendants is totally without either merit or substance.

For these reasons, it is respectfully requested that plaintiffs' motion be denied.

Respectfully submitted,


ALAN J. KARCHER, Borough Atty.
Borough of Sayreville