

designation of the items to be included in the record.”

Following the order of December 21, the appellee submitted an itemized statement of such attorneys’ fees in the amount of \$3,590. The appellant’s attorney objects to this amount as excessive, and contends that \$1,500 would be a reasonable amount.

I have examined the statement of attorneys’ fees and while I do not find the fees excessive, either in number of hours incurred or hourly rate, the payment of such fees was imposed as a sanction. In such a case, the rule is that the court must consider four factors: (1) the reasonableness of the attorneys’ fees; (2) the minimum amount to deter; (3) the ability to pay; and (4) the severity of the violation. *See Robeson Defense Comm. v. Britt (In re Kunstler)*, 914 F.2d 505, 523 (4th Cir. 1990).

It is clear that a monetary sanction should not be based solely on the amount of fees claimed by the opposing party, since sanctions are not a fee-shifting device, and are not primarily intended to compensate the prevailing party. *Id.*

Considering all of these factors, I find that \$1,750 would be an adequate sanction. It is approximately one half of the attorneys’ fees actually incurred, and bears an appropriate relationship to the severity of the violation and deterrence.

Accordingly, it is **ORDERED** as follows:

1. As a condition to the denial of the appellee’s motion to dismiss the

appeal, the attorney for the appellant must pay the sum of \$1,750 to the appellee within 10 days of the date of entry of this order; and

2. Thereafter the court will proceed to determine the appeal without oral argument, it being determined after an examination of the briefs and record that the decisional process would not be significantly aided by oral argument. *See* Bankr. R. 8012.

ENTER: February 15, 2001

United States District Judge