Law360, New York (June 15, 2015, 7:25 PM ET) -- The U.S. Supreme Court on Monday ruled that bankruptcy attorneys cannot recover money spent on defending their fee requests from challenges. Here, attorneys tell Law360 why the decision in Baker Botts LLP et al. v. Asarco LLC is significant.

Seth H. Lieberman, Pryor Cashman LLP

"Today's decision will cause estate professionals to sound the alarm. On the one hand, some might be incentivized to threaten fee litigation, understanding that the estate cannot compensate for the time spent defending those fees. On the other hand, bankruptcy professionals are clever if nothing else, and this could motivate Congress to revisit the limitations of Section 330 if appropriate."

Chris Mirick, Pillsbury Winthrop Shaw Pittman LLP

“Forcing debtor’s counsel to bear the costs of defending its fees provides other parties with the ability to try to force a reduction in those fees, without worrying that the dispute will end up reducing creditors’ recoveries because the costs will come out of the estate. From the perspective of the debtor’s counsel, this creates a risk that parties will challenge your fees not because of a legitimate concern about the amounts (although any challenge would have to meet Rule 11 standards), but in order to gain leverage to use in connection with other aspects of the case.”

Brian Netter, Mayer Brown LLP

“The court’s decision makes it harder for bankruptcy attorneys to get paid. Under the incentive structure created by today’s opinion, reorganized companies can be expected to challenge the compensation of the law firms who made it possible for them to emerge from bankruptcy.”

Joel L. Perrell Jr., Miles & Stockbridge PC

“Denying professionals the ability to recover reasonable fees in defending fee applications in bankruptcy cases because such time is not properly categorized as a 'service' appears to create imbalance in the fee application process, opening the door for tactical objections. Although the case presented a dispute with debtor’s counsel, the holding will have application beyond ... those specific parties before the court. Section 330(a), the Bankruptcy Code section in at issue, applies to all professional persons employed in a case including committee counsel, trustee counsel, and others. The majority’s view not only prohibits fees for time defending fee applications — it may curb compensation for time spent in other situations, like negotiating fee application disputes informally and attending hearings on uncontested fee applications if required by the court. As

recognized by the dissent, compensation for fee-defense work should be compensable, because such fees relate to an underlying service in the bankruptcy proceeding."

Steven J. Reisman, Curtis Mallet-Prevost Colt & Mosle LLP

"The Supreme Court's decision leaves professionals open to wasteful challenges and may be used by some as leverage in the underlying case. One hopes that this decision will be limited to true fee-defense litigation between the professionals and the administrator of the bankruptcy estate. Estate professionals are complying with the Bankruptcy Code by filing and defending their fee applications. The Supreme Court has now made defending the fee application a non-compensable cost of practicing bankruptcy law — and, in my view, is not what Congress had intended."

Brett Scher, Kaufman Dolowich & Voluck

"The Supreme Court's ruling in Baker Botts may raise new implications for attorneys' fee awards outside the bankruptcy world. In light of the holding, look for more defendants to argue

that prevailing plaintiffs' counsel in fee shifting cases under the Fair Credit Reporting Act, Fair Debt Collection Practices Act, and the Fair Labor Standards Act should be barred from recovering fees related to preparing fee petitions, especially when the amount of those fees is heavily disputed. We anticipate that this decision will be used as a countermeasure by defense counsel who have long feared putting their clients at risk of incurring additional attorneys' fees when they challenge opposing counsels' fee petition."

Aaron Streett, Baker Botts LLP

"While we are of course disappointed in the holding that bankruptcy attorneys may not be compensated under Section 330(a) for defeating meritless objections to their fee applications, we respect the court's conclusion. We are gratified that the court recognized Baker Botts' exceptional performance in the Asarco bankruptcy, which led to the Fifth Circuit affirming a $4.1 million bonus for Baker Botts' extraordinary performance and results — an outcome that remains undisturbed by the Supreme Court's opinion."

Mark D. Taylor, VLP Law Group

"The statutory interpretation is defensible. The policy is not. Most debtors are not multi-billion dollar businesses. Even in small cases, debtor representation is challenging and often requires an

extraordinary effort to extricate a debtor trapped in a financial wreck. To creditors seeking leverage, the fees of debtor's professionals are often an easy target. Now, the second guessing will become routine. Debtor's professionals, who often receive less than full compensation, are now being asked to be the volunteer firefighters of the bankruptcy world. Debtors will say, 'Please send the jaws of life, but staff it with volunteers.'"

Gregory W. Werkheiser, Morris Nichols Arsht & Tunnell LLP

"According to the [Baker Botts] majority opinion, bankruptcy professionals' concerns about uncompensated fee litigation are just 'unsupported predictions of how the statutory scheme will operate in practice ….' Yet, even before today, it was not uncommon for retained professionals to be confronted with tactically motivated threats to file fee objections from other case stakeholders. Reluctance by such risk-adverse professionals to engage in open courtroom warfare over their fees, together with the prospect of fee litigation further eroding creditor recoveries, frequently promoted resolution of many such disputes before they landed in court. That dynamic has now changed, and not for the better."

--Editing by Emily Kokoll.