

**UNITED STATES COURT OF APPEALS**  
**FOR THE TENTH CIRCUIT**

**MAY 23 2002**

**PATRICK FISHER**  
Clerk

In re: RODDY MAC STEWART and  
DEBORAH B. STEWART, also  
known as Debbie Stewart, also known  
as Debbie B. Stewart,

Debtors,

No. 01-3229  
(BAP No. KS-00-067)  
(Appeal from BAP)

THE CADLE COMPANY,

Plaintiff - Appellant

v.

RODDY MAC STEWART and  
DEBORAH B. STEWART,

Defendants - Appellees.

**ORDER AND JUDGMENT** \*

Before **SEYMOUR** , **PORFILIO** , and **BALDOCK** , Circuit Judges.

\* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

Appellant The Cadle Company appeals from an order of the Bankruptcy Appellate Panel (BAP) of the Tenth Circuit affirming the district court's order that, in turn, affirmed the Bankruptcy Court for the District of Kansas's judgment granted in favor of appellees Roddy Mac and Deborah B. Stewart. Our jurisdiction arises under 28 U.S.C. § 158(d), and we affirm.

The BAP opinion fully sets out the relevant facts and issues raised in this appeal and we need not repeat them here. *See The Cadle Co. v. Stewart (In re Stewart)*, 263 B.R. 608 (10th Cir. BAP 2001). On appeal from either a district court's decision in its capacity as a bankruptcy appellate court or a BAP's opinion affirming the district court, we independently review the bankruptcy court's decision, applying a "clearly erroneous" standard to the bankruptcy court's findings of fact and a "de novo" standard to its conclusions of law. *Phillips v. White (In re White)*, 25 F.3d 931, 933 (10th Cir. 1994) (appeal from district court's order affirming the bankruptcy court); *In re Albrecht*, 233 F.3d 1258, 1260 (10th Cir. 2000) (appeal from BAP's opinion). The parties did not question the applicable law below.

We have carefully considered the record, the applicable law, and the arguments of the parties. For substantially the same reasons stated in the BAP opinion filed June 20, 2001, we conclude that the bankruptcy court's findings of fact are not clearly erroneous. The appellees' request for attorney fees and costs on appeal is DENIED.

The judgment of the United States Bankruptcy Appellate Panel is AFFIRMED.

Entered for the Court

Bobby R. Baldock  
Circuit Judge