

FILED

U. S. BANKRUPTCY COURT

JAN 30 1995

WESTERN DISTRICT OF NC

By *lwb* DEPUTY

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA

In Re:)
))
ORDER IN AID OF ADMINISTRATION)
))
_____)

ORDER REGARDING PAYMENT
OF NON-BASE FEES IN
CHAPTER 13 CASES

The court has been requested by the Bar to reconsider the mechanism for payment under Chapter 13 plans of non-base fees and expenses of debtors' attorneys.

It appears that there are differences within this district in the treatment under the debtors' Chapter 13 plans of awarded non-base fees and expenses. At least one Trustee treats these claims like priority unsecured claims and pays them after secured claims are paid in full, unless the fee Order expressly contains the language "and modify the plan accordingly." In that event, the non-base fees are scheduled under the Chapter 13 plan for payment at the beginning of the plan, pro rata with secured claims, although without interest.

The court is of the opinion that all such allowed non-base fee and expense awards should be treated identically, and coded as administrative expenses in the Chapter 13 plan, regardless of whether the fee Order includes the modification language. It is the court's further opinion that these should be scheduled for payment pro rata with secured claims and that the Chapter 13 Trustees be empowered to modify the plans accordingly, without further notice or hearing.

It is therefore ORDERED that:

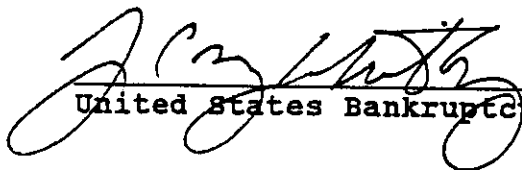
1. The Chapter 13 standing Trustees shall treat all non-base fee and expense awards, including those previously awarded, as priority administrative claims, to be paid pro rata with secured claims, if any, and otherwise treated fully as costs of administration of the case, regardless of whether said Orders contain language calling for the modification of the plan;
2. The Chapter 13 standing Trustees shall assign the appropriate payment code to all court awarded non-base attorney's fees and expenses, to accomplish this treatment as administrative priority claims;
3. All affected Chapter 13 plans pending in this district are hereby modified to accomplish this treatment; and

4. Future Chapter 13 plans filed in this district should provide that court awarded non-base attorney's fees and expenses will be treated as administrative priority claims and the plans modified accordingly, and without further notice or hearing.

This the 23rd day of January, 1995.


United States Bankruptcy Judge


United States Bankruptcy Judge


United States Bankruptcy Judge