United States Bankruptcy Court
Northern District of Illinois
Eastern Division

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Will This Opinion be Published Yes

Bankruptcy Caption: Dewayne C. Jackson

Bankruptcy No. 24 B 18391

Adversary Caption:

Adversary No.

Date of Issuance: April 25, 2025

Judge: Donald R. Cassling

Appearance of Counsel:

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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE:	)	Bankruptcy No. 24 B 18391
	)	
DEWAYNE C JACKSON	)	Chapter 13
	)	
Debtor.	)	Judge Donald R. Cassling

ORDER OVERRULING OBJECTIONS TO CONFIRMATION (DOCKET NOS. 14 & 34)

The matter is before the Court on the objections of the City of Chicago (the "City") to the confirmation of the plan of Debtor, Dewayne Jackson. For the reasons that follow, the Court overrules the objections and will allow confirmation of the Debtor's plan to proceed.

BACKGROUND

The Debtor filed his case on December 10, 2024, under Chapter 13 of the Bankruptcy Code. According to the Debtor's Schedules I and J, his projected monthly disposable income is $700.24.[1] His proposed plan provides for 60 monthly payments of $700 and a 0% dividend to prepetition unsecured creditors. (Dkt. No. 8.) The plan additionally provides for payment of attorneys' fees, if allowed through application to the Court,[2] of $4,853.96 and estimated trustee's fees of $2,856. (*Id.*) According to the Debtor, the monthly plan payments cover attorneys' fees, trustee's fees, a claim secured by his vehicle, an estimated priority claim of $1,000, and potential distributions to unsecured creditors.

The City, a prepetition unsecured creditor, objects to confirmation of the Debtor's plan, arguing that the plan fails to meet the requirements for confirmation. According to the City, the BAPCPA Amendments of 2005 require that all projected disposable income be paid only to "unsecured creditors" during the applicable commitment period, starting with the first payment. 11 U.S.C. § 1325(b)(1)(B). The City argues that the statute's use of the term "unsecured creditors"

[1] The Debtor's income is below the median income threshold, as indicated on his Official Form 122C-1. (Docket No. 4.)

[2] The Debtor's counsel has filed an application for attorneys' fees using the Court-Approved Retention Agreement, Local Form 13-8, which the Court is considering alongside confirmation of the Debtor's proposed plan. (Docket No. 10.)

must mean, under any fair reading of Section 1325(b), "general [prepetition] unsecured creditors," meaning prepetition creditors whose debts are unsecured and who do not hold priority claims. (*See* Obj. to Confirmation, Dkt. No. 14, at 8.) The City cites to no statute or case law in support of this interpretation. The City next argues that "[p]ayments [through the plan] for maintenance or support, like mortgages or car payments, are not considered disposable income, so they do not go to unsecured creditors. However, attorneys' fees are not maintenance or support." (Reply in Support of Obj. to Confirmation, Dkt. No. 33, at 1.) Instead, the City argues, debtors' attorneys are holders of post-petition administrative expenses, which are distinct from debtors' prepetition unsecured creditors. Therefore, according to the City, "attorneys' fees may not be deducted from disposable income[,] nor may they be paid out of disposable income[.]" (*Id.*) By contrast, the City does not object to the payment of trustee's fees under a confirmed plan, citing Section 707(b)(2)(A). 11 U.S.C. § 707(b)(2)(A).

The apparent policy basis for the City's interpretation of Section 1325(b)(1)(B) is that "a significant amount from [plan] payments will go into [the Debtor's] attorneys' pockets" while "the majority of Chapter 13 cases fail well before distributions to unsecured creditors begin." (Obj. to Plan Confirmation, Dkt. No. 14, at 1.) According to the City, "debtors with plans such as [the one proposed by the Debtor, whose plans fail] are . . . left with no debt relief (or actually owing more money) and they are out . . . thousands of dollars their attorneys took from the plan payments." (*Id.*)[3]

In response, the Debtor argues that a "holistic" approach must be followed in interpreting Section 1325(b)(1)(B), and that the City's interpretation of that statute is inconsistent with the Code's requirement that post-petition administrative claims be paid ahead of prepetition unsecured claims under Section 507(a)(2). Additionally, the Internal Revenue Service (the "IRS"), one of the Debtor's creditors holding a priority unsecured claim, filed a response urging the Court to reject the City's argument that unsecured creditors with priority claims are not "unsecured creditors"

[3] On April 2, 2025, the City filed an alternative objection to the confirmation of the Debtor's proposed plan. (Dkt. No. 34.) Its alternative argument is that, if the Court finds that the Debtor's attorney is a creditor of the Debtor's estate, then confirmation of the Debtor's plan must be denied as it provides for payment to a creditor who did not file a claim. This alternative argument is rejected for the reasons set forth in the discussion which follows.

within the meaning of Section 1325(b)(1)(B).[4] (Response, Dkt. 28, at 1-2.) As the discussion below indicates, resolution of this dispute over statutory construction must begin with a challenge to the City's unsupported premise that the statute's use of the term "unsecured creditor" must mean "*prepetition* unsecured creditor."

DISCUSSION

"[W]hen a statute's language is plain, the sole function of the courts—at least where the disposition required by the text is not absurd—is to enforce it according to its terms." *Sebelius v. Cloer*, 569 U.S. 369, 381 (2013) (quoting *Hartford Underwriters Ins. Co. v. Union Planters Bank, N.A.*, 530 U.S. 1, 6 (2000)). Where the language of the statute is not plain and unambiguous, the Courts may of course look for guidance in related statutory provisions, not just in a statute's immediate terms, when resolving disputes about a statute's meaning. *Harrington v. Purdue Pharma L. P.*, 603 U.S. 204, 221 (2004).

The City is correct that Section 1325(b)(1)(B) plainly requires that "unsecured creditors" must be paid from a debtor's "projected disposable income" and paid *only* to unsecured creditors from the first months of the plan. 11 U.S.C. § 1325(b)(1)(B). Both sides agree that "projected disposable income" is the amount left over after paying mortgages, utilities, car payments, food, and other reasonable necessities of life.[5] *See In re Farrar-Johnson*, 353 B.R. 224, 227-28 & n.5 (Bankr. N.D. Ill. 2006). Here, the Debtor's documents indicate that his projected monthly disposable income is $700.24, and he must therefore make that amount as a payment to unsecured creditors each month.

The issue presented by this case is whether the term "unsecured creditors" includes unsecured administrative expenses that arise during the bankruptcy, or whether that term is limited to unsecured non-administrative claims that arose prior to the bankruptcy filing date. For the reasons which follow, the Court concludes (1) that both of these classes of debts are included as "unsecured creditors" within the meaning of Section 1325(b)(1)(B) because neither debt is secured by any form of collateral; and (2) that administrative expenses arising during bankruptcy have, by

[4] The IRS also points out that the portion of its claim entitled to priority totals $19,68644. (Bankr. Case No. 24-18391, Claim No. 3-1.)

[5] These "necessities of life" are normally derived from a debtor's Schedule J if a debtor's income is below the median threshold.

statute, a higher priority status than unsecured claims that arose prior to bankruptcy. The Court's interpretation has the merit of affirming the plain meaning of not only Section 1325(b)(1)(B) but of the related statutes as well.

First, the term "unsecured creditors" unambiguously covers all creditors whose loans or other debts owed are unsecured by consensual, judgment, or statutory liens on any property of the debtor. The City's unsupported assertion that the only "fair reading" of the statute forbids inclusion of unsecured administrative claims is refuted by the language of the statute itself. On its face, the term "unsecured creditors" contains no limitations on *when* the unsecured debts arose or on *whether* those debts are entitled to priority under the Bankruptcy Code. Congress could have chosen to add temporal or priority limitations to the statute by adding limitations such as "*prepetition* unsecured creditors" or "*non-administrative* unsecured creditors." But it did not do so, and the Court will not alter the statute by adding restrictions which Congress did not place there.[6]

Second, the City's interpretation would cause Section 1325(b)(1)(B) to conflict with other provisions of the Bankruptcy Code that give priority to administrative claims, *see* 11 U.S.C. § 507(a)(2), and priority claims such as that of the IRS, *see* 11 U.S.C. § 507(a)(8), over general, prepetition unsecured claims. Under Section 507(a)(2), administrative expenses arising during the bankruptcy are to be paid before or at the time of each payment to prepetition unsecured creditors under a plan. *See* 11 U.S.C. § 1326(b)(1). By contrast, the Court's interpretation gives full effect to both statutory provisions, allowing only unsecured debts to be paid initially out of "projected disposable income," but doing so in a way that preserves the payment hierarchy set forth in Section 507. Under the Court's interpretation, if an administrative expense such as attorneys' fees are allowed by the Court in a case under Chapter 13 of the Bankruptcy Code, then such unsecured fees must be first in line to be paid with the projected disposable income made available to the case trustee because they are the highest priority of unsecured debts to be paid from the estate's assets.

[6] The Court recognizes that various decisions have concluded that post-petition administrative expenses are distinct from unsecured prepetition claims. *See* 11 U.S.C. § 101(10); *marchFirst*, 448 B.R. at 508; *In re Ames Dep't Stores, Inc.*, 582 F.3d 422, 429 (2d Cir. 2009). That is inarguable. But both types of debts can have features in common in addition to features which are distinct. Here, it is the feature they hold in common—the lack of collateral to secure repayment—that brings both types of debts within the plain language of Section 1325(b)(1)(B).

Any remaining proceeds are then to be paid to categories of unsecured claims with lower priorities, such as holders of unsecured, prepetition claims in accordance with Section 507.

Finally, given the context of the priority hierarchy of Title 11 described above, the Court notes that it would be inequitable to debtors and their counsel to read the reference to "unsecured creditor" in Section 1325(b)(1)(B) as a provision that would prevent counsel from receiving payment through a Chapter 13 plan where it is anticipated that such administrative fees have been incurred by a debtor's estate and are owing.

The City filed an alternative objection to the plan, arguing that even if one treats an administrative expense as a general unsecured "claim", the Debtor's attorneys never filed a proof of claim for their fees and therefore cannot be paid under Section 1325(b)(1)(B). The Court overrules this objection as well. Section 501 defines "proof of claim" and "proof of interest." 11 U.S.C. § 501. Claims which have been made for collection of prepetition secured or unsecured debts are called "proofs of claim" and claims which have been made for preservation or recognition of equity interests are called "proofs of interest." Administrative expenses fall into neither category, and therefore do not require the filing of either proofs of claim or proofs of interest in order to be approved and paid under a plan. *See marchFirst, Inc.*, 448 B.R. at 508.

Significantly, Section 1325(b)(1)(B) does not employ the terms "claim," "proof of claim," "interest," or "proof of interest." Instead, it uses the term "unsecured *creditor*." In the Court's view, administrative expenses sought by a debtor's counsel are obviously moneys which are owed by that debtor to their counsel. Where one party owes money to another, the party to whom the money is owed can safely be labeled a "creditor." *See generally* 15 U.S.C. § 1692a(4) & (5) (defining creditor as person who offers or extends credit creating debt or to whom debt is owed, and debt as obligation to be paid). And, to the extent that the debts owed to them are not secured by collateral, they are "unsecured debts" held by "unsecured creditors." But because the Code does not require that counsel file a proof of claim to be entitled to its fees, the Court rejects the City's alternative argument.

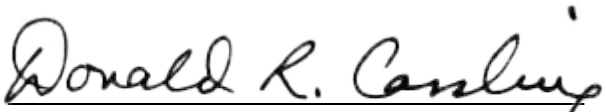
To sum up, the Court overrules both of the City's objections, holding that the term "unsecured creditors" in Section 1325(b)(1)(B) includes all holders of debt unsecured by collateral, whether arising prepetition or post-petition, and whether entitled to administrative priority or not.

CONCLUSION

For the foregoing reasons, the Court overrules the City's objections to plan confirmation.

ENTERED:

DATE: April 25, 2025



Donald R. Cassling
United States Bankruptcy Judge