

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE

SOUTHERN DISTRICT OF GEORGIA

Augusta Division

IN RE:) Chapter 13 Case
) Number 91-10637
JAMES PAUL EDWARDS, JR.)
) FILED
Debtor) At 9 O'clock & 19 min A.M.
) Date: 10-23-91
_____)

ORDER

Debtor, James Paul Edwards, Jr., objects to the claim of ITT Financial Services ("ITT"). ITT's proof of claim reflects a secured claim against debtor for Four Thousand Four Hundred and No/100 (\$4,400.00) Dollars. As grounds for his objection, debtor asserts 1) that ITT failed to serve a copy of its proof of claim upon debtor's counsel as required by Local Bankruptcy Rule 7 and 2) that ITT's proof of claim reflects an amount in excess of the net principal balance of the debt in violation of Local Bankruptcy Rule 8. Debtor also moves the court to impose sanctions for ITT's alleged noncompliance with the local rules. ITT has not responded to debtor's objection, nor was an appearance made on behalf of ITT at hearing on debtor's objection, October 3, 1991.

Local Bankruptcy Rule 7 provides as follows:

SERVICE OF PROOFS OF CLAIMS

It appearing that 11 U.S.C. §501 regarding the filing of proofs of claim and Bankruptcy Rules 2002 and 2003 are silent with respect to the necessity of serving such a proof of claim on any party and it further appearing that the administration of all cases in this court would be greatly enhanced if debtor's counsel were

timely served with true copies of all proofs of claim filed in this court by or on behalf of any creditor.

IT IS THEREFORE ORDERED that all creditors and their counsel who hereafter file a proof of claim in this court be, and the same are, hereby directed to serve by First Class Mail a true copy of said proof of claim and all attachments thereto upon the debtors' counsel of record at the address of said debtors' counsel shown on the Notice of the Creditor's Meeting convened pursuant to 11 U.S.C. §341. The filing of such proof of claim shall constitute a certificate by said creditor and/or its

counsel that this order has been complied with. Said creditors and/or their counsel are, however, directed not to file any separate certificate of service in the Clerk's Office.

Local Bankruptcy Rule 8 provides as follows:

INTEREST ON CLAIMS IN CHAPTER 13 CASES

11 U.S.C. §502 provides in relevant part that a proof of claim filed in accordance with 501 is deemed allowed unless objected to by a party in interest and further provides that upon objection to claim shall be allowed "except to the extent that--

(2) such claim is for unmatured interest."

It has been called to the attention of the court by parties before it that many creditors are regularly filing claims which include not only the principal balance of a debt as of the date of filing of a debtor's case but which also include future interest of said claims.

Without in any way limiting or amending any other provision of the Code or rules that govern the filing of proofs of claim, all claims filed in this court shall hereafter be filed for the **net principal balance only** as of the date of the debtor's filing of his or her case.

Unless otherwise ordered by the Bankruptcy Judge, the Chapter 13 Trustee is directed to pay interest at a rate of 12% per annum on all allowed secured claims and is further directed to file objections to or notify debtor's counsel with respect to any claim which is not filed in

accordance with the terms of this order.

The sanction provisions of Bankruptcy Rule 9011 apply to claims filed in violation of applicable provisions of the Bankruptcy Code and Rules.

Unrebutted testimony at hearing establishes that ITT failed to serve a copy of its proof of claim with attachments on debtor's counsel in violation of Local Bankruptcy Rule 7. ITT also failed to comply with Local Bankruptcy Rule 8. ITT filed a proof of claim in the amount of Four Thousand Four Hundred and No/100 (\$4,400.00) Dollars. Debtor's loan agreement with ITT dated December 19, 1988 provides for an amount financed of Three Thousand Two Hundred Thirty-Seven and 38/100 (\$3,237.38) Dollars and a total of payments of Four Thousand Eight Hundred Ninety-Six and No/100 (\$4,896.00) Dollars. Unrebutted testimony at hearing establishes that the outstanding balance on the loan is Two Thousand Seven Hundred Twenty and No/100 (\$2,720.00) Dollars. Based on the evidence presented at hearing, ITT's proof of claim appears to represent its gross claim, rather than the net principal balance as of the date of the filing of this case as required by Rule 8.

The bankruptcy court is authorized to impose sanctions for noncompliance with the local rules. 11 U.S.C. §105(a). See generally Matter of Lowe, 18 B.R. 20 (Bankr. N.D. Ga. 1981). "Bankruptcy Judges [have] ample authority to regulate and control the conduct of persons practicing in the Bankruptcy Court. . . . This authority includes the power to adopt local rules of practice and procedure . . . and 'to impose appropriate sanctions for failure to comply.'" Lowe, supra, at 25 [quoting Link v. Wabash R.R. Co., 291 F.2d 542, 545 (7th Cir. 1961)]. ITT's continued disregard for the local rules and its failure to respond to debtor's objection to claim or to appear in court having been served with notice of hearing warrants the imposition of appropriate sanctions. The court may strike a creditor's proof of claim in its entirety as a sanction for the creditor's failure to comply with the local rules.¹ See In re: Standard Metals Corp., 48 B.R. 778 (Bankr. D. Colo. 1985) (proof of claim stricken for failure to comply with discovery order), aff'd, 817 F.2d 625 (10th Cir. 1987), aff'd in part rev'd in part on reh'g, 839 F.2d 1383 (1987). See also In re: C. S. Crawford & Co., Inc., 423 F.2d 1322, 1325 (9th Cir. 1963) (dismissing appeal from bankruptcy referee's order for noncompliance with local rules). The court finds that striking ITT's proof of claim is the appropriate sanction in this case to deter ITT from future disregard of the local rules.

It is therefore ORDERED that debtor's objection to claim is sustained;
further ORDERED that debtor's motion for sanctions is granted. ITT's proof of claim is disallowed in its entirety.

JOHN S. DALIS
UNITED STATES BANKRUPTCY JUDGE

Dated at Augusta, Georgia

this 21st day of October, 1991.