

280 B.R. 899
United States Bankruptcy Court,
S.D. Alabama.

In re Roland E. HARRIS, Debtor.

Betty Ann Dean, Plaintiff,

v.

First Union Mortgage Corporation, Defendant.

Bankruptcy Nos. 96-14029-
MAM-13, 00-11321-MAM-13.

Adversary No. 99-1144.

Sept. 10, 2001.

Synopsis

Adversary proceeding was brought to recover for creditor's alleged failure to satisfactorily disclose postpetition, preconfirmation attorney fees which were included in its proof of claim. On request for definition of class to be certified, the Bankruptcy Court, [Margaret A. Mahoney](#), Chief Judge, held that it was appropriate to define debtor class broadly.

So ordered.

West Headnotes (1)

[1] [Bankruptcy](#) [Parties](#)

In adversary proceeding to recover for creditor's alleged failure to satisfactorily disclose postpetition, preconfirmation attorney fees which were included in its proof of claim, court would certify broad debtor class consisting of all debtors who had filed Chapter 13 petitions after particular date, and in whose cases creditor, without filing specific fee application, had collected or posted such fees to debtors' accounts while filing proofs of claim which did not disclose these fees at all, did not disclose them with sufficient specificity, or did not include fees in arrearage claims.

Attorneys and Law Firms


*[899](#) Steve Olen, [Steven L. Nicholas](#), [Donald J. Stewart](#), Mobile, AL, for Plaintiffs.


[Russell J. Pope](#), Towson, MD, and [John N. Leach](#), Mobile, AL, for Defendants.


ORDER DEFINING CLASS DEFINITION

[MARGARET A. MAHONEY](#), Chief Judge.

This matter is before the Court for definition of the class.

This Court has jurisdiction to hear this case pursuant to  [28](#)

[U.S.C. §§ 157](#) and  [1334](#) and the Order of Reference of

the District Court. This is a core proceeding pursuant to 

*[900](#) [28 U.S.C. § 157\(b\)\(2\)](#) and the Court has the authority to issue a final order. Based upon the submissions received from the parties, the Court defines the class as shown below.

IT IS ORDERED that the class is defined as follows:

All bankruptcy debtors who have filed a Chapter 13 petition on or after January 1, 1994(1) who had proofs of claim filed in their cases by the Defendant which (a) did not disclose postpetition/preconfirmation fees at all, (b) did not disclose them with sufficient specificity, or (c) did not include these fees in the arrearage claims; (2) who had these fees collected or posted to their accounts in some way by the Defendant after filing bankruptcy; and (3) in whose cases the Defendant did not file a specific application for these fees which was approved by the United States Bankruptcy Court.

All Citations

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