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JUDGE: M. A. Mahoney

PARTIES: William Edward Flowers, Patricia Ann Flowers, First Bank of Linden, Bryan  
Whitfield Hospital

CHAPTER: 13

ATTORNEYS: J. A. Lockett, Jr., W. W. Dinning, Jr., C. Parnell

DATE: 5/26/98

KEY WORDS:

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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF ALABAMA

In Re

WILLIAM EDWARD FLOWERS  
PATRICIA ANN FLOWERS

Case No. 97-12476-MAM-13

Debtors

**ORDER GRANTING MOTION FOR RECONSIDERATION OF  
CLAIM NO. 4 AND OVERRULING OBJECTION TO CLAIM NO. 7**

John A Lockett, Jr., Selma, Alabama, Attorney for Debtors  
Woodford W. Dinning, Jr., Demopolis, Alabama, Attorney for the First Bank of Linden  
Charles Parnell, Montgomery, Alabama, Attorney for Bryan Whitfield Hospital

This case came before the Court on the objection of the debtors to the claim of Bryan Whitfield Hospital, Claim No. 7, and on the motion of First Bank of Linden for reconsideration of the Court's denial of its Claim No. 4 on February 19, 1998. A hearing was held and appearances were as noted in the record. This Court has jurisdiction to hear these matters pursuant to 28 U.S.C. §§ 157 and 1334 and the Order of Reference of the District Court. These matters are core proceedings pursuant to 28 U.S.C. § 157(b)(2) and the Court has the authority to enter final orders. For the reasons indicated below, the Court is overruling the debtors' objection to Claim No. 7 and granting the motion to reconsider of the First Bank of Linden.

**FACTS**

These debtors filed their chapter 13 case on July 14, 1997. Proofs of claim were to be filed by creditors by December 3, 1997. Bryan Whitfield Hospital filed Claim No. 7 on September 29, 1997. The signature on the claim form appears to not be an original. It looks like perhaps a copy of the original proof of claim was filed instead of the original. For purposes of

this ruling, the Court concludes that the signature is not original. In all other respects, the claim form was properly completed. On September 17, 1997, First Bank of Linden filed a claim. The proof of claim form had no signature on it. In all other respects, the proof of claim was properly completed.

On January 15, 1998, the debtors objected to both claims because of “no original signature.” On February 19, 1998, after First Bank of Linden had filed no response to the objection, the Court disallowed the Bank’s claim.<sup>1</sup> Bryan Whitfield Hospital responded to the objection. A hearing was held on the objection on May 7, 1998. On March 18, 1998, First Bank of Linden filed a motion asking the Court to reconsider its order of February 19, 1998. A hearing was held on the motion on May 7, 1998.

Bryan Whitfield asserts that the signature on the claim form is an original one, or, alternatively, that an amended claim form filed at this time would be sufficient to cure the deficiency. The hospital asserts that the alleged lack of a signature should not be fatal to the claim allowance. First Bank of Linden asserts that it cured the deficiency promptly when it was brought to its attention. The failure to sign the original form should not be fatal.

#### LAW

Fed. R. Bankr. P. 3002(c) states that “[a]n unsecured creditor . . . must file a proof of claim . . . for the claim to be allowed.” The proof of claim is considered to be timely filed if it is filed no “later than 90 days after the first date set for the meeting of creditors called under 341 of the Code.” Fed. R. Bankr. P. 3001(a) states that “a proof of claim is a written statement setting

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<sup>1</sup>First Bank of Linden asserts that within days of receiving the debtors’ objection, it filed an amended proof of claim with a signature. If done, then as discussed below, the amended claim is sufficient for purposes of Fed. R. Bankr. P. 3001 and 3002.

forth a creditor's claim. A proof of claim shall conform substantially to the appropriate Official Form." (Emphasis added.) The proof of claim form provides a box for a signature and states that the person authorized to file the claim should sign it. If the defective proofs of claim of the bank and hospital are considered to be "filed" when they were presented to the Court, then the claims of the creditors would be timely and they could cure any deficiencies by amendments to the claims. If the proofs of claim are not considered to be filed when presented due to the deficiencies, then the claims are due to be disallowed.

The Court concludes that the proofs of claim, whether properly signed or not, were "filed" for purposes of calculation of the timeliness of filing because they substantially complied with the requirements for claim filing. The claims can now be amended to correct any signature deficiencies, whether there is no signature or a copied one.

The purpose of the claim filing process is to give notice of the existence of claims against a debtor and/or the debtor's estate to debtors, trustees and courts. *Oil, Chem & Atomic Workers v. Hamlin Group (In re Hamlin Group)*, 185 B.R. 703 (Bankr. D.N.J. 1995). Without a determination of the claims which must be paid within a reasonable period of time, no estate could be properly administered. Therefore, the bankruptcy process necessarily had to include a procedure for defining the pool of creditors deserving assets from a debtor's estate. The proofs of claim of First Bank of Linden and of Bryan Whitfield Hospital, even if not properly executed, gave notice to the Flowers that these creditors had alleged claims against them and their estate.

Debtors often object to claims on the basis that the documentation for the claim is not attached as required on the claim form. The Court routinely requires that the documentation be produced, but does not disallow the claim. The claim, although not perfect, gives notice of the claim. The lack of any signature or an original signature on the form is similar. Certainly the

Court ultimately requires a signature to insure that the signer is liable for bankruptcy fraud or worse if the claim is determined to be fraudulent. However, the signature can be obtained later if omitted and still give the Court, the debtors, trustees, and other creditors this protection.

There is no case law directly on point. The closest cases are those in which the Internal Revenue Service has filed a claim improperly by utilizing an improper signee. In these cases, the courts held the claim forms, although defective, could be amended to correct the signature issue. The issue was whether the claim filed substantially complied with all requirements. *Shabazz v. U.S.*, 1997 WL 593863, \*2 (E.D.Va. 1997) (“Because the [claim] form initially did not have the proper signature, the court required the IRS to amend it.”); *Vines v. RIS (In re Vines)*, 200 B.R. 940, 948 (Bankr. M.D. Fla. 1996) (In case where the signature did not conform with IRS manual policies, the court stated that “the amended form substantially conforms to all requirements”).

The debtors will not be prejudiced by allowing the curative amendment so long as the amended claims only add a signature and make no other substantive changes to the claim. The debtors themselves had listed claims owed to both of these creditors.

THEREFORE, IT IS ORDERED:

1. The objection of the debtors to Claim No. 7 of Bryan Whitfield Hospital is **OVERRULED** and the claimant shall file an amended claim containing an original signature within 45 days of the date of this order.

2. The motion of First Linden Bank to reconsider the order of February 19, 1998 is **GRANTED** and the claimant shall file an amended claim containing its original signature within 45 days of the date of this order.

Dated: May 26, 1998

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MARGARET A. MAHONEY  
CHIEF BANKRUPTCY JUDGE