

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN THE MATTER OF:)	CASE NO.	07-13508
)	CHAPTER	13
FERNANDO BELMAREZ EGUIA)		
)		
Debtor)		

DECISION AND ORDER

At Fort Wayne, Indiana, on April 21, 2009.

This case was filed under Chapter 13 of the United States Bankruptcy Code on December 10, 2007. It was subsequently dismissed on March 25, 2009. The order of dismissal stated: “Any entity wishing to file a claim under 11 U.S.C. § 503(b) . . . shall file the request within fourteen (14) days from the date of this order.” Order dismissing case, March 25, 2009. See also, 11 U.S.C. §1326(a)(2) (providing for disbursement of funds received by the Chapter 13 trustee when a case is dismissed). On April 16, 2009, Geraldine Johnson, a creditor, through her counsel, filed a request for a claim under § 503(b). Attached to that request is a copy of an order from the Adams Superior Court, dated September 28, 2007, entering judgment against the debtor and in favor of Ms. Johnson for the sum of \$1259.75. It is the request for claim which is currently before the court.

There are two problems with Ms. Johnson’s request, both of which are fatal and sufficiently indisputable so that the court may address them without further notice or hearing. In the first instance the request is untimely. The order of March 25, required 503(b) claims to be filed within fourteen (14) days. As a result, they had to be filed by April 8, yet Ms. Johnson’s claim was not filed until one week after the expiration of the deadline. More fundamental than the issue of timeliness is the fact that Ms. Johnson’s claim does not qualify as a claim under § 503(b). Claims falling into this category constitute the administrative expenses, including attorney fees, associated

with the bankruptcy proceeding and the costs and expenses preserving the bankruptcy estate. See, 11 U.S.C. § 503(b). Although neither this proceeding nor the bankruptcy estate existed prior to December 10, 2007, Ms. Johnson's claim is based upon a judgment she received in September of that year. It should be axiomatic that a judgment entered against the debtor roughly three months before the bankruptcy was filed does not constitute an administrative expense. Geraldine Johnson's request for an administrative claim is therefore DENIED.

SO ORDERED.

/s/ Robert E. Grant
Judge, United States Bankruptcy Court