

06 - BK - 003



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Subject Bankruptcy OF 22C

My comment is not addressed the form but to the Advisory Committee Comment. In the next to the last paragraph in the comments it is stated that no provision is made for deduction of anticipated attorney fees for a chapter 13 debtor. The stated rationale is that the attorney is presumably an unsecured creditor to be paid through the plan. I suggest this is an incorrect statement. 11 USC 507(a)(2) provides for the payment of administrative expenses under 503(b) as a priority claim. 11 USC 503(b)(2) provides for payment as an administrative expense compensation awarded under 330(a). 11 USC 330(a)(4) (B) provides for the payment of the fees of an attorney for a chapter 13 debtor. It thus appears that to the extent that the fees are approved by the court under 330(a)(4)(B) they are entitled to priority and should be deducted from disposable income. Since all known districts require attorney's fees be approved, even those districts in which a "no-look" rule applies, the estimated attorney's fees to the extent they fall within the scope of 330(a)(4)(B) are priority claims to be deducted from disposable income. While I agree that the form need not provide a specific provision for deducting attorney's fees, the comment is misleading and an incorrect statement of extant law.

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