



ORDERED in the Southern District of Florida on November 24, 2014.

**Robert A. Mark, Judge
United States Bankruptcy Court**

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA**

_____)	
In re:)	CASE NO. 14-21110-RAM
FRANCISCO JOSE ZAMORA and WANDA)	CHAPTER 13
ALMAGUER-ZAMORA,)	
)	
Debtor.)	
_____)	

ORDER OVERRULING TRUSTEE'S OBJECTION TO CONFIRMATION

The Court conducted a confirmation hearing in this chapter 13 case on November 10, 2014. At the hearing and in the Trustee's Notice of Deficiency for Confirmation [DE# 58], the Trustee objected to the provision in the Debtors' 2nd amended

Plan (the "Plan") [DE# 55] that provides for payment of the \$2,500 remaining balance of the Debtors' attorney's fees. Under the Plan, these fees will be paid directly by the Debtors outside of the Plan. The Plan states that the payments will be funded from the Debtor wife's social security income, which is not disposable income under the Plan.

The Plan provides for a total of \$6,000 in attorney's fees, \$3,500 as the base fee and \$2,500 for representation of the Debtors in the Court's Mortgage Modification Mediation ("MMM") Program. No Order is necessary to approve the fees because the \$3,500 base fee is the "safe harbor" fee allowed under the Court's Guidelines for Compensation [for Chapter 13 Attorneys] [CG-6] and the \$2,500 MMM fee is a "safe harbor" fee under Section XII of the MMM Program Procedures adopted by the Court's Administrative Order 14-03.

The Court is overruling the Trustee's objection to payment of the fee balance outside the Plan. The Trustee has not challenged the sufficiency of payments to creditors under the plan or questioned the feasibility of the Plan. As noted, the total amount of the attorney's fees is also not in dispute. Under these circumstances, the Court finds no statutory prohibition or persuasive case law that would preclude the Debtors from paying the balance of the allowed attorney's fees

outside of the Plan. The Trustee relies on *In re Savell*, 517 B.R. 680 (Bankr. W.D. La. 2014). However, in that case, unlike this one, there was no prior disclosure or court approval of the fees.

Moreover, paying the fees outside the Plan does not give an unfair advantage to Debtors' counsel. If anything, it puts counsel at risk because if the Debtors do not pay the fees, counsel will not be able to enforce the obligation in this Court.

Therefore, it is -

ORDERED as follows

1. The Trustee's objection to the Plan provision providing for post confirmation fee payments outside of the Plan is overruled.

2. The Trustee shall upload a confirmation order or renote the Plan for a further confirmation hearing on December 4, 2014, if there are any other issues to be resolved.

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COPIES TO:

John A. Moffa, Esq.
Nancy K. Neidich, Trustee