

11 U.S.C. § 506(b)
attorney fees

In re Hoover, 97-35479 (Bankr. Ct. Case No. 392-34149)

8/24/98

9th Cir
(affirming Dist.Ct.)

unpublished

Ninth Circuit affirmed the District and Bankruptcy Courts, which had held that, when a claim is oversecured, allowance of contractual attorney fees and costs is mandatory as long as the fees and costs are reasonable. 11 U.S.C. § 506(b). The debtors had argued that In re Fobian, 951 F.2d 1149 (9th Cir. 1991), prohibited an award of attorney fees to creditors for issues peculiar to bankruptcy law. The court pointed out that it recently rejected an identical argument in Kord Enterprises v. California Commerce Bank (In re Kord Enterprises), 139 F.3d 684 (9th Cir. 1998).

See P97-13(5) for District Court decision.

P98-9(3)

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

90 AUG 24 PM 2:00

NO. 97-35479
CT/AG#: CV-96-01633-HA

CLERK, U.S. BANKRUPTCY COURT
DISTRICT OF OREGON

In Re
STEVEN DUANE HOOVER; ANA LUZ HOOVER
Debtors

392-34149

AUG 24 1998

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PAID _____ DOCKETED WY
2nd 8.25.98

STEVEN DUANE HOOVER; ANA LUZ HOOVER
Appellants

v.

JOHN DOE, I, Trustee; ROBERT W. MYERS, Chapter 13 Trustee;
Appellees

APPEAL FROM the United States District Court for the
District of Oregon (Portland) .

THIS CAUSE came on to be heard on the Transcript of the
Record from the United States District Court for the
District of Oregon (Portland)
and was duly submitted.

ON CONSIDERATION WHEREOF, It is now here ordered and
adjudged by this Court, that the judgment of the said
District Court in this cause be, and hereby

Filed and entered July 28, 1998

~~IS AFFIRMED~~
A TRUE COPY
CATHY A. CATTERSON
Clerk of Court
ATTEST
AUG 19 1998
by: Jina
Deputy Clerk

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JLC

098-9(3)

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FILED

JUL 28 1998

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In re: STEVEN DUANE HOOVER;
ANA LUZ HOOVER,

Debtors,

No. 97-35479

D.C. No. 96-01633-HA

STEVEN DUANE HOOVER;
ANA LUZ HOOVER,

Appellants,

v.

JOHN DOE, I, Trustee;
ROBERT W. MYERS,
Chapter 13 Trustee;

Appellees.

MEMORANDUM¹

Appeal from the United States District Court
for the District of Oregon
Ancer L. Haggerty, District Judge, Presiding

Submitted July 20, 1998²

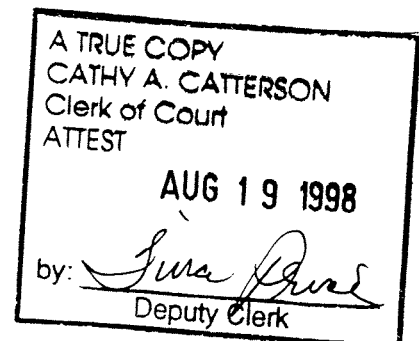
¹ This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

² The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a); 9th Cir. R. 34-4.

Before: HUG , Chief Judge, SCHROEDER and KOZINSKI, Circuit Judges.

Debtors Steven Duane and Ana Luz Hoover appeal from the order of the district court affirming the bankruptcy court's order awarding attorneys fees under 11 U.S.C. § 506(b) to successful creditor, Janet Briggs. The Hoovers contend the district court failed to apply Fobian v. Western Farm Credit Bank (In re Fobian), 951 F.2d 1149 (9th Cir. 1991), which prohibits the award of attorneys fees to creditors for "issues peculiar to federal bankruptcy law." We recently rejected an identical argument in Kord Enterprises v. California Commerce Bank (In re Kord Enterprises), 139 F.3d 684 (9th Cir. 1998), in which we concluded that under the clear language of section 506(b), oversecured creditors such as Briggs are entitled to attorneys fees and costs. Accordingly, the district court is

AFFIRMED.



INTERNAL USE ONLY: Proceedings include all events.
97-35479 Hoover, et al v. Doe, et al, et al

STEVEN DUANE HOOVER
Appellant

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ANA LUZ HOOVER
Appellant

Magar E. Magar, Esq.
(See above)
[COR LD NTC ret]

v.

JOHN DOE, I, Trustee
Appellee

ROBERT W. MYERS, Chapter 13
Trustee
Appellee

J. Vincent Cameron
[COR LD NTC ret]
18004 S.W. Belmore Court
Lake Oswego, OR 97035

STEVEN DUANE HOOVER
Debtor - In re:

ANA LUZ HOOVER
Debtor - In re: