

Section i

Bankruptcy Court

United States Bankruptcy Court
Southern District of New York

Name of Debtors

Motors Liquidation Company, et al.,
f/k/a General Motors Corp., et al.

Case Number

Chapter 11 Case No. 09-50026(REG)

Objection

214th Omnibus Objection to Claims

Section ii

Name of Claimant

Stella Malles, 21 Wilson Avenue, Rutherford, NJ 07070

Amount of Claim

Administrative Expense Claim for \$14,493.88

Section iii

Concise Statement

The Second Circuit reasoned that administrative expenses did not fall within the types of claims that section 502(d) proscribes.^[12] The court identified several Code provisions that distinguish between claims and administrative expenses.^[13] For example, the court observed that section 507(a)(2) refers to administrative “expenses” whereas other subsections under 507(a) refer to allowed unsecured “claims.”^[14] The court also argued that the opening language of section 502(d)^[15] indicates that it is merely an exception

carved out of the provisions of sections 502(a) and 502(b), which do not apply to administrative claims. Administrative claims, which are covered by section 503 and not sections 502(a) or 502(b), should therefore not be subject to section 502(d)'s provisions for disallowing claims. In further support of its conclusion, the court also identified a procedural anomaly that would result if administrative expenses were treated as "claims" under section 502(d);^[16] the entity seeking payment for administrative expenses may risk losing its claim unless it files a proof of claim required by section 501,^[17] even though "administrative expenses may not be filed under section 501."^[18]

^[12] See *ASM Capital*, 582 F.3d at 427.

^[13] *Id.* at 432 (citing cases identifying sections of Code where there is a distinction between claims and administrative expenses).

^[14] *Id.* at 429; see also 3 Norton Bankruptcy Law and Practice § 49:16, at 49-94 to 49-96 (William L. Norton, Jr. ed., 3d ed. 2008). Compare 11 U.S.C. § 507(a)(2) (2006) ("administrative expenses allowed under section 503(b)"), with 11 U.S.C. § 507(a)(1), (3)–(10) (2006) (allowed unsecured "claims").

^[15] "Notwithstanding subsections (a) and (b) of this subsection . . ." 11 U.S.C. § 502(d).

^[16] *ASM Capital*, 582 F.3d at 429.

^[17] See 11 U.S.C. § 502(b)(9) (2006) (permitting court to allow claim except when proof of claim is not timely); *ASM Capital*, 582 F.3d at 429 (identifying separate procedures for allowance of claims and allowance of administrative expenses).

^[18] *ASM Capital*, 582 F.3d at 429 n.4 (citing Official Bankruptcy Form B 10 (Dec. 2007)).

Section iv

Documentation Previously Submitted

Section v

Same Address

Section vi

John Malles, 74 Donaldson Avenue, Rutherford, NJ 07070
Cell #: 201-446-7673

