

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

In re:)	
)	
JEFFERSON COUNTY, ALABAMA,)	Case No. 11-05736-TBB9
a political subdivision of the State of)	
Alabama,)	Chapter 9
)	
Debtor.)	

JEFFERSON COUNTY’S OBJECTION TO CLAIM NUMBER 1396
FILED BY DENISE MORGAN

Jefferson County, Alabama (the “County”), pursuant to 11 U.S.C. § 502 and Federal Rule of Bankruptcy Procedure 3007, objects to Claim Number 1396 (the “Disputed Claim”),¹ filed by Denise Morgan (the “Claimant”), as follows:

BACKGROUND

A. Case Background.

1. On November 9, 2011, the County filed a voluntary petition for relief under chapter 9 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”).
2. On March 4, 2012, the Court entered the order for relief in the County’s case [Docket No. 778], confirming the County’s eligibility to be a debtor under chapter 9 of the Bankruptcy Code.
3. By order dated November 22, 2013, the Court confirmed the Plan [Docket No. 2248] (the “Confirmation Order”).²

¹ The Disputed Claim is numbered as set forth in the claims register maintained by Kurtzman Carson Consultants LLC.

² Unless otherwise defined, all capitalized terms have the meanings provided in the Plan or Confirmation Order.



4. The Effective Date of the Plan occurred on December 3, 2013. *See* Docket No. 2274.

B. The Claims Process in the County's Case.

5. On April 6, 2012, the Court entered its *Order (i) Setting Bar Dates and Procedures for Filing Proofs of Claim; (ii) Setting the Bar Date and Procedures for Filing Requests for Allowance of Section 503(b)(9) Claims; and (iii) Approving Form and Manner of Serving and Publishing the Notice of Bar Dates and the Entry of the Order for Relief* [Docket No. 889] (the "Bar Date Order").

6. Among other things, the Bar Date Order set June 4, 2012 (the "Bar Date") as the deadline for filing proofs of claim. Moreover, the Court approved the County's proposed Proof of Claim Form and Bar Date Notice (as those terms are defined in the Bar Date Order).

7. The County duly served the Bar Date Notice and Proof of Claim Form. The County also published notice of the General Bar Date in *The Birmingham News* and *The Bond Buyer*. *See* Docket No. 1057.

C. Background Regarding the Claimant's Purported Claim Against the County.

8. On June 9, 2014, two years after the Bar Date, the Claimant filed the Disputed Claim in the amount of \$65,000.00.

9. In the Disputed Claim, the Claimant describes the basis for claim as "Discrimination Lawsuit." The Disputed Claim includes a copy of a Charge of Discrimination that was purportedly submitted to the EEOC in November 2013.

10. On information and belief, the Claimant asserts that she was discriminated against while seeking a position with the Jefferson County Sheriff (the "Sheriff").

JURISDICTION AND NOTICE

11. The County brings the instant objection (the “Objection”) pursuant to 11 U.S.C. § 502 and Federal Rule of Bankruptcy Procedure 3007.

12. The Court has jurisdiction over the Objection pursuant to 28 U.S.C. §§ 157 and 1334. The Objection is a core proceeding within the meaning of 28 U.S.C. § 157(b). Venue of the County’s case and the Objection is proper before the Court under 28 U.S.C. §§ 1408 and 1409.

13. The County will serve a copy of this Objection on the Claimant and all parties on the Master Service List, as that term is defined in the Court’s *Order Establishing Notice, Service, and Case Management Procedures Pursuant to 11 U.S.C. §§ 102(1)(A) and 105(a) and Bankruptcy Rule 2002(m)* [Docket No. 89].

THE COUNTY’S OBJECTIONS TO THE DISPUTED CLAIM

A. The Applicable Legal Standard.

14. A proof of claim is *prima facie* evidence of the validity of a claim *only* if it is legally sufficient. *In re Alper Holdings USA*, No. 07-BR-12148 (BRL), 2008 WL 160203, at *3 (Bankr. S.D.N.Y. Jan. 15, 2008), *aff’d*, 398 B.R. 736 (S.D.N.Y. 2008). A proof of claim is legally sufficient only if it, among other things, “allege[s] facts sufficient to support the claim.” *Id.* “[M]ost courts ... apply the federal pleading standards to proofs of claims.” *In re Nortel Networks, Inc.*, 469 B.R. 478, 497 (Bankr. D. Del. 2012) (citing *In re DJK Residential, LLC*, 416 B.R. 100, 106-07 (Bankr. S.D.N.Y. 2009); *In re Adelphia Commc’ns Corp.*, 359 B.R. 54, 56 n.5 (Bankr. S.D.N.Y. 2006)). Under that standard, a claim “must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 677-78 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)).

15. Even courts that have not imposed the *Iqbal/Twombly* pleading standards to proofs of claim still require claimants to “allege facts sufficient to support the claim.” *In re Allegheny Int’l, Inc.*, 954 F.2d 167, 173 (3d Cir. 1992); *In re MarchFirst, Inc.*, 431 B.R. 436, 443 (Bankr. N.D. Ill. 2010).

16. To be legally sufficient, the bankruptcy claim must “arise in the first instance from the underlying substantive law creating the debtor’s obligations.” *See In re Arcade Publ’g*, 455 B.R. 373, 378 (Bankr. S.D.N.Y. 2011) (quoting *Travelers Cas. & Sur. Co. of Am. v. Pac. Gas & Elec. Co.*, 549 U.S. 443, 444 (2007) (alteration in original and internal quotation marks omitted)). Accordingly, a claim will be disallowed if it is “unenforceable against the debtor and property of the debtor, under any agreement or applicable law.” 11 U.S.C. § 502(b)(1).

B. The County is Not Liable for the Actions of the Sheriff.

17. The Disputed Claim is due to be disallowed because the County is not liable for the actions or omissions of the Sheriff and his deputies. As recognized by the Supreme Court of Alabama, “[a] sheriff is not an employee of a county for purposes of imposing liability on the county under a theory of respondeat superior. A sheriff is an executive officer of the State of Alabama” *Parker v. Amerson*, 519 So. 2d 442, 442-43 (Ala. 1987); *see also McMillian v. Monroe Cnty., Ala.*, 520 U.S. 781, 789, 793 (1997) (citing *Parker* and holding that Alabama sheriffs, when executing law enforcement duties, represent the State of Alabama not their respective counties). Similarly, the County is not liable for the actions or omissions of the Sheriff or the Sheriff’s deputies. *See Ex Parte Sumter Cnty.*, 953 So. 2d 1235, 1238 (Ala. 2006) (“counties cannot be held vicariously liable for the actions or omissions of the sheriff or his deputies in operating a county jail”).

18. On information and belief, the Claimant purports to assert claims arising from the Sheriff's hiring practices. Such claims are unenforceable against the County under applicable law. Accordingly, the Disputed Claim is due to be disallowed in its entirety.

C. The Disputed Claim Does Not Allege Facts Sufficient to Support a Claim.

19. The Disputed Claim also fails to allege facts sufficient to support any claim against the County. The Disputed Claim does not set forth any facts that, if accepted as true, would state a claim for relief against the County.

20. Accordingly, the Disputed Claim fails to assert a legally sufficient claim and is due to be disallowed in its entirety.

D. The Disputed Claim is Untimely.

21. Pursuant to section 502(b)(9) of the Bankruptcy Code, a proof of claim is due to be disallowed to the extent that "proof of such claim is not timely filed" Federal Rule of Bankruptcy Procedure 3007 provides that the County may object to proofs of claim to the extent they were not timely filed.

22. As discussed above, the Disputed Claim was filed after the Bar Date. Accordingly, the Disputed Claim is untimely and due to be disallowed.

DENIAL OF LIABILITY AND GENERAL RESERVATION OF RIGHTS

23. Without limitation or waiver of any other basis for objection or disallowance, the County denies the allegations on which the Disputed Claim is based, disputes liability for the Disputed Claim, and demands strict proof thereof.

24. The County reserves all rights, claims, and defenses with respect to the Disputed Claim and all other proofs of claim filed in its case.

25. The County files this Objection without prejudice to or waiver of its rights pursuant to section 904 of the Bankruptcy Code, and nothing herein is intended as or shall be deemed to constitute the County's consent to this Court's interference with (a) any of the political or governmental powers of the County, (b) any of the property or revenues of the County, or (c) the County's use or enjoyment of any income-producing property.

WHEREFORE, the County respectfully requests the Court to enter an order disallowing the Disputed Claim in its entirety, expunging the Disputed Claim from the County's claims register in its entirety, and granting such other, further, and different relief as may be just and proper.

Respectfully submitted this 1st day of October, 2014.

By: /s/ Patrick Darby

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