

FILED

O'clock & min M

MAY 01 2000

BRINDA K. ARGOE, CLERK
United States Bankruptcy Court
Columbia, South Carolina (6)

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:

Air South Airlines, Inc.,

Debtor.

SUPPLEMENTAL ORDER

Chapter 7

C/A No. 97-07229-W

ENTERED

MAY 01 2000

J.G.S.

THIS MATTER came before the Court upon various applications by attorneys for the Trustee for compensation on a contingency fee basis upon the collection of certain claims. While employment and payment of professionals in bankruptcy cases on a contingency fee basis is an acceptable and sometimes preferred means of employment, in practice it is the exception rather than the rule. See, e.g., *In re Olympic Marine Serv., Inc.*, 186 B.R. 651, 653 (Bankr. E.D. Va. 1995) ("In most bankruptcy cases, the fees of attorneys are calculated on a basis of time and hourly charges."). The Court and creditors in an applicable case should be particularly advised when employment on a contingency fee basis is being requested. See, *id.* at 654 n.2 (noting that even though 11 U.S.C. §330 of the Bankruptcy Code requires notice before the compensation of officers is awarded by a court while 11 U.S.C. §327 does not set forth such a requirement, the judge set forth its own requirement of notice at the time of appointment in order to "bridge[] this gap in the statutory scheme.") Therefore,

IT IS ORDERED, that **effective June 1, 2000**, applications requesting employment on a contingency fee basis before this Judge shall indicate that request **in bold type** in the caption as well as the body of the application and be noticed to all creditors for a period of twenty (20) days, thus allowing for an opportunity to object. Further, all proposed orders authorizing such employment shall indicate **in bold type** the contingency fee nature of the employment. This requirement is for applications in cases under all Chapters of the Bankruptcy Code with the

631

exception of cases under Chapter 13, in which the debtor is more often the applicant seeking counsel to pursue state law tort claims which are strictly reviewed by the Chapter 13 Trustee. Failure to comply with this Order shall cause deficient applications and proposed orders to be rejected without further hearing.

AND IT IS SO ORDERED.

Columbia, South Carolina,
may 1 _____, 2000.


UNITED STATES BANKRUPTCY JUDGE

CERTIFICATE OF MAILING

The undersigned deputy clerk of the United States
Bankruptcy Court for the District of South Carolina hereby certifies
that a copy of the document on which this stamp appears
was mailed on the date listed below to:

MAY 1 2000:

~~DEBTOR, DEBTOR'S ATTORNEY, TRUSTEE~~

JUDY G. SMITH

Deputy Clerk

TRFA
WITH
LISTE