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7 UNITED STATES BANKRUPTCY COURT
8 NORTHERN DISTRICT OF CALIFORNIA

9 In re

10 JOY IRENE TEPPER,

No. 04-10226

11 Debtor(s).
12 _____/

13 Memorandum on Objection to Claim
14 _____

14 Debtor Joy Tepper has objected to a claim filed by the Chapter 7 trustee on behalf of a creditor.
15 Tepper concedes that this is specifically authorized by § 501(c), but she argues that this section “has
16 clearly been qualified and remains qualified by legislative intent.”

17 Tepper is fundamentally incorrect in arguing that a statute can be qualified by legislative intent.
18 Where the language of the statute is on its face clear, it is improper to look beyond it to accompanying
19 legislative history in an effort to divine the intent of Congress or invent ambiguity. *Ernst & Ernst v.*
20 *Hochfelder*, 425 U.S. 185, 201, 96 S.Ct. 1375, 1384, 47 L.Ed.2d 668 (1976); *In re Moore*, 907 F.2d
21 1476, 1478-79 (4th Cir.1990). Since § 501(c) is clear, unambiguous, and unrestricted, it is improper
22 for the court to look to legislative history in order to create a restriction.

23 To the extent this decision is at odds with the out-of-circuit cases cited by Tepper, most notably
24 *In re Drew*, 256 B.R. 799 (10th Cir. BAP 2001), the court finds those cases flawed and declines to
25 follow them. To the extent the trustee has filed a claim for a creditor merely to churn the case and
26 maximize his fee, the proper remedy is reduction or forfeiture of his fee. Ignoring the plain meaning of a

1 statute is not permitted.

2 For the foregoing reasons, the objection will be overruled. Counsel for the Trustee shall submit
3 an appropriate form of order.

4 Dated: December 23, 2004


Alan Jaroslovsky
U.S. Bankruptcy Judge