

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

In re:) Case No. 03-21241
)
MILLIE R. WYNN,) Chapter 7
)
Debtor.) Judge Arthur I. Harris

ORDER FINDING REAFFIRMATION AGREEMENT UNENFORCEABLE

On October 10, 2003, a reaffirmation agreement (Docket # 7) was filed between Millie R. Wynn and Ford Motor Credit Company (Ford). Because the debtor was proceeding *pro se* at the time the agreement was filed, the agreement could only become effective if: (1) the Court held a hearing at which time the Debtor appeared in person; and (2) the Court informed the Debtor about the nature and consequences of the agreement. *See* 11 U.S.C. § 524(c) and (d) and Fed. R. Bankr. P. 4008. Accordingly, in an Order dated December 12, 2003, (Docket #20) the Court directed the debtor and Ford to complete and file with the Court by January 6, 2004, a reaffirmation agreement using Form B240 promulgated by the Administrative Office of the United States Courts. A reaffirmation agreement that follows Form B240 contains important information to assist the debtor in making an informed decision whether to reaffirm a debt and to assist the Court in determining whether the agreement is in compliance with 11 U.S.C. § 524(c). Even though the Court provided the debtor and Ford with copies of Form B240, no

reaffirmation agreement using Form B240 was filed with the Court. Nor did the debtor appear in person on January 13, 2004, or file a motion for approval of the reaffirmation agreement before or at the hearing as required under Rule 4008.¹

The reaffirmation agreement (Docket # 7) is therefore unenforceable under 11 U.S.C. § 524(c) and (d) and Fed. R. Bankr. P. 4008.²

IT IS SO ORDERED.

/s/ Arthur I. Harris 01/13/2004
Arthur I. Harris
United States Bankruptcy Judge

¹ A sample motion was attached to the Court's order (Docket # 20).

² Nothing prevents the Debtor from continuing to make voluntary payments to Ford. *See* 11 U.S.C. § 524(f). However, the discharge injunction does prevent Ford from attempting "to collect, recover or offset any such debt as a personal liability of the debtor." *See* 11 U.S.C. § 524(a)(2).