

THIS OPINION NOT INTENDED FOR PUBLICATION

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION



In re:) Case No. 05-19361
)
ARTHUR BOYD, JR.,) Chapter 7
)
Debtor.) Judge Pat E. Morgenstern-Clarren
)
) **MEMORANDUM OF OPINION**

An individual named Edward Rhodes, who states he is “acting through his firm, MCP Corporate Advisors, LLC” filed these motions:

- (1) a motion to reconsider dismissal of bankruptcy;¹ and
- (2) a motion to reconsider granting of compromise and a motion to reconsider removal of trustee for cause.² As neither motion stated a legal basis, the court entered an order instructing Mr. Rhodes to file a supplemental brief providing such analysis.³ Mr. Rhodes responded with a document titled “Motion to Reconsider Dismissal of Bankruptcy; Motion to Dismiss Order to Continue Trial [sic], and Motion for Evidentiary Hearing.⁴

The motions are opposed by the chapter 7 trustee and FirstMerit Bank, N.A., a party in interest.⁵

For the reasons stated below, the motions are denied.

¹ Docket 134.

² Docket 135.

³ Docket 137.

⁴ Docket 139.

⁵ Docket 143, 144.

JURISDICTION

Jurisdiction exists under 28 U.S.C. § 1334 and General Order No. 84 entered by the United States District Court for the Northern District of Ohio. This is a core proceeding under 28 U.S.C. §§ 157(b)(2)(A) and (O).

DISCUSSION

Procedural Irregularities in the Motions at Issue

The motions are signed in this fashion: “Edward T. Rhodes, Jr, President, MCP Corporate Advisors, LLC”. A limited liability company may not appear in federal court through a non-lawyer and an individual who makes such an appearance has engaged in the unauthorized practice of law. *In re ICLNDS Notes Acquisition, LLC*, 259 B.R. 289 (Bankr. N.D. Ohio 2001). The record is not crystal clear as to whether the creditor is Edward Rhodes, individually, or MCP Corporate Advisors, LLC. The court will, therefore, consider the motions at hand, but any additional filings must comply with the law or they will be stricken from the record.⁶

The motion to reconsider dismissal of bankruptcy

This case began when five creditors of Arthur Boyd filed an involuntary chapter 7 petition against him. Mr. Boyd contested the petition. On August 4, 2005, following an evidentiary hearing, the court entered an order directing that relief be entered against Mr. Boyd under chapter 7. The motion to reconsider dismissal of bankruptcy challenges that initial decision.

A motion to reconsider is analyzed under bankruptcy rule 9023. *See* FED. R. BANKR. P. 9023 (incorporating by reference FED. R. CIV. P. 59). The rule requires such a motion to be filed

⁶ Mr. Rhodes is also referred to federal bankruptcy rule 9011 which applies to him even if he is the party in interest and proceeds without counsel. *See* FED. R. BANKR. P. 9011.

within 10 days after the date of the order at issue and the deadline is jurisdictional. FED. R. BANKR. P. 9023(b); *see* FED. R. BANKR. P. 9006(b)(2). The motion here was filed well outside the time limit and it is, therefore, denied.

The motion to dismiss order to continue trial

The court has reviewed with care the filed motions and cannot discern what order this relates to or what relief is requested. The motion is, therefore, denied.

The motion to reconsider granting of compromise

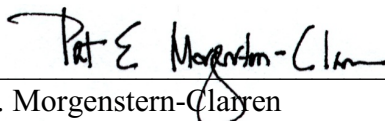
On February 1, 2006, the court entered a memorandum of opinion and order granting the chapter 7 trustee's motion to compromise a dispute with FirstMerit Bank, N.A.⁷ The current motion to reconsider was filed on July 21, 2006, again well outside the 10-day time period. The motion is denied as untimely under bankruptcy rule 9023.

The motion to reconsider removing the trustee for cause

On February 1, 2006, the court entered a memorandum of opinion and order denying the debtor's motion to remove the chapter 7 trustee.⁸ The current motion, filed on July 21, 2006, is denied as untimely under bankruptcy rule 9023.

CONCLUSION

For the reasons stated, the motions are denied. A separate order will be entered reflecting this decision.



Pat E. Morgenstern-Claren
United States Bankruptcy Judge

⁷ Docket 94, 95.

⁸ Docket 90, 91.

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ARTHUR BOYD, JR.,) Chapter 7
))
) Debtor.) Judge Pat E. Morgenstern-Clarren
))
) **ORDER**

For the reasons stated in the memorandum of opinion filed this same date, the Motion to Reconsider Dismissal of Bankruptcy (Docket 134), the Motion to Reconsider Granting of Compromise and Motion to Reconsider Removal of Trustee for Cause (Docket 135), and the “Motion to Reconsider Dismissal of Bankruptcy; Motion to Dismiss Order to Continue Trial [sic], and Motion for Evidentiary Hearing” (Docket 139) are denied.

IT IS SO ORDERED.



Pat E. Morgenstern-Clarren
United States Bankruptcy Judge