

The court incorporates by reference in this paragraph and adopts as the findings and orders of this court the document set forth below.



**/S/ RUSS KENDIG**

**Russ Kendig**  
**United States Bankruptcy Judge**

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

In re:	)	
	)	CHAPTER 13
HAROLD G. SWAIN &	)	
	)	CASE NO. 09-62957
JULIA A. SWAIN,	)	
	)	ADV. NO. 09-6130
Debtors.	)	
_____	)	JUDGE RUSS KENDIG
	)	
FARM CREDIT SERVICES OF MID-	)	
AMERICA PCA	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
HAROLD G. SWAIN &	)	
	)	
JULIA A. SWAIN,	)	<b>MEMORANDUM OF OPINION</b>
	)	<b>(NOT FOR PUBLICATION)</b>
Defendants.	)	

The Court has jurisdiction over this case pursuant to 28 U.S.C. § 1334 and the general order of reference entered in this district on July 16, 1984. This proceeding is a core proceeding under 28 U.S.C. § 157(b)(2)(A), (I) and (O).

This opinion is not intended for publication or citation. The availability of this opinion, in electronic or printed form, is not the result of a direct submission by the Court.

On January 28, 2010, plaintiff Farm Credit Services of Mid-America PCA (hereinafter “plaintiff”) filed a motion to strike the jury demand from the answer and counterclaim filed by debtors and defendants Harold G. Swain and Julia A. Swain (hereinafter “debtors”). In their motion, the plaintiffs argue that a debtor has no right to a jury trial in an action under 11 U.S.C. § 523.

On February 23, 2010, the defendants filed their response. In their response, the defendants admit that a debtor generally has no right to a jury trial in an action under section 523. However, the defendants argue that they have a Seventh Amendment right to a jury trial regarding the underlying issue of whether the debtors’ behavior was fraudulent under section 523(a)(2)(A) and regarding the plaintiff’s claim for money judgment.

The Sixth Circuit Court of Appeals squarely has held that a debtor in an action under section 523 has no Seventh Amendment right to a jury trial regarding a claim of fraud under section 523(a)(2)(A) or regarding a claim for money judgment. Longo v. McLaren (In re McLaren), 3 F.3d 958, 960 (6th Cir. 1993) (reasoning that by filing a bankruptcy petition a debtor has submitted to the bankruptcy court’s equitable jurisdiction).

Accordingly, plaintiff’s motion to strike is granted.

An order will issue simultaneously with this opinion.

# # #

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