

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

IN RE:

In Proceedings  
Under Chapter 7

WAYNE GREWE

Case No. 97-33551

Debtor(s).

LAURA GRANDY, Trustee

Plaintiff(s),

Adversary No. 98-3012

v.

CAROLYN STOPYRA a/k/a  
CAROLYN J. TIDMUS-STOPYRA

Defendant(s).

OPINION

This matter is before the Court on two motions filed by defendant, a "Motion to Stay Order of Judgment" and a "Motion for Rule 11 Sanctions or Other Disciplinary Action." An examination of the history of this adversary proceeding is necessary before addressing defendant's motions.

On January 12, 1998, the chapter 7 trustee filed a complaint to recover money or property against defendant. Debtor, Wayne Grewe, was not named as a defendant. The trustee sought to recover approximately \$58,000.00 that defendant allegedly owed debtor. The matter was originally scheduled for trial on May 12, 1998, but was continued twice. On August 4, 1998, the parties informed the Court that the complaint was resolved and that the trustee would submit an agreed order. The order

that was submitted was signed by both the trustee and defendant, and was entered by the Court on August 5, 1998.<sup>1</sup> In the order, defendant agreed to the entry of a judgment against her in the amount of \$25,000.00. The trustee agreed to stay execution of the judgment for a period of six months. The order further provided, in paragraph 7, as follows:

The Defendant has alleged that the Debtor is holding certain property of the Defendant.... To the extent the Debtor has this property and it is property of the Defendant, the Debtor shall turn it over to the Defendant within ten (10) days of the date of this Order.

According to the trustee, debtor had verbally agreed that he would turn over the property allegedly belonging to defendant. Debtor, however, did not sign the agreement.

Defendant then filed a "Motion for Violation of Court Order," in which she alleged that debtor violated the Court's order of August 5, 1998, by failing and refusing to turn over the property at issue. At a hearing held September 16, 1998, the Court held that it could not enforce the August 5<sup>th</sup> order **against debtor** since he had not been named as a defendant or otherwise joined in the adversary proceeding.

On April 9, 1999, approximately eight months later, defendant filed two separate motions to dismiss the "order of judgment" entered August 5, 1998. In her motions, defendant alleged, among other things, that she wasn't given notice of the judgment against her (even though she had consented, in writing, to the judgment) and that the Court had found the

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<sup>1</sup> Defendant was initially represented by attorney William Mueller. On July 21, 1998, the Court entered an order granting Mr. Mueller's motion to withdraw as defendant's counsel.

August 5<sup>th</sup> judgment "improper" at the hearing held September 16, 1998. (The Court had actually found the judgment unenforceable as to debtor only.) At a hearing on defendant's motions, the Court found these allegations to be without merit, and further found no basis under Rule 60(b) for setting aside the judgment. The motions were denied.

At the same hearing, the trustee conducted a citation to discover assets, at which time defendant agreed to pay the trustee \$50.00 per month on the judgment. In a subsequent written order, the citation proceeding was reset for a status conference on November 19, 1999.

Defendant then filed the instant motion to stay order of judgment, in which she again asks that the August 5, 1998 judgment be vacated pursuant to Rule 60(b). Defendant also filed a motion for Rule 11 sanctions "or other disciplinary action" against the trustee, Laura Grandy. In her motions, defendant raises essentially the same arguments previously set forth in her motions to dismiss judgment. Additionally, defendant argues that Ms. Grandy (1) misrepresented and/or changed the terms of their original agreement; (2) gave defendant legal advice; (3) failed to inform defendant that the August 5<sup>th</sup> judgment might not be enforceable against debtor; and (4) told defendant to stop filing motions, and that if defendant filed for bankruptcy relief, she, as trustee, could make it "hard or easy" for her.

After further review, the Court can find nothing in the record to support defendant's allegations, nor does the Court believe that defendant has raised any new grounds for staying or vacating the judgment

of August 5, 1998.<sup>2</sup> Likewise, defendant has failed to demonstrate any credible basis for imposing Rule 11 sanctions against Ms. Grandy. Accordingly, the motion to stay order of judgment and the motion for sanctions are DENIED.

SEE WRITTEN ORDER.

ENTERED: AUGUST 4, 1999

/s/ KENNETH J. MEYERS  
UNITED STATES BANKRUPTCY JUDGE

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<sup>2</sup> The question of whether debtor is wrongfully holding defendant's property is simply not before the Court in this proceeding. Defendant may, if she desires, litigate that question in a separate proceeding.