

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

IN RE: )  
)  
JEFFREY D. VINSON and ) Bankruptcy Case No. 06-30797  
REBECCA S. VINSON, )  
)  
Debtors. )  
)  
JEFFREY D. VINSON and )  
REBECCA S. VINSON, )  
)  
Plaintiffs, )  
)  
vs. ) Adversary Case No. 06-3294  
)  
MBNA AMERICA BANK N.A. )  
and ECAST SETTLEMENT )  
CORPORATION, )  
)  
Defendants. )

OPINION

This matter having come before the Court on a Motion for Sanctions Against MBNA America Bank N.A. filed by the Plaintiffs on December 5, 2007, and on status of compliance with this Court's Order of November 20, 2007, directing MBNA America Bank N.A. to fully comply with the discovery requests of the Plaintiffs; the Court, having heard arguments of the parties and being otherwise fully advised in the premises, makes the following findings of fact and conclusions of law pursuant to Rule 7052 of the Federal Rules of Bankruptcy Procedure.

On November 20, 2007, this Court entered a detailed Order directing Defendant, MBNA America Bank N.A., to fully comply with discovery requests of the Plaintiffs on or before December 3, 2007. At hearing on January 25, 2008, the Court was advised that Defendant, MBNA America Bank N.A., had not, as of that date, complied with all of the requirements set forth in the Court's November 20, 2007, Order.

While counsel for Defendant, MBNA America Bank N.A., offered numerous excuses and explanations as to why the November 20, 2007, Order had not been fully complied with, the

Court found none of those explanations or excuses offered a valid basis for MBNA America Bank N.A.'s failure to fully comply with the Plaintiffs' discovery requests as ordered. This Court's Order of November 20, 2007, is a binding and final Order on the Plaintiffs' two Motions to Compel discovery and that Order has not been appealed, nor has any basis been shown for the Court to vacate the effect of that Order. The effect of MBNA America Bank N.A.'s failure to comply with the Court's November 20, 2007, discovery Order has been to delay hearing on the Motion to Dismiss filed by Defendant, eCast Settlement Corporation, that has been pending since February 15, 2007. Although the instant adversary proceeding was filed nearly 14 months ago, trial has yet to be scheduled due to the failure of MBNA America Bank N.A. to comply with Plaintiffs' discovery requests as clearly ordered by the Court.

In considering the Plaintiffs' Motion for Sanctions Against MBNA America Bank N.A., the Court finds that Defendant, MBNA America Bank N.A., should be sanctioned in the amount of \$2,500 to be paid to Plaintiffs' attorneys as and for fees generated in an attempt to force Defendant, MBNA America Bank N.A., to comply with discovery ordered by the Court.

In order for Defendant, MBNA America Bank N.A., to avoid the more serious sanction of default pursuant to Rule 7037 of the Federal Rules of Bankruptcy Procedure, the Court finds it appropriate to give MBNA America Bank N.A. one last opportunity to fully comply with discovery ordered by the Court on November 20, 2007. Thus, Defendant, MBNA America Bank N.A., will be granted a period of 14 days from the date of this Opinion and Order to complete its compliance with all discovery ordered by the Court. A further hearing will be scheduled in this matter to determine the status of MBNA America Bank N.A.'s compliance on February 29, 2008, at 9:00 a.m., in the Bankruptcy Court, East St. Louis, Illinois.

ENTERED: February 8, 2008.

/s/Gerald D. Fines  
GERALD D. FINES  
United States Bankruptcy Judge

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ORDER

For the reasons set forth in an Opinion entered on the 8<sup>th</sup> day of February 2008;

IT IS HEREBY ORDERED that:

- A. Motion for Sanctions Against MBNA America Bank N.A. filed by Plaintiffs on December 5, 2007, is ALLOWED;
- B. Defendant, MBNA America Bank N.A., is sanctioned in the amount of \$2,500 to be paid to Plaintiffs' attorneys as fees within 14 days of the date of this Order;
- C. A status hearing will be held on February 29, 2008, at 9:00 a.m., in the Bankruptcy Court, East St. Louis, Illinois, to determine whether MBNA America Bank N.A. had complied with this Order; and,
- D. Failure to fully comply with the terms of this Order and previous discovery ordered by the Court may result in further sanctions including, but not limited to, default of Defendant, MBNA America Bank N.A., pursuant to Rule 7037 of the Federal Rules of Bankruptcy Procedure.

ENTERED: February 8, 2008.

/s/Gerald D. Fines  
GERALD D. FINES  
United States Bankruptcy Judge