

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN THE MATTER OF:)
)
CALBERT N. BARTRUM) CASE NO. 05-14932
)
Debtor)

DECISION AND ORDER ON ORDER TO SHOW CAUSE

At Fort Wayne, Indiana, on October 20, 2006.

On September 18, 2006, the court held a hearing with regard to the issues raised by AmeriCredit Financial Services' motion for relief from stay and abandonment and the objection thereto filed by Maria Bartrum. AmeriCredit appeared for the hearing, through its counsel Dennis Ostrowski. The objector, Maria Bartum, was nowhere to be seen. By the court's order of September 26, 2006, the court overruled the objection and granted AmeriCredit's motion, and, on its own motion, issued an order requiring Ms. Bartrum to show cause in writing why she should not be required to pay the reasonable attorney fees incurred by the AmeriCredit or otherwise sanctioned as the result of the scheduled hearing. See, Fed. R. Civ. P. Rule 7016(f); N.D. Ind. L.B.R. B-9014(2)(b). Ms. Bartrum failed to respond to that order within the time required and the matter is presently before the court for a decision.

Because of Ms. Bartrum's objection, AmeriCredit was required to and did go to the trouble of preparing for and attending the scheduled hearing and presenting evidence proving the allegations in its motion. Those efforts were largely wasted because, absent the objection, no hearing would have been necessary, and the court sees nothing unjust about requiring one who has caused its opposition and the court to unnecessarily devote time and trouble to a matter to reimburse them for the reasonable value of their labors. See, Fed. R. Civ. P. Rule 7016(f); N.D. Ind. L.B.R. B-

9014(2)(b). In the court's opinion such a result is necessary, not only as a matter of economic and procedural fairness, but also in order to impress upon litigants the importance of appearing for and being prepared for proceedings scheduled with regard to the things they file. In re Philbert, 340 B.R. 886 (Bankr. N.D. Ind. 2006).

Historically, in addition to other sanctions, the court has imposed some type of fine payable to the clerk on absent or unprepared litigants and/or their counsel in this type of situation. See e.g., In re Philbert, 340 B.R. 886 (Bankr. N.D. Ind. 2006); In re Hein, 341 B.R. 903 (Bankr. N.D. Ind. 2006); In re Shirar, 2006 WL 2037327 (Bankr. N.D. Ind. 2006). In view of Ms. Bartrum's pro se status, however, the court feels that imposing such a sanction upon her is not warranted. Nonetheless, the court cannot overlook that Ms. Bartrum's actions caused AmeriCredit to unnecessarily go to the trouble of preparing for and attending the scheduled hearing. Ms. Bartrum should reimburse AmeriCredit for the reasonable attorney fees and expenses it incurred as a result preparing for and attending the hearing scheduled in this matter for September 18, 2006. AmeriCredit shall have fourteen (14) days from this date within which to file and serve affidavits itemizing any such fees and expenses. Ms. Bartrum shall have ten (10) days thereafter in which to file any objections thereto. In the absence of objection the court will determine the reasonable amount of any fees and expenses without further notice or hearing.

SO ORDERED.

/s/ Robert E. Grant
Judge, United States Bankruptcy Court