

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN THE MATTER OF:)
)
TOLER CARTAGE, INC.) CASE NO. 01-10995
)
)
Debtor)

DECISION AND ORDER

At Fort Wayne, Indiana, on April 12, 2007.

In this chapter 7 case, the trustee has filed a notice of his intention to allow claims. Since claims are deemed allowed unless objected to, 11 U.S.C. § 502(a), this filing essentially alerts the reader that the trustee does not plan on objecting to the claims identified therein. It is simply an informational filing and does not seek any type of order from the court or require the court's approval. Nothing in either the Bankruptcy Code or the applicable rules of procedure contemplates the filing of such a notice and it appears that these things are submitted as a courtesy to creditors so that they can be apprised of the trustee's plans for administering the bankruptcy estate. Cf. 11 U.S.C. § 704(a)(8) (trustee has a duty to provide information concerning administration of estate).

A creditor of the debtor, Green Tree Financial Servicing Corporation, has filed an objection to the trustee's notice of intention. As near as the court can tell, Green Tree does not like the way the trustee has interpreted or characterized its claim. Rather than contacting the trustee directly in order to resolve their differences or waiting for notice of a proposed distribution to which it could formally object, see, e.g. Fed.R. Bankr.P. Rules 2002(f)(8), 5009, Green Tree has filed its objection with the court, and apparently wants the court to order the trustee to treat its claim differently than

he currently intends to. The court will do no such thing.

In the first instance, to the extent that Green Tree wants the court to order the trustee to take certain action or to construe its claim in a certain way it would seem to be seeking some type of injunctive or declaratory relief. Since neither the Bankruptcy Code nor the Federal Rules of Bankruptcy Procedure contain a procedural mechanism for Green Tree's request, or authorize it to file a motion or objection of this sort, the relief it seeks requires an adversary proceeding. See, Fed.R.Bankr.P. Rule 7001(7), (9).

Secondly, although there is a specific mechanism for objecting to the proposed distribution of the assets of the bankruptcy estate, there is no mechanism for objecting to notice of the trustee's intended action with regard to claims. Of course, the reason there is no such mechanism is because the rules themselves do not contemplate or provide for such a notice. It seems to be a practice that has grown up merely as a courtesy or as an informational filing. If a creditor thinks the trustee has misread its claim or that it should be characterized differently, the creditor should be able to contact the trustee directly in order to explain the creditor's position and try to persuade the trustee to change its position. If that succeeds, the creditor and the trustee will reach a mutually satisfactory outcome without the need to involve the court. If the creditor's efforts to discuss the matter with the trustee are not successful, it will have the opportunity to object to the trustee's proposed distribution in the manner specifically contemplated by the Bankruptcy Code and the applicable rules of procedure. See e.g., Fed.R.Bankr.P. Rules 2002(f)(8), 5009. Given the existence of that a mechanism, the court sees no need to take procedural shortcuts by scheduling proceedings with regard to objections to a trustee's notice of intention to allow claims.

A court's procedures are designed to provide a structure for litigation and to bring order to

what could otherwise be a chaotic and ad hoc process. Accordingly, when the Bankruptcy Code or rules of procedure provide a particular method by which certain issues may be raised, the court and litigants should take advantage of that mechanism and not invent new ones. See, In re Taylor, 289 B.R. 379, 388-389 (Bankr.N.D.Ind.2003). Doing so creates unnecessary confusion and risks wasting everybody's time and resources – the very problems procedural rules are designed to avoid.

For all of these reasons, the court will take no action with regard to, or as a result of, the trustee's intention to allow claims or Green Tree Financial Servicing's objection thereto.

SO ORDERED.

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