

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN THE MATTER OF:)
)
TRACY DEWAYNE MILLER) CASE NO. 01-10234
TAMARA SUE MILLER)
)
Debtors)

DECISION AND ORDER OVERRULING OBJECTIONS TO CLAIMS

At Fort Wayne, Indiana, on May 24, 2007.

The trustee in this Chapter 7 case has objected to claims, filed on behalf of The Collection Company, which have been designated by the clerk as claim numbers 26 and 59. There has been no response to these objections within the time required by the local rules of this court, N.D. Ind. L.B.R. B-3007-1(b) and the matter is before the court for a decision.

The trustee first asks that claim number 26 be denied because it is a duplicate of claim number 58 which is being allowed. The trustee then asks that claim number 59 be denied because it is a duplicate of claim number 58. Admittedly, the creditor is entitled to only one claim against the estate, but claim 26 is not a duplicate of claim 58, and claim 59 is not a duplicate of 58 – the same claims filed more than once. Instead, claim 58 amends and replaces claim 26, and claim 59 amends and replaces claim number 58. As a result, claims 26 and 58 filed by The Collection Company were both superceded by claim 59. Upon the filing of claim 59, claims 26 and 58 were no longer pending before the court and of no further force or effect. See Cf., 188 LLC v. Trinity Industries, Inc., 300 F.3d 730, 736 (7th Cir. 2002) (“An amended pleading ordinarily supercedes the prior pleading. The prior pleading is in effect withdrawn. . .and becomes functus officio.”); Kelley v. Crosfield Catalysts, 135 F.3d 1202,1204-05 (7th Cir. 1998) (same). Consequently, The Collection

Company is asserting only one claim against the estate, not three, and the fundamental premise of the trustee's objections is incorrect.

IT IS THEREFORE ORDERED that the trustee's objections to claim numbers 26 and 59 filed by The Collection Company are overruled.

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