

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION AT LAFAYETTE

IN THE MATTER OF:)
)
CONSOLIDATED INDUSTRIES CORP.) CASE NO. 98-40533
)
)
Debtor)

DECISION AND ORDER ON OBJECTION TO CLAIM

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

The trustee has objected to two claims, filed on behalf of Murfree, Cope, Hudson & Scarlett, designated by the clerk as claim number 79 and claim number 88. There has been no response to this objection 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 now before the court.

As to claim number 79, the trustee asks that it be denied because it has been “superseded, amended, and/or duplicated” by claim number 88. Unfortunately, he does not specify which shortcoming he is complaining about, and it matters. If claim number 79 has been duplicated by claim number 88 – so that the creditor has literally filed the same claim twice – the objection is well taken. The creditor is entitled to only one claim against the estate. If, however, claim number 79 has been superseded or amended by claim number 88, the trustee does not even need to address it. It is no longer pending before the court and of no further force or effect. Cf. 188 LLC v. Trinity Industries, Inc., 300 F. 3d 730,736 (7th Cir. 2002) (“An amended pleading ordinarily supersedes the prior pleading. The prior pleading is in effect withdrawn . . . and becomes functus officio.”); Kelley v. Crosfield Catalysts, 135 F. 3d 1202,1204-1205 (7th Cir. 1998) (same).

As for claim number 88, the trustee’s objection states that part of the claim – \$5,112.00 –

represents post-petition services and the claimant was never employed by the trustee. As a result, it should be allowed only as a general unsecured claim for the amount on the date of the petition: \$3,205.50. Given the lack of response, that objection, it is well-taken.

IT IS THEREFORE ORDERED that the trustee's objection to:

1. Claim number 79 filed on behalf of Murfree, Cope, Hudson & Scarlett is overruled, without prejudice.
2. Claim number 88 filed on behalf of Murfree, Cope, Hudson & Scarlett is sustained and that claim is allowed as a general unsecured claim in the amount of \$3,205.50.

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