

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

IN THE MATTER OF: )  
 )  
JACK D. SALTS ) CASE NO. 07-40065  
 )  
 )  
Debtor )

**DECISION**

At Fort Wayne, Indiana, on March 7, 2008.

The matter before the court in this chapter 11 case involves a motion for relief from stay and abandonment filed by the First National Bank of Danville and the debtor's objection thereto. Trial of the issues raised by the motion and objection is scheduled for the afternoon of March 11, 2008. See, Order dated February 6, 2008. The order setting trial required the parties to "jointly file appropriate stipulations of fact, witness and exhibit lists no later than seven (7) days prior to the scheduled trial." Because the bar has demonstrated an increasingly common propensity to ignore the court's deadlines, the order went on to provide:

The failure to do so will constitute a waiver of the opportunity to submit evidence or arguments and may subject the matter to a summary disposition without further hearing.

The deadline has come and gone. Debtor's counsel and First National Bank of Danville have failed to file the required joint submission; neither have they sought an extension of time within which to do so. Accordingly, the court finds that they have waived the opportunity to submit evidence or arguments with regard to the issues raised by First National Bank of Danville's motion for relief from stay and abandonment and the debtor's objection thereto and it is appropriate to dispose of the matter without further hearing.

In seeking abandonment and relief from stay, the movant bears the burden of proving that the debtor lacks equity in property and that there is something it should be protected against. In re Szymanski, 344 B.R. 891, 896-97 (Bankr. N.D. Ind. 2006). See also, Smoker v. Hill & Assocs., Inc., 204 B.R. 966, 975 (D. N.D. Ind. 1997); 11 U.S.C. § 362(d)(1), (2)(A). Particularly in the face of an objection, without evidence it is not possible for the Bank to prove these things. Accordingly, the motion for relief from that automatic stay and for abandonment filed by the First National Bank of Danville will be denied and the trial thereon removed from the court's calendar. An appropriate order doing so will be entered.

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