

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION

IN THE MATTER OF: )  
 )  
JANICE RENEA JACKSON ) CASE NO. 05-14646  
 )  
 )  
Debtor )

**DECISION**

At Fort Wayne, Indiana, on April 16, 2008.

In this chapter 7 case, the court previously overruled the debtor's objection to claim no. 12 which had been filed on behalf of FV-1, Inc. See, Order of August 23, 2007. Since that time, the trustee filed a final report and proposed distribution, which were not objected to. That distribution contemplated paying FV-1 \$1,711.22 on account of its claim, which had been equitably subordinated to the payment of unsecured claims as a result of an adversary proceeding brought by the trustee. FV-1 did not cash the check representing its distribution and, on March 6, 2008, the trustee deposited those funds with the clerk of the court. The next day the debtor filed a renewed objection to FV-1's claim, which was combined with a motion asking the court to order the clerk to pay the unclaimed funds to the debtor, rather than the creditor for whose benefit they were originally deposited. Notice of the objection was served upon FV-1 by the debtor, there was no response thereto within the time required by the local rules of this court, see, N.D. Ind. L.B.R. B-3007-1, and the matter is now before the court for a decision.

To begin with, the renewed objection and motion for turnover does not comply with the local rules of the court. Those rules require that each motion or request for relief be filed separately. See, N.D. Ind. L.B.R. B-9013-1(a). See also, N.D. Ind. L.R. 7.1(b). The present filing contains two separate requests. First, the court is asked to deny FV-1's claim and then, having done so, order the

clerk to distribute the funds in its possession to the debtor. To combine these requests in a single filing is improper.

To the extent the debtor is objecting to FV-1's claim, the objection is substantially identical to the one the court overruled last August. Aside from any res judicata issues arising out of the court's prior order, the present objection has no more merit than the one the court previously overruled. It implicates none of the reasons specified by § 502(b) for which claims may be disallowed. See, Matter of Taylor, 289 B.R. 379, 384 (Bankr. N.D.Ind. 2003).

The court also regards the present objection as untimely. The trustee's final report and proposed distribution were filed on September 12, 2007, and notice of the opportunity to object to either the report or the proposed distribution was served upon all creditors and parties in interest, including the debtor and her counsel, two days later. If the debtor or her counsel had any objection to the proposed distribution to FV-1 it should have been made at that time. It is too late to do so after the distribution has been made and the funds deposited with the clerk for the benefit of the distributee.

As for the second component of the debtor's filing – the motion for turnover – that is also improper. The funds in question have been deposited for the use and benefit of FV-1, Inc., and only FV-1, Inc., or its authorized representative, has any right to them. See, In re Chochos, 2007 WL 1810556 (Bankr. N.D. Ind. 2007).

For all of these reasons, debtor's renewed objection to the claim filed on behalf of FV-1, Inc., and motion for turnover of unclaimed funds will be DENIED. An order doing so will be entered.

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