

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION

IN THE MATTER OF: )  
)  
BRYAN E. KING ) CASE NO. 08-10366  
JOANNA KING )  
)  
Debtors )

**DECISION AND ORDER**

At Fort Wayne, Indiana, on September 5, 2008.

This matter is before the court with regard to a motion to approve an agreed entry between the debtors and CitiFinancial Auto Corporation.<sup>1</sup> The agreed entry provides that CitiFinancial shall be given an administrative claim in the sum of \$541.42, in order to reimburse it for repossession costs and fees. All creditors and parties in interest have received notice of the motion and there has been no objection to it within the time required. Despite this, the court cannot approve the agreed entry because neither the motion nor the notice of the opportunity to object to it are sufficient to warrant the relief sought.

A motion is required to state, with particularity, both the relief sought and the grounds for that relief. Fed. R. Bankr. P. Rule 9013. In this instance, the motion to approve the agreed entry says only three things:

1. That debtors' vehicle was repossessed.
2. The vehicle has been returned to the debtors.
3. The parties desire to address the repossession costs as an administrative expense.

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<sup>1</sup>The agreed entry contains a line for the trustee's signature but has not been signed by or on behalf of the trustee. See, Fifth Amended Order Authorizing Electronic Case Filing, ¶ 11(b).

While this may be the context out of which the parties' agreed entry has arisen, the motion really says nothing about what their agreement is or why it is an appropriate one. The court does not approve motions seeking particular relief simply because the parties want it to and no one has objected. Instead, a motion, even an uncontested motion, must allege particular facts which, if true, lead to the conclusion that the relief sought is appropriate. In this case that requires the motion to set out the terms of the parties' agreement and contain an explanation as to why that agreement represents an appropriate exercise of the debtors' discretionary judgment. This motion does neither.

The notice of the motion is also insufficient in that it fails to comply with the Local Rules of this court. Among other things, those rules require the notice to "briefly and specifically state what you are asking the court to do." N.D. Ind. L.B.R. B-2002-2(c)(1). As explained by the rule's commentary, "the requested relief should be stated with sufficient particularity in the notice [so] that the reader can determine, from this statement alone, what it is the movant is asking the court to do." In this instance, the court is being asked to approve an agreed entry giving CitiFinancial an administrative claim in excess of \$540.00, yet no one would come to that conclusion by reading the notice. The notice states:

On August 6, 2008, CitiFinancial Auto Corporation filed a motion to approve agreed entry asking the court to file a motion to approve agreed entry resolving the creditors' motion to terminate the automatic stay. The debtors' vehicle was repossessed. The vehicle has been returned to the debtors. The parties desire to address the repossession costs as an administrative expense. A copy of the motion to approve agreed entry is attached to this notice.

Simply to reiterate that the parties have asked the court to approve an agreed entry does not adequately explain what the court has been asked to do. The reader knew the court had been asked to approve an agreed entry once it had been given the name of the motion. To repeat that name

under the auspices of describing what the court has been asked to do adds nothing. Instead, the provisions of the agreed entry, or at least its essence, should be described. While a copy of the motion did accompany the notice, this is not a substitute for the rule's requirement that the notice itself state what the court has been asked to do. That is only an alternative to summarizing the grounds for the motion not the relief sought. See, N.D. Ind. L.B.R. B-2002-2(c)(4). Furthermore, since the particular motion before the court does not state the amount of the administrative claim that CitiFinancial is to be given, even after reading all of the papers served upon creditors, the reader is still left wondering precisely what it is that might happen.

There is one additional curiosity in the notice, and that is the representation that the agreed entry is resolving the creditor's motion to terminate the automatic stay. Neither the agreed entry nor the motion to approve it contain any mention of a motion for relief from stay and a review of the docket in this case reveals that no such motion has been filed, either on behalf of CitiFinancial or any other creditor.

For all of these reasons, the court concludes that both the motion to approve agreed entry and the notice to creditors of the opportunity to object to it are insufficient. While there may be reasons that CitiFinancial could be given an administrative claim for the costs associated with repossessing the debtors' vehicle, those reasons have not been included with the motion. As a result, the motion to approve agreed entry is DENIED, without prejudice.

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