

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN THE MATTER OF:)
)
COBY MARASSA) CASE NO. 07-10127
)
Debtor)

DECISION AND ORDER

At Fort Wayne, Indiana, on September 26, 2008.

On February 14, 2008, the court entered an order granting GMAC Mortgage Corporation's motion for relief from the automatic stay. Over six months later, on September 17, 2008, the debtor filed a motion to reinstate the automatic stay as it pertains to the property subject to GMAC's lien.

This motion is either one of two things:

- ① It could be a request for some type of injunctive relief, i.e. an order prohibiting the creditor from proceeding with its non-bankruptcy collection efforts. See, In re Salzer, 1991 WL 119153 (Bankr. N.D. Ind. 1991). In that event, Bankruptcy Rule 7001 requires an adversary proceeding in order to obtain such injunctive, equitable, or declaratory relief; not a motion. See, Matter of Perkins, 902 F.2d 1254, 1259 (7th Cir. 1990).
- ② Alternatively, the motion could be seeking some type of relief pursuant to Rule 60 of the Federal Rules of Civil Procedure. Yet, if that is the case, it needs to be accompanied by supporting affidavits and a brief in support thereof, N.D. Ind. L.B.R. B-9023-1; see also, In re King, 2006 WL 1994679 *1-2 (Bankr. N.D. Ind. 2006), and has not been.

It is clear that whatever the characterization given to the debtor's motion, the motion is inadequate, should be and therefore is DENIED.

SO ORDERED.

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