

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

IN THE MATTER OF:)	CASE NO.	08-40393
)	CHAPTER	13
SHARON HALL)		
)		
Debtor)		

DECISION AND ORDER DENYING OBJECTION TO CLAIM

At Fort Wayne, Indiana, on December 3, 2008.

The trustee in this Chapter 13 case has objected to a claim filed on behalf of Wells Fargo Bank which has been designated by the clerk as claim no. 6. 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 before the court for a decision.

The trustee asks that the claim be denied because it duplicates claim no. 8 which is being allowed. Admittedly the creditor is entitled to only one claim against the estate, but claim no. 6 is not a duplicate claim – the same claim filed twice. Instead, it was amended and replaced claim no. 8. As a result, original claim filed by Wells Fargo Bank – claim no. 6 – has been superceded by claim 8. It is no longer pending before the court and of no further force or effect. Cf., Johnson v. Dossey, 515 F.3d 778, 780 (7th Cir. 2008)(“When an amended complaint is filed, the prior pleading is withdrawn and the amended pleading is controlling.”); 188 LLC v. Trinity Industries, Inc., 300 F.3d 730, 736 (7th Cir. 2002); Kelley v. Crosfield Catalysts, 135 F.3d 1202,1204-05 (7th Cir. 1998). Thus, Wells Fargo Bank is asserting only one claim against the estate, not two, and the fundamental premise of the trustee’s objection is incorrect.

IT IS THEREFORE ORDERED that the trustee’s objection to claim no. 6 filed by Wells Fargo Bank is overruled.

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