

Not Intended for Publication or Citation

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN THE MATTER OF:)
)
BRUCE EDWARD WOOD) CASE NO. 11-12185
SYLVIA WOOD)
)
Debtors)

DECISION AND ORDER DENYING MOTION TO RECONSIDER

At Fort Wayne, Indiana, on July 22, 2011.

Second National Bank's motion to reconsider the striking of its motion for relief from stay is DENIED. That motion was stricken on July 11, 2011, because counsel failed to file a formal written appearance as required by the local rules of this court, even after the court reminded him of that deficiency. In the motion, counsel states that he did not receive the court's order reminding him to file an appearance because he had changed his email address.

The requirement to first file a formal written appearance is part of the court's local rules. See, N.D. Ind. L.B.R. B-9010-2(a)(1). It does not arise out of any order from the court and counsel should know to file such an appearance without having to be reminded. Cf., In re King, 2006 WL 1994679 *4, 2006 Bankr. LEXIS 1416 (Bankr. N.D. Ind. 2006) ("Ignorance of the court's local rules does not excuse failing to comply with them."). Thus, the order counsel says he did not receive was not the trigger for the need to file the appearance. It was, instead, simply a reminder to do something which should have already been done. As for counsel's failure to receive that order, he has no one to blame but himself. It is counsel's duty to promptly notify the court of any change of the email address used to receive notices from the court. Fifth Amended Order Authorizing Electronic Case Filing ¶ 3(d). Finally, the motion was simply stricken and there is no bar to refile another motion

for relief from stay and abandonment.¹

SO ORDERED.

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

¹Before refiling an identical motion, the court would note that it has substantial doubts as to whether the allegations in the stricken motion sufficiently stated a claim for the relief requested. See, Fed. R. Bankr. P. Rule 9013; In re White, 409 B.R. 491 (Bankr. N.D. Ind. 2009). See also, N.D. Ind. L.B.R. B-9013-1. Furthermore, the notice counsel included in the motion does not even begin to correspond with the court's local rules. See, N.D. Ind. L.B.R. B-2002-2.