

ENTERED ON DOCKET

8/9/04

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE: : CASE NO. 03-94415  
Ethel O. Harris, :  
Debtor. : CHAPTER 13  
: JUDGE MASSEY

ORDER DENYING APPLICATION TO EMPLOY SPECIAL COUNSEL

Attorney Randolph Mayer filed an application on behalf of Debtor to employ himself as Debtor's special counsel in non-bankruptcy litigation. Mr. Mayer does not represent the Debtor in this bankruptcy case, as indicated by the requested relief to employ special counsel.

Consequently, Mr. Mayer lacked authority to file the application on the Debtor's behalf.

Counsel for a debtor is hired to manage, and advise the debtor about, all legal aspects of the case. Applications to employ special counsel must be signed by the debtor or by counsel representing the debtor in a bankruptcy case and must be filed by debtor's counsel. This procedure insures that bankruptcy counsel is aware of matters the debtor proposes to undertake that may positively or adversely affect the bankruptcy case and the debtor's ultimate goal of obtaining a discharge. The fee arrangement with special counsel is particularly of concern, where the debtor might have postpetition personal liability for expenses and possibly legal fees depending on the fee arrangement.

This means that bankruptcy counsel must review applications to employ special and advise the debtor concerning the impact of the fee arrangement and any settlement on the debtor and the estate. Bankruptcy counsel must also make sure that special counsel understands that the litigation may not be settled without bankruptcy court approval. In that connection bankruptcy

counsel must review and file any motion to approve a compromise or settlement or motion to pay expenses in connection with litigation and see to it that creditors receive proper notice concerning the amount claimed, the amount of the settlement and the reasons for settling instead of trying the case.

Consequently, it is

ORDERED that the application to employ Mr. Meyer as special counsel to Debtor is DENIED without prejudice.

This 6<sup>th</sup> day of August 2004.

  
JAMES E. MASSEY  
U.S. BANKRUPTCY JUDGE