

JUN 23 2005

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE:)	CHAPTER 7
)	
SHAWNEE N. WRIGHT)	CASE NO. 03-92618-MHM
)	
Debtor)	
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)	
PARK WRIGHT, II)	
)	
Plaintiff)	ADVERSARY PROCEEDING
v.)	NO. 03-6259
SHAWNEE N. WRIGHT)	
)	
Defendant)	

AGREED ORDER AUTHORIZING ALTERNATIVE DISPUTE RESOLUTION

The parties in this adversary proceeding have requested the assistance of the undersigned in arranging an evaluative and directive settlement conference with another bankruptcy judge who has no assignment or responsibility for this adversary proceeding. Bankruptcy Judge Paul W. Bonapfel, U.S. Bankruptcy Court, Northern District of Georgia, is qualified by training and experience and has agreed to serve as a neutral to facilitate resolution of this adversary proceeding. The parties have both agreed that Judge Bonapfel is acceptable as a neutral. Accordingly, it is hereby

ORDERED that this adversary proceeding is **REFERRED** to the Honorable Paul W. Bonapfel to conduct an evaluative and directive settlement conference, mediation, or other form of alternative dispute resolution in this adversary proceeding. The date, time and place the

conference will be conducted will be determined by agreement among Judge Bonapfel and the parties. It is further

ORDERED that because Judge Bonapfel will be serving as the neutral in this matter and because the nature of the dispute resolution process requires *ex parte* contacts and communications between the neutral and each side, the prohibitions of FED. R. BANKR. P. 9003 do not apply to communications among the parties, their attorneys, and Judge Bonapfel in connection with the dispute resolution proceedings. The parties and their attorneys may, therefore, have *ex parte* communications with Judge Bonapfel in his capacity as the agreed neutral in connection with the dispute resolution proceedings. It is further


ORDERED that all matters, including the conduct and demeanor of the parties and their counsel during the mediation, will remain confidential and will not be disclosed to anyone, including this court. No statement made during the mediation may be disclosed or used as evidence in any subsequent proceeding. No document or other evidence generated in connection with the conference, including Judge Bonapfel's notes or records, is subject to discovery; provided, however, that an agreement which results from the mediation is subject to discovery unless the parties agree otherwise in writing. Neither Judge Bonapfel nor the participants will be allowed to testify in court as to the content of the conference.¹

Further, the Court requests that when the conference is completed, either one or all of the parties or Judge Bonapfel file a report in this adversary proceeding in writing describing **when** the

¹The confidentiality of mediation is supported by the Alternative Dispute Resolution Rules promulgated by the Georgia Supreme Court and by Federal Rules of Evidence 408 and 501. Case law also supports the confidentiality of mediation. *Smith v. Smith*, 154 F.R.D. 661 (N.D.Tex. 1994), and cases cited therein.

conference was conducted, **whether** the parties and their counsel appeared as ordered, and **whether** a settlement resulted. Should the conference not be completed within 90 days, either one or both of the parties shall file an interim report on the status of the conference and whether further settlement efforts are feasible and should continue.

IT IS SO ORDERED, this 23rd day of June, 2005.



MARGARET H. MURPHY
UNITED STATES BANKRUPTCY JUDGE