

4/20/05

UNITED STATES BANKRUPTCY COURT  
 NORTHERN DISTRICT OF GEORGIA  
 ATLANTA DIVISION

IN THE MATTER OF:	:	CASE NUMBER: A05-60156-PWB
	:	
TRICIA B. JORDAN,	:	
	:	IN PROCEEDINGS UNDER
	:	CHAPTER 13 OF THE
Debtor.	:	BANKRUPTCY CODE

**ORDER CONTINUING CONFIRMATION HEARING AND ORDER AND NOTICE TO COUNSEL FOR DEBTOR AND COUNSEL FOR MACO EDUCATORS FEDERAL CREDIT UNION**

A specially set evidentiary hearing on confirmation of Debtor’s plan was scheduled for April 19, 2005, at 2:00 p.m. This hearing date was selected and notice was given to counsel for Debtor and counsel for Maco Educators Federal Credit Union (“Maco”) at the originally scheduled confirmation hearing on March 16, 2005. The hearing on confirmation was continued so that Debtor could respond to Maco’s discovery requests that had been served only five days earlier, and so that Maco’s counsel could review the documents that the Debtor would provide. When asked by the Court how much time the parties would need to prepare for the hearing, Debtor’s counsel replied that he would prefer to keep this matter on a “fast track” for purposes of scheduling the evidentiary hearing. Maco’s attorney did not oppose this request.

On April 18, 2005, at 5:53 p.m., Maco’s counsel filed a “Motion for Continuance” and scheduled the matter for a hearing on April 19, 2005, at 2:00 p.m. The basis for the continuance request is that Debtor served documents in response to the discovery request on April 11, 2005, and that counsel “needs more time to analyze the documents and conduct a 2004 deposition.” In a motion filed the same day, counsel requests that the Court enter an Order permitting him to conduct a Rule 2004 examination of the Debtor on April 28, 2005.

On the morning of April 19, 2005, Maco’s counsel left a voicemail message for the

Court's courtroom deputy clerk regarding the continuance request, seemingly under the impression that by notifying the Court that the Debtor did not oppose the continuance, his motion would be granted. Thus, counsel ignored BLR 5071-1, NDGa, which provides that a continuance "will be granted only on the basis of exceptional circumstances" and that "[n]o such continuance will be granted on stipulation of counsel alone, but shall require an order of the Bankruptcy Court." Apparently, counsel felt no need to contact the Chapter 13 Trustee regarding the continuance, because she contacted Chambers approximately two hours later to determine whether the hearing remained on the Court's calendar. The Court will grant the continuance, but only after making the following observations.

Evidentiary hearings are not always necessary in chapter 13 confirmation matters, but when they are, the Court is happy to set aside a block of time well in advance so that parties may prepare. The Court's calendar is not without limits, however. When the Court specially sets a matter for an evidentiary hearing at the parties' request, that time on the calendar becomes unavailable for hearings in other cases. Attorneys who wait until the last minute to request a continuance (or to advise the Court that a matter has been settled) prevent the Court from utilizing that time to hear other matters; such conduct is discourteous to their colleagues at the bar of this Court and other litigants who otherwise might have been had their matter scheduled for that time but instead have to wait.

Professionalism dictates that, if parties settle their dispute or need a further continuance, they contact the Court well in advance of the hearing. Filing a motion at 5:53 p.m. the day before the specially set hearing and then calling the Court's clerk less than four hours before the hearing and "advising" her of the continuance is not acceptable and is in contravention of the local rules of this Court. Although the Court will be here one way or another whether a hearing is held or not,

the presumption that other parties are not affected, including the Chapter 13 Trustee and the court reporter, illustrates an indifference to the value of other persons' time and schedules that the Court will not tolerate. Accordingly, it is

**ORDERED** that the motion for continuance of confirmation is granted. An evidentiary hearing on confirmation of this case shall be held on May 24, 2005, at 2:00 p.m., in Courtroom 1401, U.S. Courthouse, 75 Spring Street, S.W., Atlanta, Georgia. It is

**FURTHER ORDERED** that counsel for Debtor and counsel for Maco Educators Federal Credit Union are directed to show cause at such hearing why either or both of them should not be required to pay the fee incurred by the Court for the unnecessary services of the court reporter reserved for April 19, 2005.

The Clerk is directed to serve copies of this Order on the persons on the attached Distribution List.

At Atlanta, Georgia, this 20<sup>th</sup> day of April, 2005.



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PAUL W. BONAPFEL  
UNITED STATES BANKRUPTCY JUDGE

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