



**IT IS ORDERED as set forth below:**

**Date: September 27, 2012**

*Mary Grace Diehl*

**Mary Grace Diehl  
U.S. Bankruptcy Court Judge**

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

In Re:

**MORAN LAKE CONVALESCENT  
CENTER, LLC,**

Debtor.

**BANKRUPTCY CASE  
NO. 10-43405-MGD**

Chapter 7

In Re:

**GEORGE DALYN HOUSER,**

Debtor.

**BANKRUPTCY CASE  
NO. 10-43407-MGD**

Chapter 7

**TRACY L. MONTZ, solely in her  
capacity as Chapter 7 trustee in  
Bankruptcy,**

Plaintiff,

v.

**CONSOLIDATED ADVERSARY  
PROCEEDING CASE  
NUMBERS 11-4067 & 11-4068**

**HEALTHCARE REALTY &  
DEVELOPMENT, LLC; JACQUELINE  
K. HOUSER; THE KYDD GROUP,  
LTD.; PAMELA GAYLE HOUSER;**

**LOUISE KELLEY HOUSER; and  
ALFRED JOHN DAMUS.**

Defendants.

---

:  
:  
:  
:  
:  
:  
:

**LEAD ADVERSARY CASE  
NO. 11-4067-MGD**

**ORDER DENYING MOTION TO RESET HEARING AND MOTION TO VACATE**

**DEFAULT JUDGMENT**

The above-styled adversary proceeding is before the Court on Defendants Healthcare Realty & Development, LLC, Rhonda F. Houser, Pamela G. Houser, and Louise K. Houser' ("Defendants") Motion to Reset Hearing and Motion to Vacate Default Judgment ("Defendants' Motions"). (Dockets No. 52-3). The Chapter 7 Trustee ("Trustee") filed an Objection to Defendants' Motions ("Trustee's Objection"). (Docket # 55).

George Dalyn Houser, the Debtor, filed his bankruptcy petition for relief under Chapter 7 of the Bankruptcy Code on August 31, 2011. (Doc. No. 1, 10-43407). On October 19, 2011, Trustee commenced this adversary proceeding. (Doc. No. 1). On May 30, 2012, Trustee filed a Motion to Strike Defendants' Answer, Enter Default Judgment and Impose Sanctions ("Trustee's Motion") (Doc. No. 31). On June 26, 2012, the Court entered a Show Cause Order and Notice on Trustee's Motion to Strike Defendants' Answer and Enter Default Judgment, and Order Granting Trustee's Motion to Impose Sanctions. (Doc. No. 37). The Court held a hearing on Trustee's Motion on August 10, 2012 at 9:30 am in Atlanta, Georgia. Defendants failed to attend the hearing, and the Court granted Trustee's Motion. On August 13, 2012, the Court entered an Order granting Trustee's Motion ("Order"). (Doc. No. 54).

Defendants' Motions seek to vacate the Order and reset the hearing on Trustee's Motion.

Defendants state that their Counsel arrived in Court approximately forty-five minutes after the scheduled time for the hearing, incorrectly believing that the hearing was to be held at 10:30 am rather than 9:30 am. Defendants reference no law in support of their requested relief, but rather assert that the Court should grant Defendants' Motions as a courtesy to them.

Professional courtesy is not a legal basis for vacating a judgment. Trustee's Motion was properly noticed by the Court, and the time of the hearing was clearly stated. (Doc. No. 41). Trustee's Objection asserts that Defendants' failure to timely appear at the hearing is not an isolated incident but one of multiple instances where Defendants have failed to comply with Court orders and deadlines. Granting Defendants' Motions would harm the bankruptcy estate by unnecessarily adding to Trustee's time and expenses in this case. Accordingly, it is

**ORDERED** that Defendants' Motion to Reset Hearing and Motion to Vacate Default Judgment are **DENIED**. Trustee's Objection to Defendants' Motion To Reset Hearing and Motion to Vacate Default Judgment is **SUSTAINED**.

The Clerk is directed to serve a copy of this Order upon Plaintiff and Defendants.

**END OF DOCUMENT**