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IT IS SO ORDERED.



Burton Perlman
Burton Perlman
United States Bankruptcy Judge

Dated: December 08, 2011

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

In Re:)	
)	
Noel E. Grace)	Case No. 10-10053
Stephanie R. Grace)	
)	Adversary No. 10-1076
Debtors)	
)	Chapter 7
-----)	
)	Judge Burton Perlman
Fifth Third Bank)	
)	
Plaintiff)	
)	
vs.)	
)	
Noel E. Grace, et al.)	
)	
Defendant)	

ORDER

This is an adversary proceeding in which plaintiff seeks to have debts owed it by

defendants to be non-dischargeable. The Complaint in the case was filed June 1, 2010.

A Scheduling Order was issued on December 28, 2010 in which a trial date of January 11, 2011 was set. That trial date was vacated by Order of January 10, 2011 at the requests of the parties. There followed extended filings by the parties regarding discovery matters. By Order of September 19, 2011 the Court again set the case for trial on November 15, 2011. On November 10, 2011, a joint motion was filed by the parties to extend dates and continue the trial date. In their motion, the parties stated that they have agreed to have their issues mediated by a neutral third party who they have selected and that that mediation was scheduled for December 5, 2011. They requested that the trial date be reset in the event that the mediation was not successful. The motion said further that it would be necessary to take additional depositions in the event that a trial were necessary. On November 14, 2011, the Court issued an Order Vacating the Trial date, but requiring that counsel appear before the Court on that trial date of November 15, 2011.

That hearing was held. At that time the Court asked counsel if they were ready for trial. They responded that they were not.

Believing that the conduct of counsel in requesting a continuance of the trial date on the eve of the set trial date, that the agreement of counsel that they would submit this case to mediation without seeking court authorization, selection of a mediator without seeking court approval, was unacceptable, the Court adjourned the hearing pending further proceedings.

As stated, and in the particular events to which reference is made, the Court holds that the conduct of both counsel is in derogation of the Bankruptcy Court and deserving of sanctions.

An appropriate sanction is that each attorney, William B. Fecher and Alfred Wm. Schneble, III, shall undertake the following community service. The Volunteer Lawyers Project administers a pro bono program for representation in bankruptcy cases. Each of the named attorneys shall himself accept the next five pro bono appointments as requested by the Volunteer Lawyers Project, as long as there is no conflict of interest. The Volunteer Lawyers Project has agreed to report back to the Court when such service is complete.

So Ordered.

Copies to:

Default List

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