This document has been electronically entered in the records of the United States Bankruptcy Court for the Southern District of Ohio.

IT IS SO ORDERED.

Dated: May 17, 2006

Thomas F. Waldron
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

In re: BERNICE HYATT, *Debtor*	Case No. 05-38709 Adv. No. 05-3510
PROVY MORNER, *Plaintiff* v. BERNICE HYATT, *Defendant*	Judge Waldron Chapter 7 **DECISION ON ORDER DENYING MOTION FOR INVOLUNTARY DISMISSAL OF ADVERSARY PROCEEDING**

DATED AT DAYTON, OHIO this 17th Day of May, 2006:

On March 28, 2006, the Court entered an *Order: Entering Determinations Pursuant To 28 U.S.C. § 157 and 28 U.S.C. § 1334, Fixing Date For Filing Amended Complaint And Discovery Cut-Off Date, And Setting Further Pretrial Conference By Telephone* (Doc. 10). This order provided in part:

> **Counsel for the plaintiff shall, <u>not later than April 20, 2006</u>, file an amended complaint clarifying the specific causes of action upon which the Plaintiff seeks relief. Attention should be given to eliminating Code sections which appear to have no relevance to the issues presented. Additionally, the amended complaint shall contain a typed copy of the exact language which appears on Exhibit A as a part of the initial complaint. (emphasis in original)**

Although the Plaintiff has filed a number of documents, and thereafter withdrew a number of documents, the present record contains the Plaintiffs *Amended Complaint To Determine Dischargeability Of Debts (Fraud/Larceny)* (Doc. 12) and *Plaintiff's Response To Defendant's Motion For Involuntary Dismissal* (Doc. 19). These multiple filings were in response to the Court's prior *Order* (Doc. 10) and the Defendant's subsequent *Motion For Involuntary Dismissal Of Adversary Proceeding* (Doc. 13).

Although the Defendant is, in almost all particulars, correct in the assertions listed in the *Motion For Involuntary Dismissal Of Adversary Proceeding* (Doc. 13), the Court's review of the Plaintiff's filings persuades the Court that the Plaintiff has complied with the substance of the Court's prior *Order* (Doc. 10) and no apparent prejudice to the Defendant has been demonstrated.

Perhaps, more significantly, the Sixth Circuit has repeatedly expressed its preference that, absent circumstances not present in this proceeding, disputes be resolved on their merits.

To the extent that the Defendant wishes to pursue claims of genuine prejudice, and the Court suggests mere delay seldom, if ever, rises to level of genuine prejudice, the Court will consider promptly filed motions at the time of the pretrial conference to be held on June 21, 2006 at 2:00 p.m.

An order in accordance with this decision is simultaneous entered in this adversary proceeding.

SO ORDERED.

c:

Gary A. McGee, Esq., 332 South Front Street, Hamilton, Ohio 45011 (Atty. for the Plaintiff)

Scott A. Kramer, Esq., 130 West Second Street, Suite 924, Dayton, Ohio 45402 (Atty. for the Defendant)

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