

U.S. COURTS
99 DEC 17 PM 2:47
REC'D FILED
CAMERON S. BURKE
CLERK IDAHO

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF IDAHO

In Re:)
Francisco Maciel Castellanos, Jr.,)
aka Frank M. Castellanos, Jr.,)
Debtor.)
_____)
Case No. 99-01868
Chapter 7
ORDER APPROVING
COMPROMISE MOTION

THIS MATTER came before the Court upon the Motion Under Rule 9019 to Compromise Controversy with State Farm Insurance ("Compromise Motion") which was filed by Lois K. Murphy, as the Chapter 7 Trustee ("Trustee") for Francisco Maciel Castellanos, Jr., aka Frank M. Castellanos, Jr. ("Debtor"). A hearing regarding the Compromise Motion was held on December 7, 1999. Present at the hearing were Joseph M. Meier of Cosho, Humphrey, Greener & Welsh, P.A., special counsel for Trustee; Lois K. Murphy, appearing in her capacity as the Trustee of the Debtor; and Randall A. Peterman and Jeffrey A. Thomson of Elam & Burke, P.A., on behalf of State Farm Mutual Automobile Insurance Company and State Farm Fire & Casualty Company ("State Farm").

The Court hereby finds as follows:

1. On or about July 21, 1999, the Debtor filed a Chapter 7 petition in bankruptcy.

ORDER APPROVING COMPROMISE MOTION - 1

29

2. The Trustee is the properly appointed Chapter 7 trustee for the Debtor.
3. As of the date of the filing of the Chapter 7 petition in bankruptcy, Debtor and other plaintiffs had instituted an action against State Farm in the case of *Hernandez, et. al. v. State Farm Fire & Casualty, et. al.* Case No. 97-601, filed in the District Court of the Fourth Judicial District in and for the State of Idaho, County of Ada ("the State Court Litigation"). In the State Court Litigation the Debtor and other plaintiffs alleged that State Farm had wrongly denied insurance benefits to them.
4. The interests of the Debtor and other plaintiffs in the State Court Litigation were represented by Cosho, Humphrey, Greener & Welsh, P.A., and Goicoechea Law Offices (collectively "Cosho Humphrey").
5. Until October 1999, Cosho Humphrey was unaware of the Debtor's filing of the Chapter 7 petition in bankruptcy.
6. Until November 1999, State Farm was unaware of the Debtor's filing of the Chapter 7 petition in bankruptcy.
7. Until August 1999, the Trustee was unaware of the State Court Litigation.
8. All of the plaintiffs and defendant State Farm have entered into a settlement ("Settlement") of the State Court Litigation subject to execution of an appropriate settlement agreement ("Settlement Agreement") and subject to Bankruptcy Court approval of the Castellanos component of the Settlement Agreement under Rule 9019 of the Rules of Bankruptcy Procedure.

9. State Farm will not enter into the Settlement Agreement unless it is accompanied by an appropriate confidentiality provision which prevents the plaintiffs, and each of them, from disclosing the terms of the Settlement Agreement to any third parties.

10. The Debtor and the other plaintiffs have not revealed to State Farm the division of the Settlement amount among the various plaintiffs in the State Court Litigation.

11. The schedules filed by the Debtor in this case reflect total scheduled unsecured claims of \$6,505.68. Because this case was considered to be a "no asset" case, no proofs of claim have been filed in this matter.

12. The amount to be paid to the Debtor by State Farm under the Settlement will be more than sufficient to fully pay and satisfy (a) all scheduled claims plus interest and (b) any Trustee's fees described in 11 U.S.C. Section 326.

13. In approving the Castellanos component of the Settlement Agreement, this Court has considered the following factors: (a) the probability of successful litigation; (b) any impediment to collection; (c) the complexity, expense, inconvenience, and delay of litigation; and (d) the interests of the creditors with reference to their reasonable opinions. *CF. In re Cinema City Car Wash, Inc.*, 935 F.2d 273 (9th Cir. 1991).

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

14. The Trustee is hereby authorized to be named as a real-party-in-interest plaintiff in the State Court Litigation to the extent necessary to grant total relief among the parties in the State Court Litigation.

15. The Settlement Agreement is hereby approved with respect to the Trustee and the Debtor pursuant to Rule 9019 of the Rules of Bankruptcy Procedure. If so requested by State Farm, the Trustee is hereby authorized to execute the Settlement Agreement and, upon execution, shall be bound to the terms of the Settlement Agreement. The Trustee is specifically bound by the confidentiality provisions in the Settlement Agreement.

16. Upon receipt of the settlement amount ("Settlement Amount") under the Settlement Agreement, Cosho Humphrey shall, upon the written request of the Trustee, pay over to the Trustee an amount sufficient to satisfy all scheduled debts of the Debtor, plus interest between the date of the filing of petition (July 21, 1999) and the anticipated date of distribution to creditors of the estate, plus any fee which may be payable to the Trustee pursuant to 11 U.S.C. Section 326. Upon such payment, Cosho Humphrey shall retain sufficient funds to satisfy any obligations due and owing it under the Contingent Fee Agreement and shall pay over any excess funds to the Debtor.

17. In preparing any final accounting in this matter, the Trustee is hereby ordered to account solely for the amount paid over to her under Paragraph 16 above.

DATED this 17th day of December, 1999.


Terry L. Myers
Judge, U. S. Bankruptcy Court

Joseph M. Meier, Esq.
Cosho, Humphrey, Greener & Welsh
Attorneys for Lois K. Murphy, Trustee

15. The Settlement Agreement is hereby approved with respect to the Trustee and the Debtor pursuant to Rule 9019 of the Rules of Bankruptcy Procedure. If so requested by State Farm, the Trustee is hereby authorized to execute the Settlement Agreement and, upon execution, shall be bound to the terms of the Settlement Agreement. The Trustee is specifically bound by the confidentiality provisions in the Settlement Agreement.

16. Upon receipt of the settlement amount ("Settlement Amount") under the Settlement Agreement, Cosho Humphrey shall, upon the written request of the Trustee, pay over to the Trustee an amount sufficient to satisfy all scheduled debts of the Debtor, plus interest between the date of the filing of petition (July 21, 1999) and the anticipated date of distribution to creditors of the estate, plus any fee which may be payable to the Trustee pursuant to 11 U.S.C. Section 326. Upon such payment, Cosho Humphrey shall retain sufficient funds to satisfy any obligations due and owing it under the Contingent Fee Agreement and shall pay over any excess funds to the Debtor.

17. In preparing any final accounting in this matter, the Trustee is hereby ordered to account solely for the amount paid over to her under Paragraph 16 above.

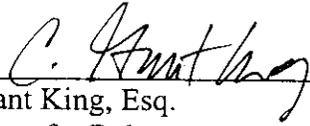
DATED this ____ day of December, 1999.



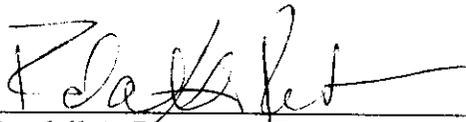
Joseph M. Meier, Esq.
Cosho, Humphrey, Greener & Welsh
Attorneys for Lois K. Murphy, Trustee

Terry L. Myers
Judge, U. S. Bankruptcy Court

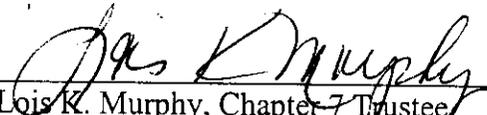
Lois K. Murphy, Chapter 7 Trustee



C. Grant King, Esq.
Attorney for Debtor



Randall A. Peterman, Esq.
Elam & Burke, P.A.
Attorneys for State Farm Mutual Automobile
Insurance Company and State Farm Fire &
Casualty Company


Lois K. Murphy, Chapter 7 Trustee

C. Grant King, Esq.
Attorney for Debtor

Randall A. Peterman, Esq.
Elam & Burke, P.A.
Attorneys for State Farm Mutual Automobile
Insurance Company and State Farm Fire &
Casualty Company

Case: 99-01868 Form id: 122 Ntc Date: 12/17/1999 Off: 1 Page : 1
Total notices mailed: 5

Debtor Castellanos, Francisco Maciel, Jr 120 10th Ave N, Nampa, ID 83687
Aty King, C Grant 5440 Franklin Rd 201, Boise, ID 83705
Trustee Murphy, Lois K 2404 Bank Dr #312, Boise, ID 83705
Aty Greener, Richard H 815 W Washington, Boise, ID 83702
United States Trustee, POB 110, Boise, ID 83702