

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF IDAHO

In Re:)	
)	
RANDALL SCHIEWE,)	
)	
Debtor.)	Case No. 04-00750-TLM
)	
)	
KYLIE SCHIEWE,)	Adversary No. 04-06282-TLM
)	
)	
)	
Plaintiff,)	SUMMARY ORDER DENYING MOTION TO DISMISS
vs.)	
)	
RANDALL SCHIEWE,)	
)	
Defendant.)	
)	

In the above adversary proceeding, Plaintiff, Kylie Schiewe filed a complaint objecting to entry of Defendant, Randall Schiewe’s discharge under § 727(a) and objecting to dischargeability of debt under § 523(a). Doc. No. 1. Defendant answered the complaint. Doc. No. 2. The cause has been set for trial on September 8, 2005. Doc. Nos. 8, 9.

On July 29, 2005, Plaintiff filed a “Motion to Dismiss Adversary Complaint.” Doc. No. 10 (“Motion”). A proposed order was simultaneously provided by Plaintiff and forwarded by the clerk for the Court’s consideration. That order has today been rejected, and this Order prepared and entered in its place. The Court determines the Motion shall be denied.

Plaintiff's complaint seeks a denial of Defendant's discharge under § 727(a). Local Bankruptcy Rule 7001.1 establishes several requirements that must be met before dismissal of such an adversary proceeding will be granted. This Local Bankruptcy Rule effectuates the commands of Fed. R. Bankr. P. 7041, which controls motions to dismiss in adversary proceedings. (In addition to incorporating Fed. R. Civ. P. 41, Bankruptcy Rule 7041 provides that a complaint objecting to a debtor's discharge may not be dismissed on plaintiff's request without notice to certain parties and entry of an appropriate order.)

Plaintiff's Motion fails to comply with the requirements of either Fed. R. Bankr. P. 7041 or LBR 7001.1 and, thus, may not be granted.

For the reasons stated and upon the record herein, the Motion, Doc. No. 10, shall be and hereby is DENIED. Such denial will be without prejudice to renewal of the Motion upon compliance with the applicable rules.

DATED: August 3, 2005



A handwritten signature in black ink, appearing to read "Terry L. Myers".

TERRY L. MYERS
CHIEF U. S. BANKRUPTCY JUDGE

CERTIFICATE RE: SERVICE

A “notice of entry” of this Decision, Order and/or Judgment has been served on Registered Participants as reflected by the Notice of Electronic Filing. A copy of the Decision, Order and/or Judgment has also been provided to non-registered participants by first class mail addressed to:

Randall Schiewe
366 Kestrel St.
Eagle, ID 83616

Case No. 04-6282-TLM, (*Schiewe v. Schiewe*)

Dated: 8/3/05

/s/ Suzanne Hickok
Law Clerk to Chief Judge Myers