

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF NEW YORK**

**WILLIAM KENT MCGREGOR**  
Debtor,

**RECEIVED**

CASE NO. 02-62834  
Chapter 7

**KATHLEEN ECKHARDT,**  
Plaintiff,

JAN 08 2003

OFFICE OF BANKRUPTCY JUDGE  
UTICA, NEW YORK

Adv. No. 02-80198 **FILED**

**WILLIAM KENT MCGREGOR,**  
Defendant.

JAN 22 2003

OFFICE OF THE  
BANKRUPTCY CLERK  
UTICA

**APPLICATION FOR COURT APPROVAL OF STIPULATION OF  
SETTLEMENT OF ADVERSARY PROCEEDING AND TO APPROVE  
SHORTENED NOTICE AND LIMIT OF NOTICE PURSUANT TO  
RULE 7041 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE  
AND RULE 7090-1 OF THE LOCAL BANKRUPTCY RULES.**

Plaintiff, Kathleen Eckhard by her attorneys, Whitelaw & Fangio, Mary Lannon Fangio, Esq. does hereby apply to the Court for approval of the Stipulation of Settlement of Adversary proceeding as follows:

**SETTLEMENT TERMS**

1. This adversary proceeding was filed to determine whether the debtor should receive a discharge of his debt under 11 U.S.C. § 727 (a)(4) for presenting a false claim and making a false oath or account by listing the debt to the plaintiff, Kathleen Eckhardt in the petition as being only \$ 1,000.00 when by his testimony at the § 341 meeting of creditors he acknowledged that her judgment was for \$ 1,000,000.00. Further, it appeared at the meeting, which

your applicant attended, that the debtor had failed to disclose claims that he had against other individuals and business entities in the petition.

2. Plaintiff also claimed that the \$ 1,000,000.00 debt to her owed by William Kent McGregor was not dischargeable in this proceeding under 11 U.S.C. § 523 (a)( 6) as the judgment was rendered against debtor/defendant after he was properly served with a complaint and had an opportunity to be heard, but that he choose to default in the action. Plaintiff asserted that this judgment based on the conduct set forth in that judgment was res judicata, and the debtor/defendant was collaterally estopped from challenging this judicial finding in Bankruptcy Court.
3. The debtor/defendant and his then attorney of record, Russell Simonetta was served by mail with the summons and complaint filed in the Court on August 1, 2002. The debtor/defendant William Kent McGregor engaged the firm of Martin, Martin & Woodard, LLC to represent him in this adversary proceeding, replacing his counsel of record, Russell Simonetta.
4. The parties, through their attorneys have agreed to extend the debtor/defendant's time to answer the complaint while negotiations were ongoing.
5. The parties, through their attorneys have agreed to settle the adversary proceeding by debtor/defendant acknowledging, stipulating and agreeing that the debt owed by him to the plaintiff Kathleen Eckhardt of \$ 1,000,000.00 plus any accrued interest fees and costs that accrued or will accrue on the

Original Judgment rendered on August 15, 1995 will not be discharged in this proceeding under 11 U.S.C. § 523(a)(6).

6. The plaintiff will discontinue her action under 11 U.S.C. § 727 (a)(4) which would deny the debtor/defendant a bankruptcy discharge of his other debts. Plaintiff takes the position that she was offered nothing material to discontinue this action in that she believes that debt embodied by the Original Judgment would not be discharged in this proceeding in any case, and she does not have the desire to spend any additional funds in prosecuting this matter. Further, this settlement will be placed on notice to the case Trustee, Allan J. Bentkofsky, and the U.S. Trustee who, if they are not satisfied with the debtor's disclosure in this matter may object on behalf of creditors. It is my understanding that the debtor/defendant provided additional requested information to the Trustee. Debtor/defendant claimed at the 341 meeting that the erroneous listing of the debt and the errors and omissions in the schedules were the result of inadvertence and haste.

#### **SHORTENED NOTICE AND LIMITATION OF NOTICE**

7. Rule 7041 of the Federal Rules of Bankruptcy Procedure allows the Court to shorten and limit notice of the settlement of an adversary proceeding as is appropriate to the particular case.
8. In this case, it is noted that the settlement part of the case only relates to a particular debt and has no connection to any other creditor. No other creditor served a complaint to deny discharge, and the case Trustee did not file a complaint, but will have notice of the proposed dismissal. It is submitted that

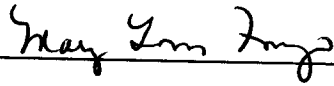
it is appropriate to limit notice to the Case Trustee and the office of the U.S. Trustee.

9. Your applicant proposes to send a copy of the Stipulation, this Application and the proposed Order to the Case Trustee, Allan J. Bentkofsky, and the Office of the U.S. Trustee at the same time it is transmitted to the Court and to have the Court hold the order ten (10) days after receipt, so that these parties have an opportunity to object to the Stipulation in satisfaction of the terms of Rule 7041 (a)(2).
10. In accordance with Local Rule 7090-1, no other consideration for the Stipulation of Settlement other than what is disclosed herein in the Stipulation of Settlement and this application was received in this matter.
11. A proposed Order of approval is attached to his application as Exhibit 1.

**WHEREFORE**, your applicant respectfully requests that the Court shorten and limit the notice herein pursuant to Rule 7041 of the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rule 7090-1 and approve the Stipulation of Settlement of the above captioned adversary proceeding in the

absence of any objection of the Chapter 7 Trustee and the Office of the U.S.  
Trustee.

Dated: 1/7/03



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