

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TENNESSEE

IN RE  
LARRY WAYNE MARSHALL,  
Debtor.

Case No. 97-22314B  
Chapter 7

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ORDER DENYING MOTION TO DISMISS OR CHANGE VENUE

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On March 12, 1997, the creditors Johnny and Linda Mock, through their counsel filed an Objection to Venue of this case, seeking in the objection to have this chapter 7 case either dismissed or transferred to the Northern District of Mississippi. The Court is treating the "Objection" as a motion to dismiss or to transfer venue. The "Objection" has been set for hearing on April 10 and May 1, 1997, and on both occasions the movants and their attorney did not appear to prosecute their pleading. Moreover, the "Objection" was returned by the Clerk to the movants' attorney on April 14, 1997. Local Rule 9013-1(b)(5) of this Court requires the movant or that party's attorney to serve the pleading upon all parties entitled to notice, and to file with the Clerk an appropriate and timely certificate of that service. No certificate of service has been filed.

In the meantime, the chapter 7 trustee has proceeded to administer this case, having conducted the §341 meeting of creditors on April 16, 1997, and having filed his report of no distribution to creditors on April 17, 1997. The trustee's work is completed.

Federal Rule of Bankruptcy Procedure 1014(a)(2) requires the filing of a "timely motion" to dismiss or transfer a case filed in a improper district. This is the substance of these objectors pleading. This case was filed on February 18, 1997, and it would appear that the "Objection" to venue was filed timely, as it was filed within one month of the case filing. However, the movants have failed to properly serve and prosecute the "Objection." Their failure to serve and prosecute their pleading has been detrimental to this estate and other creditors, who may have relied upon the

prompt administration of the case by the trustee. In this judicial district, chapter 7 cases routinely move through the system and are closed within 60 to 90 days from the date of filing. It is important, therefore, that parties objecting to venue do so by filing, serving, and prosecuting their motion timely. These movants have failed to do so.

IT IS THEREFORE ORDERED that the "Objection to Venue" be denied, due to the failure to the movants to properly serve and prosecute their pleading and due to the chapter 7 trustee's completion of administration of this estate. This Court shall retain this case. These movants and other creditors still have until May 18, 1997 to file § 727(a) and § 523 (c) complaints about discharge or dischargeability.

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UNITED STATES BANKRUPTCY JUDGE

Dated: May 5, 1997

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