

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

IN RE:

Case No. 14-54351

AMY ROSENFELD,

Chapter 7

Debtor.

Judge Thomas J. Tucker

**ORDER DENYING JOEL ROSENFELD'S MOTION FOR RECONSIDERATION**

This case is before the Court on the motion filed by Joel Rosenfeld (who is referred to in this Order below as "Rosenfeld"), entitled "Motion for Reconsideration of Order Disallowing Joel Rosenfeld's Claim 2-1 In Its Entirety," filed August 24, 2016 (Docket # 196, the "Motion"). The Court construes the Motion as seeking reconsideration of, and relief from, the August 10, 2016 Order Disallowing Claim No. 2-1 (Docket # 195, referred to in this Order below as the "August 10 Order"). The Motion also seeks certain other, related relief, including an order striking the affidavit of Debtor's counsel that was filed on August 5, 2016 (Docket # 192); sanctions against Debtor and her attorney; and an order "directing" the state court in the Rosenfelds' divorce case "to proceed with a determination of Rosenfeld's claim" against the Debtor.

The Court has carefully reviewed the record in this case, including, without limitation, a review of the Motion, Rosenfeld's detailed brief filed in support of the Motion (Docket # 197), and the 215 pages of exhibits Rosenfeld filed in support of the Motion (Docket # 199). The Court concludes that a hearing on the Motion is not necessary, and that the Motion should be denied in its entirety.

The Court finds that the Motion fails to demonstrate a palpable defect by which the Court

and the parties have been misled, and that a different disposition of the case must result from a correction thereof. *See* L.B.R. 9024-1(a)(3).

In addition, the Court finds that the allegations and arguments in the Motion do not establish excusable neglect under Fed.R.Civ.P. 60(b)(1), Fed.R.Bankr.P. 9024, or any other valid ground for relief from the August 10 Order.

Furthermore, the Court finds and concludes that in all respects material to the Motion, the facts stated in paragraphs 11-23 of the “Renewed Affidavit of Non-Compliance [etc.]” filed on August 5, 2016 by Debtor’s attorney Samuel G. Firebaugh (Docket # 192), are undisputedly true, and are supported by the record in this case, including the exhibits filed by Rosenfeld in support of his Motion (Docket # 199). Such facts fully support the Court’s findings and conclusions made in its August 10 Order, that Rosenfeld “failed to fully comply with the requirements of paragraph 3 of the March 30, 2016 Order, because he failed, by April 27, 2016,” to “take [all] appropriate action(s) necessary to bring the Divorce Judgment Issues before the state court for determination, and still has failed to do so.” (Docket # 195).

The record is clear that Rosenfeld failed to seek and obtain a hearing date on his April 27, 2016 state court motion until, at the earliest, May 18, 2016 (three weeks after this Court’s April 27, 2016 deadline), when he first took steps necessary to obtain a hearing date in the state court on his motion (the hearing date of May 25, 2016); then at the May 25, 2016 hearing, Rosenfeld (a licensed attorney who was representing himself in that hearing) failed to argue his state court motion at all, or seek a ruling from the state court on that motion, or seek a further or adjourned hearing date on that motion (the state court dealt with and decided only a motion the Debtor had filed); and then after the May 25, 2016 hearing, Rosenfeld failed to take any action to obtain a

further or new or adjourned hearing date on his motion, or otherwise seek a ruling from the state court on the motion. Nothing in Rosenfeld's voluminous filings in support of his Motion demonstrates any valid excuse for Rosenfeld's essentially just sitting idly on his state court motion for the more than three months between (a) the date he filed that motion on April 27, 2016 (the last day to do so under this Court's March 30, 2016 Order), and (b) the date on which this Court entered the August 10 Order.

Finally, the Court notes that Rosenfeld is likely to suffer little or no prejudice from this Court's August 10 Order, or from this Order. The result for Rosenfeld in this Chapter 7 bankruptcy case of his ex-wife Amy Rosenfeld will be simply that Rosenfeld cannot obtain any distribution on his claim(s) against Amy Rosenfeld in this bankruptcy case. Rosenfeld still may, and must, seek to establish, and recover on, any debt owed to him by Amy Rosenfeld in the state court, in his divorce case in that court. This Court has already ruled that any such debt that Rosenfeld is owed by the Debtor is nondischargeable in this bankruptcy case. And there are no allowed claims left to be paid in this bankruptcy case, other than possible administrative claims that may be allowed in favor of the Chapter 7 Trustee and his counsel. And any such administrative claims that are allowed would have to be paid in full, from property of the bankruptcy estate in this case, before any distribution could be paid on Rosenfeld's claim (if it had been allowed rather than disallowed). After payment of any such allowed administrative claims, any remaining assets of the bankruptcy estate will end up being abandoned by the bankruptcy estate to the Debtor, upon the closing of this case. Rosenfeld will be free to pursue

collection of any debt the Debtor owes him from such assets.<sup>1</sup>

In short, the end result in this bankruptcy case will be to leave Rosenfeld to litigate and recover on any debt against the Debtor in the court where such efforts belong — in the state court divorce case.

For all of these reasons,

IT IS ORDERED that the Motion (Docket # 196) is denied, in its entirety.

**Signed on August 29, 2016**

**/s/ Thomas J. Tucker**  
**Thomas J. Tucker**  
**United States Bankruptcy Judge**

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<sup>1</sup> The August 10 Order disallowed Rosenfeld’s claim “with prejudice,” but only “for purposes of any distribution in this bankruptcy case.” That Order, therefore, does not preclude Rosenfeld from pursuing his claim(s) against Amy Rosenfeld, in the state court divorce case.