

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

In re

Case No. 6:06-bk-00620-KSJ
Chapter 13

SUSAN WACZEWSKI,

Debtor.

MEMORANDUM OPINION OVERRULING
DEBTOR'S OBJECTION TO CLAIM NUMBER 12

Susan Waczewski objects to Claim No. 12 of Javier Morales (Doc. No. 249). The Court overrules the objection because the Court already has entered a final order (Doc. No. 96), allowing the claim jointly against both Jose and Susan Waczewski in the amount of \$9,575.00, and the debtors then failed to prosecute their appeal of that final order.

Specifically, on January 19, 2000, Javier Morales filed Claim No. 12 in the amount of \$13,945.67. Years ago, on May 1, 2003, Susan Waczewski objected to Mr. Morales' claim (Doc. No. 73). On May 29, 2003, the Chapter 7 Trustee filed a response to the debtors' objection to Mr. Morales' claim, attaching a letter from Mr. Morales, dated May 12, 2003 (Doc. No. 78). In the letter, Mr. Morales contested the debtors' objection.

An initial hearing was held on the debtor's prior objection to Mr. Morales' claim on August 12, 2003. The hearing was continued in order to allow Mr. Morales to attend.

A final evidentiary hearing was held on September 17, 2003. At that hearing, Mr. Morales testified regarding the validity of his claim. Evidence was introduced by all interested parties, including Susan Waczewski. Both debtors, Susan Waczewski, and Jose Waczewski in his separately administered case, 6:99-bk-08433-KSJ, examined Mr. Morales and presented any additional evidence they wanted.

After hearing the evidence and reviewing Mr. Morales' claim, the Court entered an order on October 3, 2003 (Doc. No. 96) allowing the claim in the reduced "amount of \$9,575 against the estate of both Susan Waczewski and Jose L. Waczewski."

In response, both Jose and Susan Waczewski filed a Motion for Rehearing on October 14, 2003 (Doc. No. 101). On October 27, 2003, the Court denied the Motion for Rehearing (Doc. No.

106). Susan and Jose Waczewski then filed a Notice of Appeal of the Order Denying Debtor's Motion for Rehearing on November 5, 2003 (Doc. No. 111). The appeal ultimately was dismissed on February 20, 2004 (Doc. No. 143), due to the debtors' failure to prosecute the appeal.

The allowance of Mr. Morales claim was finally decided years ago. The Court acknowledges that the debtors do not agree with the ruling that Susan Waczewski is liable to Mr. Morales in the amount of \$9,575; however, they long ago lost any right to challenge the ruling.

The debtors took an appeal of the order and then failed to prosecute that appeal. They cannot now collaterally attack the order by simply filing a new objection to claim. The issue is final and resolved. Accordingly, the Court reaffirms its prior order; the claim of Mr. Morales, Claim No. 12, is allowed against the estates of both Susan and Jose Waczewski in the amount of \$9,575.00. The Objection (Doc. No. 249) is overruled. A separate order consistent with this opinion shall be entered.

DONE AND ORDERED in Orlando,
Florida, this 27th day of October, 2006.

/s/ Karen S. Jennemann
KAREN S. JENNEMANN
United States Bankruptcy Judge