

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re: STEVEN D. KOWALSKE and
LINDA KOWALKSE,

Case No. 08-14774
Honorable Patrick J. Duggan

Debtors.

OPINION AND ORDER

At a session of said Court, held in the U.S.
District Courthouse, Eastern District
of Michigan, on May 1, 2009.

PRESENT: THE HONORABLE PATRICK J. DUGGAN
U.S. DISTRICT COURT JUDGE

This is an appeal from the Bankruptcy Court for the Eastern District of Michigan.

On February 6, 2009, this Court referred the matter to Magistrate Judge Virginia M. Morgan to conduct a settlement conference. (Doc. 7.) Presently before the Court is Magistrate Judge Morgan's Memorandum of Settlement Conference and Recommendation for Sanctions against the Debtors' attorney, Nathaniel Herdt, filed February 19, 2009. (Doc. 10.)

On February 6, 2009, Magistrate Judge Morgan issued a Notice of Settlement Conference, scheduling a settlement conference before her on February 17, 2009. (Doc. 8.) In the notice, Magistrate Judge Morgan informs the parties, *inter alia*, that "[i]f the parties with full settlement authority are not present on the date of the conference, the conference will be cancelled and sanctions will be imposed." (*Id.*) Mr. Herdt's clients failed to appear at the conference and no one with full settlement authority for his clients

appeared. When the magistrate judge asked Mr. Herdt why his clients failed to appear, counsel gave varying answers but failed to offer good cause for their failure to attend. For this and other reasons set forth in Magistrate Judge Morgan's memorandum, she recommends that this Court order Mr. Herdt to pay sanctions to Vincent M. Farougi, counsel for Appellants Christopher and Angie Trainor, in the amount of \$1,000.

At the conclusion of her memorandum, Magistrate Judge Morgan advises the parties that they may object and seek review of her report within ten days of service upon them. (Doc. 10 at 3.) She further specifically advises the parties that "[f]ailure to file specific objections constitutes a waiver of any further right of appeal." (*Id.*) Neither party filed objections to the Magistrate Judge Morgan's report.

The Court has carefully reviewed Magistrate Judge Morgan's memorandum regarding the settlement conference and her reasons for imposing sanctions against Mr. Herdt. The Court concurs with Magistrate Judge Morgan's recommendation. Eastern District of Michigan Local Rule 16.1(c) provides that all parties must be present at settlement conferences. Local Rule 11.1 provides the court with authority to impose sanctions against an attorney for violation of a local rule.

Accordingly,

IT IS ORDERED, that sanctions in the amount of \$1,000 are assessed against Nathaniel Herdt and shall be paid to Vincent M. Farougi within sixty days of this order.

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

Copies to:

William H. Herdt, Esq.
Wendy Turner Lewis, Esq.
Vincent M. Farougi, Esq.
Magistrate Judge Virginia M. Morgan