

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION**

**IN RE:**

**STANLEY R. GILLILAND,  
Debtor,**

**STANLEY R. GILLILAND,**

**Plaintiff,**

**vs.**

**CAPITAL ONE BANK and TSYS  
DEBT MANAGEMENT,**

**DEFENDANTS.**

**BANKRUPTCY CASE NO. 07-11392  
CHAPTER 13**

**ADV. NO. 07-01089-DWH**

**CIVIL ACTION NO. 3:09MC06-P**

**FINAL JUDGMENT**

This matter comes before the court upon Defendants Capital One Bank and TSYS Debt Management's appeal [5] of the Bankruptcy Court's January 8, 2009 Order denying the defendants' Rule 12(b)(6) motion. After due consideration of the appeal and the responses filed thereto the court finds as follows, to-wit:

Because the defendants did not establish that the subject Bankruptcy Court ruling was based upon clearly erroneous legal conclusions, nor that the plaintiff's factual allegations in his Amended Complaint failed to "raise a right to relief above the speculative level" pursuant to *Bell Atlantic Corp. v. Twombly*, 127 S.Ct. 1955, 1964-65 (2007), the court concludes that the defendants' appeal is not well-taken and should be dismissed.

**IT IS THEREFORE ORDERED AND ADJUDGED** that:

(1) Defendants Capital One Bank and TSYS Debt Management's appeal [5] of the

Bankruptcy Court's January 8, 2009 Order denying the defendants' Rule 12(b)(6) motion is **DISMISSED**; therefore,

(2) This case, Cause Number 3:09MC0006, is hereby **CLOSED**.

**SO ORDERED** this the 17<sup>th</sup> day of September, A.D., 2009.

/s/ W. Allen Pepper, Jr. \_\_\_\_\_  
W. ALLEN PEPPER, JR.  
UNITED STATES DISTRICT JUDGE