

United States District Court
Southern District of Texas

ENTERED

June 14, 2017

David J. Bradley, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

CAROLINA UVINA,

Plaintiff,

v.

NY ENTERPRISES, INC. D/B/A
CHILDREN'S & BRIDAL ETC.,

Defendant.

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CIVIL ACTION H-15-2195


MEMORANDUM OPINION AND ORDER

Pending before the court is defendant NY Enterprises, Inc. d/b/a Children's & Bridal Etc.'s ("NYE") motion to dismiss and, alternatively, motion for summary judgment against plaintiff Carolina Uvina. Dkt. 13. On May 16, 2017, the court issued an order staying the case and held that Uvina lacked standing to bring her cause of action. Dkt. 20. The court also ordered Uvina to file a motion to re-open her bankruptcy case (14-BK-33750) and update her schedule to include her claim as personal property within ten days of the order. *Id.* The bankruptcy trustee had thirty days after the bankruptcy case was re-opened to file a motion to lift the stay and to intervene in this case should the trustee elect to pursue this claim as an asset of the bankruptcy estate. *Id.*

As of the date of this order, Uvina has not filed a motion to re-open her bankruptcy case. When filing bankruptcy, debtors have "an express, affirmative duty to disclose all assets, *including contingent and unliquidated claims.*" *In re Coastal Plains, Inc.*, 179 F.3d 197, 207-08 (5th Cir. 1999) (emphasis in original); *see also Kane v. Nat'l Union Fire Ins. Co.*, 535 F.3d 380, 385 (5th Cir. 2008).

Having considered the motion, response, reply, and applicable law, the court is of the opinion that Uvina lacks standing and NYE's motion to dismiss (Dkt. 13) is GRANTED. This case is DISMISSED WITHOUT PREJUDICE. Should the trustee elect to abandon the claim, the plaintiff or the defendant may move to reinstate the case on the court's active docket at such time in the future as deemed appropriate. A copy of this order shall be attached as an exhibit to any motion to reinstate.

Signed at Houston, Texas on June 14, 2017.



Gray H. Miller
United States District Judge