

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
BAY CITY**

IN RE: Kevin W. Kulek

Chapter 7 Petition
16-21030-dob
Honorable Daniel Opperman

_____/

RANDALL L. FRANK, TRUSTEE,
Plaintiff,

Adversary Case Number
17-02000-dob
Honorable Daniel Opperman

V

KATHY L. KULEK,
Defendant.

_____/

Keith M. Nathanson, P41633
Special Litigation Counsel to Randall L. Frank, Trustee
Attorney for Plaintiff
Keith M. Nathanson, PLLC
2745 Pontiac Lake Road
Waterford, MI 48328
(248) 436-4833
kn@nathanson-law.com

Kathy Kulek
Defendant in pro per
1301 Pine River Road
Midland, MI 48640

_____ /

MOTION TO DISMISS CASE

NOW COMES Trustee, Randall L. Frank, by and through his Special Litigation Counsel, Keith M. Nathanson, PLLC, and for his Motion to Dismiss Matter, states as follows:

1. Plaintiff commenced the instant action against Defendant on January 2, 2017.

2. Service was executed against Defendant on January 6, 2017, pursuant to F.R.Bankr.P. 7004b.
3. Counsel for Trustee has performed a thorough investigation and has determined that due to the limited ability to collect any funds from Defendant, and the more than likely lack of benefit to the estate, it is more cost-effective and judicially economical for the Estate to dismiss the instant matter and abandon the claims against Defendant.
4. Counsel for Trustee has obtained records regarding Defendant's bank account, as well as statements from the former title-holder and the Sellers of the RV regarding the value and chain of title and amounts actually paid for the purchase to date, which have aided Counsel for Trustee in the decision.
5. Said decision has been discussed with the Trustee and Counsel for Trustee has the authority to file this motion.

WHEREFORE, Plaintiff, Randall L. Frank, Chapter 7 Trustee for the Estate of Kevin Kulek, moves this Honorable Court dismiss the matter without prejudice and without costs.

Respectfully submitted,

/s/ Keith M. Nathanson

Keith M. Nathanson, P41633
Special Litigation Counsel for the Chapter 7 Trustee
Keith M. Nathanson, PLLC
2745 Pontiac Lake Road
Waterford, MI 48328
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Dated: October 26, 2017

Exhibit 1 – Proposed Order

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ORDER DISMISSING CASE (PROPOSED)

This matter having come before this Honorable Court upon the motion of the Trustee, and the Court being first duly advised in the premises:

IT IS HEREBY ORDERED this adversary proceeding, as captioned above, shall be dismissed without prejudice and without costs.

**EXHIBIT 2
UNITED STATES BANKRUPTCY COURT
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NOTICE OF MOTION TO DISMISS

Plaintiff, Randall L. Frank, Trustee has filed papers with the court to dismiss the instant adversary complaint.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to compel production of documents, or if you want the court to consider your views on the motion, within 17 days, you or your attorney must:

1. File with the court a written response or an answer, explaining your position at:¹

United States Bankruptcy Court

111 First Street, Bay City, MI 48708

If you mail your response to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above. All attorneys are required to file pleadings electronically.

You must also send a copy to:

Keith M. Nathanson, Special Litigation Counsel to Randall L. Frank, Trustee
2745 Pontiac Lake Road, Waterford, MI 48328

2. If a response or answer is timely filed and served, the clerk will schedule a hearing on the motion and you will be served with a notice of the date, time and location of the hearing.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

Date: October 26, 2017

/s/ Keith M. Nathanson _____

Keith M. Nathanson, P41633

2745 Pontiac Lake Road

Waterford, MI 48328

(248) 436-4833

kn@nathanson-law.com

¹ Response or answer must comply with F. R. Civ. P. 8(b), (c) and (e)

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CERTIFICATE OF SERVICE

Keith M. Nathanson, being first duly sworn, states that on October 26, 2017, he did serve by first class mail:

- Trustee's Motion to Dismiss, Proposed Order, Notice of Trustee's Motion, Proof of service

Upon Kathy Kulek, 1301 Pine River Road, Midland, MI 48640, by USPS, with first class postage-prepaid.

Respectfully submitted,

/s/ Keith M. Nathanson

Keith M. Nathanson, P41633

Special Litigation Counsel for the Chapter 7 Trustee

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