

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

FILED
at O'clock & min. **■**

SEP 7 2004

BRENDA K. ARGOE, CLERK
United States Bankruptcy Court
Columbia, South Carolina (9)

IN RE:

James Christian Coleman,

Debtor.

C/A No. 03-13328-W

Adv. Pro. No.04-80192-W

Robert F. Anderson, Trustee,

Plaintiff,

v.

James Bobby Coleman,

Defendant.

ORDER

Chapter 7

ENTERED

SEP 8 2004

C.H.B.

THIS MATTER comes before the Court upon the demand for jury trial made by James Bobby Coleman (Defendant).

The Complaint filed on June 22, 2004 by Robert F. Anderson (Trustee) seeks to recover real property, or its value, by voiding a transfer from Debtor to Defendant pursuant to 11 U.S.C. § 548(a) and South Carolina Code § 27-23-10 and 11 U.S.C. § 544.

The parties agree that Defendant is entitled to a jury trial on the § 548(a) cause unless that right was waived. The Trustee asserts Defendant's Answer at paragraph 6 asserts a claim for money against the estate and therefore constitutes a waiver. Defendant asserts paragraph 6 represents a reservation of rights and is not sufficient to constitute a waiver.

After considering the arguments of counsel and the record, including the pleadings, the Court finds no waiver and therefore Defendant is entitled to a jury trial on the § 548(a) cause.

It appears unnecessary to determine the entitlement to jury trial in relation to the cause alleged pursuant to South Carolina Code § 27-23-10 and 11 U.S.C. § 544, because the parties

agree that absent some other disposition of one of the causes, it is in the interest of economy to try both causes together.

This Court shall presently retain the proceeding through discovery, motions and a final pretrial conference. At that point, however, considering Defendant's lack of consent to a jury trial being conducted in this Court, an Order will be issued presenting the matter for consideration by the United States District Court

AND IT IS SO ORDERED.


UNITED STATES BANKRUPTCY JUDGE

Columbia, South Carolina
September 7, 2004