

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

IN RE:

FRANK A. AIELLO

CASE NO. 90-02596

Debtor

SIGNET BANK/VIRGINIA,

Plaintiff

vs.

ADV. PRO. NO. 91-60010A

FRANK A. AIELLO,

Defendant

APPEARANCES:

ROBERT S. COOPER, ESQ.
Attorney for Plaintiff
2425 Clover Street
Rochester, New York 14618

FRANK A. AIELLO
Debtor-Defendant, Pro Se
505 Rutger Street, Rear
Utica, New York 13501

STEPHEN D. GERLING, U.S. Bankruptcy Judge

MEMORANDUM-DECISION, FINDINGS OF FACT
CONCLUSIONS OF LAW AND ORDER

The Court has before it the motion of the Plaintiff, Signet Bank/Virginia ("Signet") for summary judgment pursuant to Rule 7056 of the Federal Rules of Bankruptcy Procedure ("F.R.Bankr.P. ").

Signet commenced the within adversary proceeding on January 28, 1991 and issue was thereafter joined by service of the Defendant-Debtor's Answer, which Answer was filed with the Clerk of this Court on May 2, 1991.

Subsequent to joinder of issue, Signet served on the Defendant-Debtor Interrogatories pursuant to F.R.Bankr.P. 7033, as well as Request for Admissions pursuant to F.R.Bankr.P. 7036.

The Defendant-Debtor filed a Response to Interrogatories and the Request for Admissions on June 7, 1991.

On June 18, 1991, Debtor filed a "Consent to Change Attorney And Proceed Pro Se".

On August 5, 1991, Signet filed the instant motion, which was heard before the Court on August 13, 1991 with both counsel for Signet and the Defendant-Debtor appearing.

The Court has reviewed the moving papers and after having heard Robert S. Cooper, Esq. on behalf of Signet and the Defendant-Debtor pro se, the Court concludes, based upon the Debtor-Defendant's Response to Admissions and Interrogatories that there are no issues of fact with regard to Signet's claim based on upon 11 U.S.C. §523(a)(2)(A)), and, therefore, it is

ORDERED that Signet's motion for summary judgment pursuant to F.R.Bankr.P. 7056 is granted and that Signet be awarded a judgment in the sum of \$2,823.16, with interest from the date of the Chapter 7 filing, plus reasonable attorney's fees, costs and disbursements to be hereafter determined upon submission of the appropriate affidavit of Signet's attorney

Dated at Utica, New York
this day of September, 1991

STEPHEN D. GERLING
U.S. Bankruptcy Judge