

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF

ROBERT DALE HARDESTY,

JOYCE JOAN HARDESTY,

DEBTORS.

THE FIRST STATE BANK, A Nebraska  
Corporation,

Plaintiff

vs.

SCOTTSBLUFF LIVESTOCK EXPRESS,  
INC., and ROBERT DALE HARDESTY  
a/k/a BOB HARDESTY and JOYCE JOAN  
HARDESTY,

Defendants.

CITY AND COUNTRY INSURANCE and R.E.,  
INC., A Nebraska Corporation,

Plaintiffs

vs.

SCOTTSBLUFF LIVESTOCK EXPRESS,  
INC., and ROBERT DALE HARDESTY  
a/k/a BOB HARDESTY and JOYCE JOAN  
HARDESTY,

Defendants.

THE FIRST STATE BANK,  
A Nebraska Corporation,

Plaintiff

vs.

SCOTTSBLUFF LIVESTOCK EXPRESS,  
INC., and ROBERT DALE HARDESTY  
a/k/a BOB HARDESTY and JOYCE  
JOAN HARDESTY,

Defendants.

BK79-0-1292

A80-93

A80-94

A80-95

MEMORANDUM OPINION

Before me in each of the above-captioned adversary proceedings are the defendant's request for attorney fees under 11 U.S.C. §523(d). Plaintiffs in each of the above-captioned adversary proceedings dismissed their adversary proceedings prior to trial. Each of the adversary proceedings sought denial of a discharge rather than a determination that the debt due the plaintiff was nondischargeable. 11 U.S.C. §523(d) talks about dischargeability complaints only and not objections to discharge under §727 of 11 U.S.C.. In addition, 11 U.S.C. §523(d) speaks only about "a consumer debt" and it is difficult from reading the complaints to determine that consumer debts were involved.

Lastly, I conclude that this is not an appropriate case in my judgment for an award of attorney fees since the matter was dismissed voluntarily by the plaintiff and because of the uncertainty as to whether a consumer debt is involved.

A separate order is entered in accordance with the foregoing.

DATED: Aug.14, 1981.

BY THE COURT:

  
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U.S. Bankruptcy Judge

Copies mailed this day to:

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