
BANKRUPTCY APPELLATE PANEL SUMMARY

March 2016

In re Jones, No. 14-8006, 2016 WL 825906, 2016 Bankr. LEXIS 651, ___ B.R. ___ (B.A.P. 6th Cir. Mar. 3, 2016). **Issue:** Whether the bankruptcy court erred by entering a sua sponte award of attorney's fees pursuant to Fed. R. Bankr. P. 9011. **Facts:** Creditors of chapter 7 debtor filed a motion for relief from stay to continue a prepetition suit against debtor in state court. Creditors also filed an adversary proceeding, seeking denial of the discharge or a determination of nondischargeability. Creditors subsequently withdrew motion for relief and moved to dismiss the adversary proceeding. **Procedure:** Bankruptcy court dismissed the adversary proceeding and, sua sponte under Fed. R. Bankr. P. 9011, directed the creditors' attorney ("Hoover") to show cause why

Hoover had reasonable grounds to file the adversary proceeding and the motion for relief. Following an evidentiary hearing the bankruptcy court entered a sanctions order, finding that Hoover repeatedly violated Rule 9011. The order directed Hoover to pay the attorney's fees of debtor's counsel. Hoover appealed. **Holding:** The bankruptcy court erred by entering a sua sponte award of attorney's fees pursuant to Fed. R. Bankr. P. 9011. **Analysis:** Rule 9011(c)(2) permits an award of attorney's fees only upon motion. It does not authorize courts to award attorney's fees pursuant to a sua sponte show cause order. **REVERSED and VACATED.**