

United States District Court

Northern District of Indiana

ENODIS CORPORATION

Plaintiff-Appellant

JUDGMENT IN A CIVIL CASE

v.

Case No. 4:04cv10AS

DANIEL L. FREELAND, Trustee

Defendant-Appellee

- Jury Verdict.** This action came before the court for a trial by jury. The issues have been tried and the jury has rendered its verdict.
- Decision by Court.** This action came to trial, hearing or consideration before the Court. The issues have been tried, heard or considered and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that the Bankruptcy Court entered its ruling on the issue of standing, on July 2, 2003, to which Enodis did not appeal. The time for Enodis to have appealed the Bankruptcy Court's ruling that it did not have standing in the Consolidated Chapter 7 case based upon 11 U.S. C. Sec.502(d) was when the Bankruptcy Court entered its initial order on this issue. See, S.E.C. v. Suter, 832 F.2d 988, 990 (7th Cir. 1987).

Therefore, both appeals pending before this Court in Cause Nos. 4:04cv10 and 4:04cv25, are hereby DISMISSED.

Stephen R. Ludwig, Clerk

By s/Cannie Inman _____
Deputy Clerk

Equivalent Coupon Issue Yield:

This document entered pursuant to Rules 79(a) and 58 of the Federal Rules of Civil Procedure on **May 4, 2004**.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION AT LAFAYETTE**

ENODIS CORPORATION,)	
)	
Plaintiff-Appellant,)	
)	
v.)	Nos. 4:04cv0010 AS
)	4:04cv0025 AS
DANIEL L. FREELAND, <i>Trustee</i> ,)	
)	
Defendant-Appellee.)	

MEMORANDUM AND ORDER

By invitation from counsel to do so at the oral argument held in Lafayette, Indiana on April 27, 2004, this Court will address the two pending bankruptcy appeals which deal with the same general issue, simultaneously. In Cause No. 4:04cv10, Appellant Enodis is appealing an Order of the United States Bankruptcy Court for the Northern District of Indiana, Honorable Robert E. Grant presiding, dated January 9, 2004, overruling the Objection filed by Enodis upon the ground that Enodis lacks standing in this bankruptcy case pursuant to 11 U.S.C. §502(d). In Cause No. 4:04cv25, Appellant Enodis is appealing an Order of the United States Bankruptcy Court for the Northern District of Indiana, Honorable Robert E. Grant presiding, dated February 3, 2004, concluding that a mandatory injunction was not appropriate and dismissing the adversary proceeding.

The same issue is involved in both matters, whether the Bankruptcy Court erred in holding that Enodis did not have standing to challenge the conduct of Appellee by reason of disability created by Section 502(d) of the Bankruptcy Code. However, it is too late for Enodis to use the January 9, 2004, and the February 3, 2004 rulings as a basis for appealing the Bankruptcy Court's prior finding that Enodis lacks standing to participate in these matters. *See*,

In re Bond, 254 F.3d 669, 673 (7th Cir. 2001). The Bankruptcy Court entered its ruling on the issue of standing, on July 2, 2003, to which Enodis did not appeal. The time for Enodis to have appealed the Bankruptcy Court's ruling that it did not have standing in the Consolidated Chapter 7 case based upon 11 U.S.C. §502(d) was when the Bankruptcy Court entered its initial order on this issue. *See, S.E.C. v. Suter*, 832 F.2d 988, 990 (7th Cir. 1987).

Therefore, both appeals pending before this Court in Cause Nos. 4:04cv10 and 4:04cv25, are hereby **DISMISSED**. The oral argument in Cause No. 4:04cv25 set for May 24, 2004, in Lafayette, Indiana, is now **CANCELLED**.

SO ORDERED.

Date: May 3, 2004

s/ ALLEN SHARP
ALLEN SHARP, JUDGE
UNITED STATES DISTRICT COURT