

UNITED STATES COURT OF APPEALS  
For the Fifth Circuit

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No. 92-2838  
Summary Calendar

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IN THE MATTER OF: SUZANNE FRAME,

Debtor.

ALLEN JAMES, ET AL.,

Appellees,

VERSUS

SUZANNE FRAME,

Appellant.

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Appeal from the United States District Court  
For the Southern District of Texas

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(CA-H-91-47)

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(November 23, 1994)

Before GARWOOD, SMITH and DeMOSS, Circuit Judges.

PER CURIAM:\*

For the third, and hopefully the last, time we address an appeal arising out of the infamous investment activities of Suzanne Frame and her various corporate entities. In Frame v. S-H, Inc.,

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\* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

967 F.2d 194 (5th Cir. 1992) (Frame I), this Court affirmed the district court's decision to strike Frame's pleadings and enter a default judgment for damages against her in the original civil fraud lawsuit (C.A. H-86-4589) that precipitated this litigation. In James v. Frame, 6 F.3d 307 (5th Cir. 1993) (Frame II), this Court again affirmed the decision of the district court which remedies one aspect of the calculation of damages in Frame I. In the same hearing in which the district court addressed the issue of correcting these damages, the district court also entertained the motion of various creditors and judgment holders (the "James Group") to dismiss the Chapter 7 bankruptcy proceeding which Frame had pending before the same district court under 11 U.S.C. § 707. This bankruptcy proceeding had been originally filed in the Southern District of New York and, one year later was transferred to the Bankruptcy Court of the Southern District of Texas, where it was docketed under Bankruptcy Clerk's No. 90-07461-H2-11 pursuant to the general order of the Southern District of Texas referring all bankruptcy matters to that bankruptcy court. Immediately upon such docketing, however, the district court withdrew the reference of such bankruptcy case to the bankruptcy court and opened a new docket in the Civil District Clerk's Office under Civil Action No. H-91-0047 for the further handling of such bankruptcy proceeding by the district court. Thereafter, the parties, the district court, and the district clerk followed a practice of labelling motions and orders with one or more of the various numbers being used to designate documents in this litigation (H-86-4589 or 90-07461-H2-11

or H-91-0047) and filing and docketing such motions and orders in one or more of the various dockets with no consistency in either pattern. Additionally, the district court follows a practice of making oral rulings during hearings and subsequently writing cryptic orders indicating the results of such rulings with little explanation as to the reasons why. As a result, the task of this court in appellate review has been greatly compounded.

On appeal, Frame asserts three issues:

- (1) whether her notices of appeal were sufficient to vest this court with appellate jurisdiction;
- (2) whether the district court's actions in dismissing her bankruptcy proceeding under 11 U.S.C. § 707 constitutes "an abuse of discretion and/or were clearly erroneous as a matter of law;" and
- (3) whether the dismissal order pretermitted litigation of issues of dischargeability under 11 U.S.C. § 523 and/or § 727 and constitutes an abuse of discretion or was clearly erroneous as a matter of law?

The James Group, as appellees, do not question this court's appellate jurisdiction and our examination of the records satisfies us that the notices of appeal were timely filed from final orders of the district court.

As to the other two issues raised by Frame, we have carefully reviewed the briefs, record excerpts and relevant portions of the records themselves, which because of the cross-labeling and cross-docketing referred to above was an unnecessarily complicated task.

We note the long and intimate familiarity which the district court had with this litigation as described in Frame I and Frame II. Giving appropriate deference to the district court's findings and conclusions, which for the most part were oral, and recognizing that the district court acted in the role of both bankruptcy judge and district judge during this litigation, we have concluded that:

- (a) the decision of the district court to dismiss the bankruptcy proceeding under 11 U.S.C. § 707 was not clearly erroneous; and
- (b) the district court did not abuse its discretion by deciding to dismiss the bankruptcy proceeding under § 707 rather than deal with issues of dischargeability under 11 U.S.C. § 523 or § 727.

Accordingly, the judgment of the district court dismissing the bankruptcy proceeding is AFFIRMED.