



ENTERED
05/18/2010

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:

**ANTOINETTE DE LA FUENTE, AND
LENORD DE LA FUENTE**

Debtor.

§
§
§
§
§
§
§

Case No. 03-43483-H4-13

**ANTOINETTE DE LA FUENTE, AND
LENORD DE LA FUENTE,**

Plaintiffs,

v.

**WELLS FARGO BANK, N.A.,
Defendant.**

§
§
§
§
§
§
§
§
§

Adversary No. 08-03291

**ORDER GRANTING DEBTORS' MOTION FOR AN ORDER OF CIVIL CONTEMPT
AGAINST WELLS FARGO BANK, N.A.**

[Adv. Docket No. 26]

On February 9 and 23, 2010, this Court held a hearing on the Debtors' Motion for an Order of Civil Contempt against Wells Fargo Bank, N.A. (the Motion for Contempt). Wells Fargo Bank, N.A. (Wells Fargo) opposed the Motion for Contempt. At the close of the hearing, the Court took the matter under advisement. The Court has now written a Memorandum Opinion discussing the reasons that it has decided to grant the Motion for Contempt. This opinion is entered on the docket simultaneously with the entry on the docket of this Order. Accordingly, it is

ORDERED that the Motion for Contempt is granted; and it is further

ORDERED that Wells Fargo shall, by no later than May 21, 2010, deposit into the registry of this Court the sum of \$11,825.60; and it is further

ORDERED that for each day after May 21, 2010 that Wells Fargo fails to deposit the sum of \$11,825.60 into the registry of the Court, a per diem fine of \$1,261.28 shall be imposed on Wells Fargo; and it is further

ORDERED that Wells Fargo shall immediately come into compliance with all provisions of the Agreed Judgment; and it is further

ORDERED that for each day after May 21, 2010 that Wells Fargo fails to come into compliance with all provisions of the Agreed Judgment, a per diem fine of \$1,261.28 shall be imposed on Wells Fargo; and it is further

ORDERED that a status conference will be held at 11 a.m. on Friday, May 28, 2010 for this Court to determine whether Wells Fargo has deposited the sum of \$11,825.60 into the registry of the Court and also come into compliance with all provisions of the Agreed Judgment; and it is further

ORDERED that at this status conference, Wells Fargo will have the burden of proving to this Court that it has paid the \$11,825.60 and also come into compliance with all provisions of the Agreed Judgment, and the Debtors shall have the right to rebut Wells Fargo's position; and it is further

ORDERED that the parties shall be allowed to introduce exhibits and adduce testimony regarding whether Wells Fargo is in compliance; and it is further

ORDERED that by May 21, 2010, Wells Fargo shall deliver a check made payable to the Debtors in the amount of \$220.70, representing the amount that the Debtors have overpaid to Wells Fargo since May of 2009; and it is further

ORDERED that Wells Fargo shall deliver the check for \$220.70 to counsel for the

Debtors (Walker & Patterson, P.C.) at this counsel's law office; and it is further

ORDERED that by May 21, 2010, Wells Fargo shall deliver a check made payable to Walker & Patterson, P.C. in the amount of \$4,544.00, representing the attorneys' fees and costs incurred by the Debtors for their prosecution for the Motion for Contempt; and it is further

ORDERED that Wells Fargo shall deliver the check for \$4,544.00 to counsel for the Debtors (Walker & Patterson, P.C.), at this counsel's law office; and it is further

ORDERED that if Wells Fargo fails to deliver either of the above referenced checks by the close of business on May 21, 2010, then a per diem fine of \$1,261.28 shall be imposed on Wells Fargo until such time as it delivers both of these checks to counsel for the Debtors (*i.e.*, Walker & Patterson, P.C.)

ORDERED that if, at the end of the status conference, this Court finds that Wells Fargo is still in violation of any provision of the Agreed Judgment, or has failed to deposit the sum of \$11,825.60 into the registry of the Court, or has failed to timely deliver the \$220.70 check to counsel for the Debtors, or has failed to timely deliver the check for \$4,544.00 to counsel for the Debtors, then Wells Fargo shall also be required to immediately pay to the Clerk of Court the sum of \$2,600.80; and it is further

ORDERED that the Clerk of Court shall send a copy of this order to counsel of record for the Debtors, and counsel of record for Wells Fargo.

Signed on this 18th day of May, 2010.

A handwritten signature in black ink, appearing to read 'J. Bohm', is written above a solid horizontal line.

Jeff Bohm
United States Bankruptcy Judge