

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

In re:

RONALD ALLEN JONES and,
SALLY JO JONES,

Debtors.

Case No. DG 12-08399
Hon. Scott W. Dales
Chapter 13

SALLY JO JONES,

Plaintiff,

Adversary Proceeding
No. 12-80354

v.

SALLIE MAE, INC. and GC SERVICES
LIMITED PARTNERSHIP,

Defendants.

ORDER DENYING MOTION
FOR ENTRY OF DEFAULT JUDGMENT

PRESENT: HONORABLE SCOTT W. DALES
United States Bankruptcy Judge

Plaintiff Sally Jo Jones (the “Plaintiff”) filed a complaint to determine that a student loan she co-signed for the benefit of her son should be discharged as imposing an undue hardship under 11 U.S.C. § 523(a)(8). The Defendants are Sallie Mae, Inc. (“Sallie Mae”), who made the loan, and GC Services Limited Partnership (“GCS”), who is apparently an assignee for purposes of collecting it. Sallie Mae answered the complaint; GCS did not. The Clerk noted GCS’s default (DN 11), and Plaintiff has now filed a motion under Fed. R. Civ. P. 55(b) for default judgment against GCS (the “Motion,” DN 18).

Federal courts, including bankruptcy courts, follow the “single judgment rule,” even in cases involving multiple claims or multiple parties. Unless a trial court makes the unusual finding that there is “no just reason for delay,” it will enter a single judgment after trial or dispositive motion. According to the applicable rule, “any order or other decision, however designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties’ rights and liabilities.” Fed. R. Civ. P. 54(b). Here, the claims of the two defendants are closely linked, so entering a judgment against GCS at this time while continuing the litigation against Sallie Mae could, if Sallie Mae prevails, lead to inconsistent determinations from the same court on the same issue. In this situation, there is probably good reason to delay the entry of judgment against GCS.

The court has reviewed the Clerk’s “Notice and Entry of Default” (DN 11) and acknowledges that the form does not comport with today’s decision. Although the form may have misled Plaintiff’s counsel, the court’s rules, rather than its forms, must govern the case. The court, therefore, will deny the Motion without prejudice to renewal at an appropriate time, or upon a showing that there is “no just reason for delay” despite the court’s suggestion to the contrary.

NOW, THEREFORE, IT IS HEREBY ORDERED that the Motion (DN 18) is DENIED without prejudice.

IT IS FURTHER ORDERED that the Clerk shall serve a copy of this Order pursuant to Fed. R. Bankr. P. 9022 and LBR 5005-4 upon Kimberly S. Young, Esq., attorney for Plaintiff;

John P. Kapitan, Esq., attorney for Defendant Sallie Mae, Inc.; and Defendant GC Services
Limited Partnership at 6330 Gulfton, Houston, Texas 43232-0500.

END OF ORDER

IT IS SO ORDERED.

Dated December 19, 2012



A handwritten signature in black ink, appearing to read "S. Dales", written over a horizontal line.

Scott W. Dales
United States Bankruptcy Judge