

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

GENERAL ELECTRIC CAPITAL
CORPORATION, a Delaware
Corporation,

Plaintiff,

v.

SUNNY INDUSTRIES, INC.,
a Wisconsin corporation and
MICHAEL SPITZ, a resident and
citizen of Wisconsin,

Defendants.

ORDER

06-C-0397-C

A telephone conference was held in this case on December 22, 2006 before United States District Judge Barbara B. Crabb. Ron Stadler and Timothy Harris appeared on behalf of plaintiff General Electric Capital Corporation. James Sweet appeared for defendant Sunny Industries, Inc. Russell Brannen appeared for defendant Michael J. Spitz. Dan Kelly appeared for former proposed intervenor, Associated Bank, N.A., (it has now withdrawn its motion to intervene) and Seth Dizard appeared on behalf of Michael Polsky, newly-appointed receiver for defendant Sunny Industries, Inc., in a state court proceeding under

Chapter 128.

The purpose of the conference was to find out from counsel why they were asking to enter an order identical to the order entered by the court on August 18, 2006. Counsel expressed surprise at the question, saying they had not known the order had been entered and that it was their understanding that the order would be stayed so long as defendants carried out their undertakings to make payments to plaintiff. Apparently this understanding was not communicated to the court. In another odd twist, none of the counsel for the parties received copies of the entered order, although the order indicates that copies were sent to all of them.

In an effort to clear up the confusion, I am rescinding the order entered on August 18, 2006, and entering the stipulated and agreed order for replevin as of today's date, December 22, 2006.

Counsel advised the court that it was possible that the sale of the equipment described in the verified complaint would produce funds sufficient to pay the amount owed by defendant Sunny Industries, Inc., and guaranteed by defendant Spitz to General Electric Capital Corporation. In that event, counsel will advise the court that the case can be closed.

In the event that the sales proceeds are not sufficient to pay the money due, it will be necessary to consider additional proceedings against defendants.

Entered this 22d day of December, 2006.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge