

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF ALABAMA

In Re

SUSAN J. NEAL

Case No. 99-10444-MAM-13

Debtor

SUSAN J. NEAL, on behalf of herself
and others similarly situated

Plaintiff

v.

Adv. No. 03-01190

CHASE MANHATTAN BANK U.S.A., N.A.

Defendant

**ORDER REVOKING ORDER DENYING MOTION FOR LEAVE TO APPEAL
AND REINSTITUTING RULE 8003 PROCEDURES**

Steve Olen and Royce Ray, Mobile, AL, Attorneys for the Plaintiff
Sara Anne Ford, Birmingham, AL, Attorney for the Defendant
Eric Breithaupt, Birmingham, AL, Attorney for the Defendant


This case is before the court on its own review of the file. Defendant, Chase Manhattan Bank U.S.A., N.A., filed a motion for leave to appeal this court's order of September 25, 2003. That order denied the motion of the defendant to dismiss the plaintiff's complaint for failure to state a claim upon which relief can be granted and for failure to join an indispensable party. Defendant filed a motion for leave to appeal that order on October 6, 2003. The court denied the motion on October 8, 2003.

This court erred in denying the motion for leave to appeal. Pursuant to Fed. R. Bankr. P. 8003, the court should have done the following:

- (1) waited 10 days for a response to the motion by the plaintiff;
- (2) after the 10 day period, sent the motion to the district court for a ruling; and
- (3) sent a report and recommendation to the District Court with the motion pursuant to this court's normal procedure.

Accordingly, in order to put this matter in the proper procedural posture, the Court will vacate its prior order on the motion for leave to appeal, give the plaintiff ten days to respond to the motion, and then transmit the motion, response, and a report and recommendation to the district court for its action.

Dated: November 5, 2003


MARGARET A. MAHONEY
U.S. BANKRUPTCY JUDGE