

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE
EASTERN DISTRICT OF TENNESSEE**

In re

Case No. 01-33131

HARRISON W. SMITH
IRENE CODY SMITH
d/b/a MEADOWVIEW BUILDERS
d/b/a MEADOWVIEW CABINETS

Debtors

RANDAL A. WARNER and wife,
ANGELA D. WARNER

Plaintiffs

v.

Adv. Proc. No. 01-3153

HARRISON W. SMITH and
IRENE CODY SMITH and
IRENE CODY SMITH d/b/a
MEADOWVIEW BUILDERS

Defendants

MEMORANDUM AND ORDER

Before the court are the Harrison Smith Motion for Partial Summary Judgment and Irene Cody Smith Motion for Summary Judgment, both filed by the Defendants on March 27, 2002, requesting summary judgment. Defendant Harrison Smith seeks summary judgment on that portion of the Plaintiffs' action grounded on 11 U.S.C. § 523(a)(4). Defendant Irene Cody Smith seeks summary judgment on all issues. The Plaintiffs, having failed to timely respond to the

motions, do not oppose them.¹ See E.D. Tenn. LBR 7007-1 (“Unless the court directs otherwise, the opposing party shall respond within twenty days after the date of the filing of the [summary judgment] motion.”).

The court having considered the pleadings, the Plaintiffs’ Answers to Defendants’ Interrogatories filed March 25, 2002, and the Affidavits of Irene Cody Smith and Harrison W. Smith filed March 27, 2002, finds that the Defendants are entitled to judgment as a matter of law.

For the above reasons, the Plaintiffs’ Complaint filed September 24, 2001, is DISMISSED in its entirety as to the Defendant Irene Cody Smith and is DISMISSED as to the Defendant Harrison W. Smith to the extent of the Plaintiffs’ claim under 11 U.S.C. § 523(a)(4).

SO ORDERED.

ENTER: April 22, 2002

BY THE COURT

/s/

RICHARD STAIR, JR.
UNITED STATES BANKRUPTCY JUDGE

¹ On April 18, 2002, the Plaintiffs filed the Plaintiffs [sic] Response With Supporting Memorandum to the Motion for Summary Judgment of Irene Cody Smith and Plaintiffs [sic] Response With Supporting Memorandum to the Motion for Partial Summary Judgment of Harrison Smith. These responses were not filed within the time required by E.D. Tenn. LBR 7007-1 and will, therefore, not be considered.