

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF RHODE ISLAND

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In re: :

PATRICK E. BRADY and : BK No. 09-12201
PAULA L. BRADY : Chapter 7
Debtors

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ORDER

Heard October 14, 2009, on the Debtors' Objection to Proposed Order and Memorandum in Support of Objection to Proposed Order, through which the Debtors request that the Court vacate its order at the September 17, 2009 hearing granting legal fees and costs in the amount of \$700 to The Bank of New York Mellon FKA The Bank of New York (the "Bank").

Under Fed. R. Civ. P. 60(b), made applicable by Fed. R. Bankr. P. 9024, "relief from an order can be granted for a clerical mistake or for mistake, inadvertence, surprise, excusable neglect, newly-discovered evidence, fraud, misrepresentation, misconduct, where the order is void or has been satisfied, released, or discharged or is no longer equitable, or for any other reason justifying relief from the order. Relief under Rule 60 is extraordinary and lies within the court's discretion." *Crofford v. Consecro Fin. Serv. Corp. (In re Crofford)*, 277 B.R. 109, 113 (B.A.P. 8th Cir. 2002). The moving party "must show newly discovered evidence or a manifest error of fact or law" in order to receive relief. *In re Curtis*, 322 B.R. 470, 480 (Bankr. D. Mass. 2005).

In the Memorandum, and at the October 14, 2009 hearing, Debtors' counsel misstates both law and fact, and, despite adequate notice, fails to explain his absence from the September 17, 2009 hearing at which legal fees and expenses were awarded. Accordingly, the Debtors' Objection to Proposed Order is **OVERRULED**. The Court notes that the Bank's Motion for Relief from the Automatic Stay is **MOOT**.

Enter Judgment consistent with this Order.

Dated at Providence, Rhode Island, this 14th day of October, 2009.



Arthur N. Votolato
U.S. Bankruptcy Judge

Entered on docket: 10/14/09