bankrupts,whose solicitors they are,and alleged creditors of the bankrupts,members of his family, and of the petitioner Michael F.Seachrist,who is merely a willing tool of the bankrupts and the members of his family,who allege themselves creditors,and the said Seachrist is permitting himself to be used by the solicitors of the bankrupts and the members of his family,alleged creditors of the bankrupt,to harass,annoy,impede,and delay a prompt and equitable settlement of the bankrupts estate.And these respondents futher answering say that there is no desire or real effort being made in this cause by the said solicitors filing this amended petition to serve the interests of the general creditors of the bankrupt,but that the amended petition is filed by them in an effort to serve the interests of the bankrupts and the members of his family who profess themselves to be creditors of the bankrupt.And these respondents pray the Court to strike out the afore-mentioned scandalous and impertinent clauses and sentences in said amended petition.

And having answered all and several the paragraphs of said petition and the allegations therein , these respondents pray to be hence dismissed with their proper costs.

Emory L.Coblentz
Charles C.Waters

Filed March 27th,1908.

OPINION OF COURT

Central National Bank a body corporate, VS. Emory L.Coblentz et al. Trustees.	::	No.8269 EQUITY. In the Circuit Court for Frederick County,sitting as a Court of Equity.

In the above entitled cause,Michael F.Seachrist,on the 23rd day of March 1908 filed an amended petition to be made a party defendent,in said cause for the purpose of presenting certain defenses to the mortgage,which is being sought to be foreclosed by the plaintiff,a duly certified copy of which mortgage is filed in the case.

In the petition he alleges that he is a common creditor of the mortgagor Augustus H.Ebert,who has been duly adjudged a bankrupt,and thae the trustees have failed to set up in their answer to the Bill the defense set forth in his petition,which he believes are good and valid defenses to the Bill of complaint,and which if sustained by the Court,would defeat the plaintiffs proceedings,and would result in distributing the property covered by said mortgage among the common creditios of said mortgager.His petition has been sworn to by him.The Trustees answered said petition,in which answer they admit that said Seachrist is a creditor of said mortgagor,but allege they are willing to present any good and valid defense to the suit and refer to their answer to said Bill of Complaint as an evidence thereof.I have examined the answer,and found nothing in it to show that the defense set forth in said Seachrist's petition am affirmatively presented by them.The common creditor generally has no right to intervene,and the Trustees represent them,dut it is only fair that they should more or less consult the interests of those who are ordinarily helpless to present their side of the controversy.it is the duty of the Court to see that this is done,either by directing the trustees to be so,or make the creditors a party to the cause,so he can do so.Nowit is not necessary for me to determine the correctness or validity of the defenses set up in the petition at this time,but some of them are sufficient consequence to be embraced in an answer to the Bill of Complaint.The trustees have personally expressed a willingness to be guided by the Court in the matter,and to file such an answer.I think it is the duty of the trudtees,under all the circumstances to set up substantially the defenses set forth in the 2nd,statement of defense in said Seachrist's petition, so that they may be presented to the Court for its consideration.But any additional expense which will be entailed thereby in the event of a failure to maintain them,must be born by sa d petitioner I do not think it is necessary for any formal order in the premises,as I believe the trustees will act without the necessity for such order.Of course if they do not do so,on the application of the petitioners solicitor a formal order will be issued.

JohnC.Motter

Filed March 31,1908