

In re: JAMES F. WALKER, Debtor.

**CASE NO.: 03-32158-BKC-PGH**

The Court granted a Motion to Strike Debtor's Rule 60(b) Motion. The Rule 60(b) Motion alleged that the Claimant fraudulently procured a settlement between the Trustee of the estate and the Claimant. The substance of the allegations contained in the Rule 60(b) Motion were previously raised by the Debtor at the time of the settlement. The Court had approved the settlement one year earlier by entering an Order Approving Settlement. The Rule 60(b) Motion was filed by the Debtor in his capacity as assignee of an interest in property of the estate, and by debtor's counsel in his capacity as assignee of an administrative claim. The Court found that Debtor and debtor's counsel as "assignees" had not been prevented from fully and fairly presenting their case by fraud, misrepresentation of other misconduct by the Claimant. Therefore, the requirements to set aside a final order pursuant to Rule 60(b)(3) had not been met. The Court also found that the allegations did not rise to the level of fraud upon the Court pursuant to the savings clause of Rule 60(b).