

**United States Bankruptcy Court
Western District of Wisconsin**

Cite as: [Unpublished]

**In re Francis A. Rondeau, a/k/a Francis Rondeau,
a/k/a F. A. Rondeau, and Marie Rondeau, his wife, Debtors**
Bankruptcy Case No. 82-00736-11

United States Bankruptcy Court
W.D. Wisconsin, Eau Claire Division

November 4, 1987

Gary McCartan, for debtors.

Stewart L. Etten and Arthur L. Eberlein, for First American National Bank of Wausau.

Thomas S. Utschig, United States Bankruptcy Judge.

**MEMORANDUM OPINION, FINDINGS OF FACT,
AND CONCLUSIONS OF LAW**

The First American National Bank of Wausau (FANB), by Stewart L. Etten and Arthur L. Eberlein, has filed a motion to convert this Chapter 11 case to a case under Chapter 7 of the Bankruptcy Code. The debtors appear by Gary McCartan and object to the motion. The debtors further seek to have this case voluntarily dismissed. A telephonic conference was held in this matter on October 9, 1987.

The debtors filed their Chapter 11 petition on April 30, 1982, and still have not filed a plan or disclosure statement.

FANB argues that "cause" exists pursuant to § 1112 of the Bankruptcy Code to convert or dismiss this bankruptcy case. The debtors do not dispute the fact that such "cause" exists. However, the debtors contend that this case should be dismissed rather than converted. FANB asserts that it would be in the best interests of creditors if this case was converted to Chapter 7.

It is the opinion of the Court that this case should be dismissed. It does not appear that it would be in the best interest of anyone, with the possible but doubtful exception of FANB, that this case be converted. It appears that all the creditors of the debtors, except FANB, are either current in payment or have been paid in full and have no interest in the continuation of bankruptcy proceedings. FANB has its state law remedies against the debtors and apparently will eventually have to pursue such claims in state court regardless of whether this matter is converted or dismissed.

The decision whether to convert or dismiss a bankruptcy case is largely in the discretion of the Bankruptcy Court. The central factor in this determination is what is in the best interests of creditors and the estate. H. Rep. No. 95-595 to accompany H.R. 8200, 95th Cong., 1st Sess. (1977) pp. 405, 406; S. Rep. No. 95-989 to

accompany S. 2266, 95th Cong., 2d Sess. (1978) p. 117. Although FANB asserts and the Court agrees that there have been substantial delays in this bankruptcy case, it is the decision of the Court that this case should be dismissed as there has been no showing that continuation of the case would result in any substantial benefit to creditors.

This opinion shall constitute findings of fact and conclusions of law in accordance with Bankruptcy Rule 7052.