

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

IN RE: )  
)  
DONALD URBANEK and ) CASE NO. 07-23314 JPK  
MARTHA URBANEK, ) Chapter 13  
)  
Debtors. )

ORDER DENYING MOTION

This case was initiated by a petition filed on December 4, 2007 by joint debtors. The record establishes that on December 4, 2007, a certificate of credit counsel, as required by 11 U.S.C. § 109(h), was filed by the debtor Martha Urbanek. On December 4, 2007, a document entitled "Debtor's Motion for Exemption From the Pre-Bankruptcy Credit Counseling Requirement of Section 109(h)(1) of the Bankruptcy Code" {"Motion"} was filed by the debtor Donald Urbanek. This document evidences that its origin is in the software package provided by one of the ubiquitous computer bankruptcy software providers, and it is the apparent intent of this "canned" motion to invoke the provisions of 11 U.S.C. § 109(h)(4). The "form" provided by the software provider has a provision that allows the debtor to state matters in support of the motion, and in this provision the motion at issue states "upon request physician statement can be provided." All the form motion does is recite the provisions of 11 U.S.C. § 109(h)(4), with absolutely no factual support for the legal conclusion derived by reciting that provision. Stating that subsequent documentation can be provided in support of the totally conclusory statements in this motion does not satisfy 11 U.S.C. § 109(h): If a "physician statement" was available at the time of filing of case, wouldn't it seem to be "best practice" to state in the motion itself the assertions supported by that statement and attach a copy of the statement itself? Yes it would.

The Court determines that the Motion states no ascertainable grounds for invocation of 11 U.S.C. § 109(h)(4), and that the motion is Denied.

Dated at Hammond, Indiana on December 14, 2007.

/s/ J. Philip Klingeberger  
J. Philip Klingeberger, Judge  
United States Bankruptcy Court

Distribution:  
Debtors, Attorney for Debtors  
Trustee, US Trustee