

UNITED STATES BANKRUPTCY COURT
 NORTHERN DISTRICT OF INDIANA
 HAMMOND DIVISION

IN RE:)	
)	
ROBIN RENEA WORSHAM,)	CASE NO. 03-60109
)	Chapter 7
Debtor.)	

OKECHI NWABARA and)	
IJEOMA NWABARA,)	
)	
Plaintiffs,)	
)	
v.)	ADVERSARY NO. 04-6135
)	
ROBIN RENEA WORSHAM,)	
)	
Defendant.)	

MBANEFO ONYEKA,)	
)	
Plaintiffs,)	
)	
v.)	ADVERSARY NO. 04-6135
)	
ROBIN RENEA WORSHAM,)	
)	
Defendant.)	

ORDER SCHEDULING TRIAL

This matter came before the Court for pre-trial conference on May 4, 2005. The plaintiffs appear by counsel Lemuel Stigler; the defendant appears by counsel Andrew Kopko.

Due to severance of the claims of Okechi Nwabara and Ijeoma Nwabara and the claims of Mbanefo Onyeka as effected by the Court's order of March 16, 2005, there are two separate cases within this adversary proceeding.

On February 14, 2005, Attorney Stigler filed the pertinent documents from the state court record in the case of *Okechi Nwabara and Ijeoma Nwabara v. Robin R. Worsham, et al.*, cause number 45C01-0202-CC-00075 in the Lake County, Indiana Circuit Court. These documents establish that the defendant Robin R. Worsham was defaulted due to failure to

appear or file an answer in the case, and that no evidentiary proceedings were held in the state court. Based upon applicable Indiana law [e.g., *Porter's South Shore Cleaners, Inc. v. State*, Tax Court of Indiana, 512 N.E.2d 895 (1987)], a default of this nature has no collateral estoppel effect; the Court deems the case of *In re Catt*, 368 F.3d 789 (7th Cir. 2004) to be inapplicable to the circumstances of this case, due to the fact that the factual circumstance of the state court proceeding in *Catt* was not a default, but rather was an evidentiary trial at which only the plaintiffs appeared. Perhaps under those circumstances, Indiana law would provide for a collateral estoppel effect, but there was no evidentiary record in the state court in this case.

The parties advise that no pre-trial order or a pre-trial conference is necessary in this case, and that the case may be set for trial. Attorney Stigler advises that both actions are premised upon 11 U.S.C. § 523(a)(2)(A); the Court advises the parties that the legal issues under that section will be controlled by the standards set forth in *In re Hostetter*, 320 B.R. 674 (Bankr. N.D.Ind. 2005).

IT IS ORDERED that trial of the proceeding of Okechi Nwabara and Ijeoma Nwabara v. Robin Renea Worsham shall be held on **August 3, 2005, commencing at 9:00 a.m.**, and that trial of the proceeding of Mbanefo Onyeka v. Robin Renea Worsham shall commence immediately following the conclusion of the Nwabara v. Worsham trial. The Court has reserved three hours for the combination of both trials.

Dated at Hammond, Indiana on May 13, 2005.

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

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