

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
JAMES EDWARD LUEDTKE,) CASE NO. 08-21611-jpk
) Chapter 13
Debtor.)

ORDER INVALIDATING NOTICE

_____The debtor's case was initiated by a petition filed May 22, 2008: the case was initiated as a Chapter 13 case and it has remained a Chapter 13 case. On August 4, 2008, Falk, PLI Engineering & Surveying, Inc., by counsel, filed its motion for relief from stay and abandonment. That motion was accompanied by a form of a notice apparently patterned after that designated in N.D.Ind.L.B.R. B-2002-2. N.D.Ind.L.B.R. B-2002-2(a) authorizes the use of a "drop-dead" procedure with respect to motions for relief from the automatic stay in a Chapter 7 case (Rule B-2002-2(a)(4)), and with respect to motions for abandonment (Rule B-2002(a)(17)). Nowhere in this rule is there an authorization for utilization of a "drop-dead" procedure for motions for relief from the automatic stay filed in a Chapter 13 case. While other divisions of the United States Bankruptcy Court for the Northern District of Indiana may allow a "drop-dead" procedure with respect to stay relief motions in a Chapter 13 case, **this Court has made it abundantly clear for years that motions for relief from the automatic stay in Chapter 13 case will be scheduled for preliminary hearing and will not be subject to the "drop-dead" procedure of the foregoing rule.**

Fed.R.Bankr.P. 9011 specifies that by the signing of a paper, the attorney signing that paper "is certifying that to the best of the person's knowledge, information and belief" that the "claims...and other legal contentions therein are warranted by existing law or by a non-frivolous argument for the extension, modification, or reversal of the existing law or establishment of new law." The Notice of Motion and Opportunity to Object is signed by an attorney, and is a

document within the scope of Fed.R.Bankr.P. 9011(b)(2).

IT IS ORDERED that the foregoing Notice is ineffective for all purposes, and that a preliminary hearing will be scheduled on the Motion by separate order.

Dated at Hammond, Indiana on August 20, 2008.

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

Distribution:

Debtor, Attorney for Debtor
Trustee, US Trustee
Attorney James E. Carlberg