

UNITED STATES BANKRUPTCY COURT
 NORTHERN DISTRICT OF INDIANA
 HAMMOND DIVISION

IN RE:)	
)	
JACK WEICHMAN,)	CASE NO. 08-23482 JPK
)	Chapter 11
Debtor.)	

ASSOCIATED PATHOLOGISTS OF)	
MUNSTER, INDIANA, PC.,)	
)	
Plaintiff,)	
)	
v.)	ADVERSARY NO. 08-2155
)	
JACK WEICHMAN, WEICHMAN &)	
ASSOCIATES PC, and MMDS, INC.,)	
)	
Defendants.)	

ORDER CONCERNING MOTION FOR REMAND (“MOTION”)

The Motion was filed on February 27, 2009 by Associated Pathologists of Munster, Indiana, P.C.

First, the Motion violates N.D.Ind.L.B.R. B-9013-1(a). It alternatively seeks remand pursuant to Fed.R.Bankr.P. 9027(d), and relief from the automatic stay.¹ Pursuant to Fed.R.Bankr.P. 9027(d), a motion for remand of a removed case initiates a separate contested matter. A request for relief from the automatic stay independently initiates a separate contested matter. The procedures for both of these requests for relief are different, and thus those requests for relief cannot be combined in one motion, as N.D.Ind.L.B.R. B-9013-1(b) clearly provides by stating that motions “seeking relief from the automatic stay . . . may not be joined with any other request or objection except abandonment”. The Motion’s failure to comply with

¹ Interestingly, although it is clearly subject to the provision, the Motion does not reference Fed.R.Bankr.P. 9027. Additionally, the specific section of 11 U.S.C. § 362 pursuant to which relief from the stay is sought is also not referenced. Finally, paragraph 19 of the document requests a hearing pursuant to 11 U.S.C. § 352(d), a section of the Bankruptcy Code which may exist in some alternative universe but which does not exist in this one.

the foregoing local rule provides an independent basis for its denial.

The court also notes that the Motion's failure to cite to the provisions of either the United States Bankruptcy Code or the Federal Rules of Bankruptcy Procedure with respect to the relief which it requests causes the Motion to fail to comply with Fed.R.Bankr.P. 9013, which requires that motions "state with particularity the grounds therefor". In this context, Section III of the Motion, which apparently constitutes its request for relief, seeks an award of attorneys' fees and costs incurred by the movant in connection with the Motion. The court is unaware of any provision of law which would authorize the recovery of attorneys' fees by the movant in this context, and although the court is fully cognizant of laws of the United States which authorize recovery of costs to successful litigants, citation to the specific provision of those laws which the movant seeks to implicate in this matter is also required in this context.

Based upon the foregoing, the court finds that the Motion should be denied in its entirety, without prejudice to the filing of subsequent motions with respect to the relief requested by the Motion in accordance with applicable law and rules.

IT IS ORDERED that the Motion is denied, without prejudice.²

Dated at Hammond, Indiana on March 12, 2009.

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

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² The court also expects the movant to comply with Fed.R.Bankr.P. 9027(e)(3), by filing a separate document apart from any subsequently filed motions seeking the relief requested by the Motion.