

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

IN RE: )  
)  
FRANK E. ASHENBAUGH and ) CASE NO. 06-62131 JPK  
TERESA (NMN) ASHENBAUGH, ) Chapter 13  
)  
Debtors. )  
\*\*\*\*\*  
FRANK E. ASHENBAUGH and )  
TERESA (NMN) ASHENBAUGH, )  
Plaintiffs, )  
v. ) ADVERSARY NO. 09-2113  
U.S. BANK, N.A., HOMECOMINGS )  
FINANCIAL NETWORK and )  
BWM MORTGAGE, LLC, )  
Defendants. )

ORDER FOR HEARING, TO BE ATTENDED BY A  
REPRESENTATIVE OF THE DEFENDANTS

This adversary proceeding was commenced by a complaint filed on May 22, 2009 against the defendants U.S. Bank, N.A.; Homecomings Financial Network; and BWM Mortgage, LLC. The purpose of the complaint is two-fold: first, to identify the creditor presently holding an obligation apparently owed by the debtors which is secured by a mortgage on their residential real property; second, to determine matters relating to the amount of that debt.

No defendant has appeared in this action or otherwise responded to the complaint. This is a very common circumstance experienced by bankruptcy courts throughout the country in this day of multiple assignment of debts and multiple use of servicers of debts. There are circumstances, such as those involved here, in which to fully effectuate a Chapter 13 plan it is necessary to determine the identity of a creditor and the amount of indebtedness actually owed to that creditor, in particular when the creditor has not responded to pre-litigation requests made by the debtor. Pursuing a default judgment is not an acceptable mechanism in these circumstances, because the entry of a judgment will not reconcile records of the creditor actually involved as the ultimate creditor with respect to the indebtedness owed by the debtor.

Matters relating to the defendants have previously been the subject of a contested matter arising from the debtors' objection to claim #4-1. The record concerning that contested matter causes the court to believe that the original loan transaction involving the debtors was between the debtors and BWM Mortgage, LLC, or at least that BWM Mortgage, LLC was a servicer for U.S. Bank, N.A. in that transaction. Paragraph 2 of the Agreed Order entered on April 11, 2007 with respect to the foregoing contested matter states that the "loan was transferred shortly after [a payment was made]". Given that claim #4-1 was filed on behalf of a creditor designated as U.S. Bank, N.A., with Homecomings Financial, LLC designated as a servicer, it is reasonable to assume that the actual creditor is U.S. Bank, N.A. Representation with respect to the claim objection was provided by Attorney Bradley A. Reisenfeld.

U.S. Bank, N.A. has actively participated in this case by filing a proof of claim, and by obtaining counsel who has appeared on its behalf, or at least on behalf of a servicer for it, in this case. This provides the court with jurisdiction to order the involvement of a defendant party in the adversary proceeding.

IT IS ORDERED that a telephonic conference will be held on **November 18, 2009, at 9:30 A.M.** to address the course of further proceedings in this adversary proceeding in relation to the defendants.

IT IS FURTHER ORDERED that Attorneys Lori D. Fisher and Bradley A. Reisenfeld will personally participate in that conference.

Dated at Hammond, Indiana on October 23, 2009.

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

Distribution:  
Lori D. Fisher  
Bradley A. Reisenfeld