

Not Intended for Publication or Citation

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION AT LAFAYETTE

IN THE MATTER OF:)
)
JENNIFER LYNN ZIRKLE) CASE NO. 09-40871
)
)
Debtor)

DECISION AND ORDER

At Fort Wayne, Indiana, on June 22, 2010

This chapter 7 case was closed on December 29, 2009. On June 21, 2010, a creditor of the debtor, Samuel Norris, filed a Motion to Re-Open Bankruptcy Petition; Motion for Restraining Order Without Notice and Request for Emergency Hearing; Motion for Permanent Injunction Based on Judicial Estoppel. The motion asks the court to, among other things, enjoin the debtor from proceeding to trial in an action she has filed in state court against the creditor. That trial has been scheduled for June 23, 2010, and so the movant wants this court to hold an emergency hearing on the injunction on June 22, 2010. The motion suffers from a number of deficiencies. To begin with, it fails to comply with the local rules of this court which require requires each motion to be filed separately. N.D. Ind. L.B.R. B-9013-1; In re Fort Wayne Foundry Corp., 2009 WL 2524493, 2009 Bankr. LEXIS 2153 (Bankr. N.D. Ind. 2009); In re Minton, 2006 WL 533352, 2006 Bankr. LEXIS 4269 (Bankr. N.D. Ind. 2006). The present motion seeks at least three different forms of relief: (1) to reopen this case; (2) an injunction; and (3) an emergency hearing. It also fails to comply with N.D. Ind. L.B.R. B-7065-1 concerning motions for preliminary injunctions and temporary restraining orders, because it has not been verified or accompanied by any type of affidavit. In addition to failing to comply with the court's local rules, the motion also fails to comply with the Federal Rules

of Bankruptcy Procedure. Rule 7001(7) requires an adversary proceeding in order to obtain injunctive, equitable, or declaratory relief. Fed. R. Bankr. P. Rule 7001(7). See also, Matter of Perkins, 902 F.2d 1254, 1258 (7th Cir. 1990). The motion filed on June 21, 2010 on behalf of Samuel Norris is, therefore, DENIED. Accord, Pettibone v. Easley, 935 F.2d 120, 123 (7th Cir. 1991) (bankruptcy court has no authority to try selected defenses in state court actions).

SO ORDERED.

/s/ Robert E. Grant
Chief Judge, United States Bankruptcy Court