

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
AMANDA KIMBERLY GRIFFIN,) CASE NO. 10-20873 JPK
) Chapter 7
Debtor.)

ORDER CONCERNING DEBTOR'S MOTION TO SET
ASIDE DISCHARGE ORDER DATED JUNE 14, 2010 ("MOTION")

The Motion, filed on July 15, 2010, requests that the court set aside the debtor's order of discharge so that she may add additional creditors to this case with respect to debts alleged to have been incurred prior to the filing of her Chapter 7 case. The Motion was accompanied by a "Notice of Motion" in the form of the "drop dead" notices provided for by N.D.Ind.L.B.R. B-2002-2.

First, the relief requested by the Motion is not within the types of relief which are subject to the provisions of N.D.Ind.L.B.R. B-2002-2. The "Notice of Motion" will be stricken from the record and will have no effect in this case.

More importantly, the order of discharge was a final order of this court, and the Motion seeks relief which must be sought pursuant to Fed.R.Bankr.P. 9024/Fed.R.Civ.P. 60. The Motion does not comply with the provisions of N.D.Ind.L.B.R. B-9023-1(a), in that no supporting brief accompanied it. Even if the Motion had been submitted in proper form, it would not be granted. The entry of an order of discharge has consequences for all creditors already in the debtor's case, and the noticing of the fact that discharge has been entered has implemented the post-discharge injunction of 11 U.S.C. § 524(a)(3). The burden for obtaining the relief requested by the debtor is therefore significant. Moreover, the requested relief won't have any impact on the rights of the added creditors. The court cannot extend the claim filing deadline provided by applicable law and rules; moreover, no claim filing deadline has yet been established, and as a result, any indebtedness owed to the originally omitted creditors is not

subject to the exception from discharge provision of 11 U.S.C. § 523(a)(3). The court also has no authority in the circumstances of this case to extend the deadline for objections to dischargeability of a particular debt, and thus the consequences of failing to originally schedule creditors in this context is governed by 11 U.S.C. § 523(a)(3)(B) whether the discharge is set aside or not.

The court determines that the Motion is not in proper form, and should be denied for that reason. The court also determines that the relief sought by the Motion does not provide a basis for the requested relief.

IT IS ORDERED that the Notice of Motion is stricken from the record, and shall be of no effect in this case.

IT IS FURTHER ORDERED that the Motion is denied.

Dated at Hammond, Indiana on August 5, 2010.

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

Distribution:
Debtor, Attorney for Debtor
Trustee, US Trustee