

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

IN RE: )  
 )  
CRYSTAL BURCH, ) CASE NO. 09-20508 JPK  
 ) Chapter 7  
Debtor. )

ORDER ON MOTION TO REOPEN CASE ["MOTION"]

The Motion was filed on July 6, 2010 on behalf of Darla D. Pence, as Personal Representative of the Estate of David Pence, Deceased. The motion states that the movant has filed a wrongful death action against the defendant, which case is pending in State Court and requests reopening of the debtor's Chapter 7 case "for the sole purpose to file a Motion for Relief of Automatic Stay of Proceedings as it applies to the Creditor to the extent of any insurance coverage applicable to the Creditor's claim against Debtor."

First, the debtor has been granted a discharge, and thus the provision now in effect with respect to actions against the debtor is the post-discharge injunction provided by 11 U.S.C. § 524(a)(2). That provision states that a debtor's discharge "operates as an injunction against the commencement or continuation of an action....[with respect to a] debt as a personal liability of the debtor." To the extent that recovery is sought solely against insurance available to the debtor in relation to such action – and does not seek to determine any personal liability of the debtor – the proposed action will not constitute a violation of Section 524(a)(2). However, it may be that the state court has required the movant to obtain an order from this court in order to proceed with the personal injury action, and on that assumption the court will grant the motion to reopen the case and entertain whatever motion the movant deems appropriate to place before this court for consideration.

IT IS ORDERED that the Motion is granted: the Clerk shall reopen this Chapter 7 case, but no Trustee shall be appointed with respect to further administration of the bankruptcy

estate.

IT IS FURTHER ORDERED that Darla D. Pence, as Personal Representative of the Estate of David Pence, Deceased, shall file whatever motion is deemed appropriate to obtain the relief sought by her – within 21 days of the date of entry of this order.

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  
Attorney for Movant