UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:	)	
	)	
JAMES ROY EDSON and	)	CASE NO. 09-24251 jpk
LYNN MARIE EDSON,	)	Chapter 7
Debtors.	)	
**********		
JAMES ROY EDSON	)	
LYNN MARIE EDSON,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	ADVERSARY NO. 13-2005
	)	
CHASE BANK USA, NATIONAL ASSOCIATION,	)	
	)	
Defendant.	)	

ORDER FOR TELEPHONIC CONFERENCE CONCERNING
DEFENDANT'S RULE 12(b)(6) MOTION TO DISMISS ["MOTION"]

The Motion was filed by the defendant, Chase Bank USA as Record Entry No. 12 on April 1, 2013. The Motion requests dismissal of the complaint due to alleged failure by the complaint to adequately plead facts sufficient to sustain relief pursuant to 11 U.S.C. § 362(k): The focus of the Motion is that the complaint does not plead facts establishing that Chase Bank USA had notice or knowledge of the filing of the debtors' bankruptcy case at the time that certain actions may have been undertaken.

Cutting to the chase (of course, no pun intended), even if the court were to sustain the Motion, it would provide the debtor with an opportunity to file an amended complaint. To avoid the waste of electrons, a briefing schedule on the Motion in order to possibly obtain the court's allowing the debtor to replead will be suspended. The court deems a telephonic conference to be the appropriate course of procedure at this time.

The court notes that the basic contentions of Chase Bank USA are correct, as far as they go. If it were to be assumed that the complaint is correct and that Chase undertook

collection proceedings subsequent to the filing of the debtors' Petition in Case No. 09-24251, any action undertaken in violation of 11 U.S.C. § 362(a) is void, whether or not the creditor had notice of the filing of the case.[1] Whether or not compensatory damages, attorney's fees or punitive damage may be allowed under 11 U.S.C. § 362(k) does involve the issue of a creditor's notice and/or knowledge of the existence of the automatic stay by virtue of the filing of a case; when the notice/knowledge was obtained by the creditor; and steps taken by the creditor to deal with actions void *ab initio* as a result of the filing of the case. As stated previously, before this case becomes an unending stream of electrons with respect to legal memoranda and counter legal memoranda, the court deems it necessary to conduct a conference to delineate the course of further proceedings.

IT IS ORDERED that the debtors need not file a legal memorandum in response to the creditor's motion, pending further order of the court.

IT IS ORDERED that a telephonic conference will be held with respect to the above-designated Motion on **May 8, 2013, at 2:40 P.M.** The court will initiate the call to counsel for the debtors and counsel for Chase Bank, USA.

Dated at Hammond, Indiana on April 17, 2013.

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

Distribution:
Attorneys of record

[1] The court entered an order on December 21, 2012 as record entry No. 43 in Case No. 09-24251 which granted the debtors' motion to reopen that case and directed the debtors to file an adversary proceeding.