

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

IN RE: )  
 )  
STEVE RANDOLPH McALISTER and ) CASE NO. 13-22079 jpk  
ERICA LYNNE McALISTER, ) Chapter 7  
Debtors. )

ORDER CONCERNING REQUEST UNDER 11 U.S.C. § 109(h)(3)(a)

This Chapter 7 case was initiated by the debtors without assistance of counsel by Petition filed on June 11, 2013. Official Form 1, Exhibit D as submitted by the debtors checked “Box number 3”, stating that they were unable to obtain the pre-petition briefing required by 11 U.S.C. § 109(h)(1) due to “emergency filing.”

11 U.S.C. § 109(h)(3)(A)(i) requires a certification that “**describes** exigent circumstances that merit a waiver of the requirements” of obtaining the required counseling in advance of filing of the petition. The statement submitted by the debtors does not satisfy this requirement: there is no specification or elaboration as to what the emergency may have been that led to the filing. The record also establishes that the first installment of the filing fee owed by the debtors is to be paid by July 12, 2013.

The court will cut the debtors a break in this case, maybe. Even if the court were to accept the debtors’ description as allowing an extension of time to obtain the required counseling, the certification of obtaining that counseling by both debtors must be filed by July 11, 2013. If the debtors file the required certification by that date, as stated in this order, the court will conduct a hearing to determine whether or not it will accept the debtors reasons for an “emergency.”

IT IS ORDERED as follows:

1. The debtors shall file a certification of compliance with 11 U.S.C. § 109(h)(1) by July 19, 2013, evidencing that the required counseling session was obtained by them on or before July 11, 2013.

2. The debtors will timely pay the first installment of the filing fee due on July 12, 2013.

3. A hearing will be held on **August 9, 2013, at 9:00 A.M.**, to determine the course of further proceedings. Both debtors shall personally appear before the court at this hearing. If the record establishes that the debtors have complied with the immediately two preceding paragraphs of this order, the court will conduct a hearing to determine whether or not the debtors' "exigent circumstance" justify the extension. If the court determines they do not, the case will be dismissed at that hearing. If the debtors have not complied with both of the immediately preceding two paragraphs, the case will be dismissed at the foregoing hearing.

Dated at Hammond, Indiana on July 2, 2013.

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

Distribution:  
Debtors  
Trustee, US Trustee  
All creditors and parties-in-interest