

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

IN RE: )  
 )  
MARK S. GAWEL, SR., ) CASE NO. 05-62963 JPK  
 ) Chapter 7  
Debtor. )

ORDER REGARDING OBJECTION TO DISCHARGE

On July 5, 2005, Attorney Derla R. Gross, as a purported creditor in the debtor's case, filed a document entitled "Notice of Objection". This document was met by the Court's administrative order dated July 11, 2005, which was issued without consultation with the judicial officer and does not state the correct grounds for response to the Notice of Objection filed on July 5, 2005: an attorney authorized to practice law who wishes to represent himself/herself in an action against a debtor is not required to engage another attorney to do so. The Court thus finds that the administrative order entered on July 11, 2005 should be vacated.

On August 1, 2005, Derla R. Gross filed a document entitled "Amended Notice of Objection". This document asserts that certain indebtedness of the debtor to her established by a decree of a court of Indiana is excepted from discharge.

Here is how the drill works.

If an alleged indebtedness for attorney's fees awarded by a state court action with respect to an action for dissolution of marriage is deemed by the party to whom the award was made (i.e., the attorney to whom the award was made) to be an indebtedness within the provisions of 11 U.S.C. § 523(a)(5), then the appropriate court to which that assertion should be made is the court which entered the award: that court has concurrent jurisdiction with the United States Bankruptcy Court to determine whether or not an obligation entered in a judgment which it rendered falls within the provisions of 11 U.S.C. § 523(a)(5). If in the view of the party receiving the award, the obligation clearly falls within 11 U.S.C. § 523(a)(5), this Court

would appreciate its docket being uncluttered by what are essentially declaratory judgment actions which a state court which entered the judgment can just as readily determine.

Sometimes there are ambiguities in a state court's judgment which cause it to be unclear whether all, or part of, an attorney's fee award falls within the provisions of 11 U.S.C. § 523(a)(5), or whether a portion or all of an attorney's fee award directly to an attorney falls within the provisions of 11 U.S.C. § 523(a)(15). With respect to actions under 11 U.S.C. § 523(a)(15), only a United States Bankruptcy Court has the jurisdiction to determine nondischargeability under that section.

If a determination of nondischargeability of indebtedness under 11 U.S.C. § 523(a)(15) is sought, an action for that determination is subject to the adversary proceeding rules in Fed.R.Bankr.P. 7001, et seq.; Fed.R.Bankr.P. 7001(6); Fed.R.Bankr.P. 4007; 11 U.S.C. § 523(c)(1). In that event, anything short of complying with the foregoing statutes/rules presents nothing to the Court, as is the case with the filings made by Attorney Derla R. Gross on July 5, 2005 and on August 1, 2005.

IT IS ORDERED that the Administrative Order entered on July 11, 2005 is vacated.

IT IS FURTHER ORDERED that the Notice of Objection filed on July 5, 2005 and the Amended Notice of Objection filed on August 1, 2005 present nothing to the Court, and that the Court will take no action with respect thereto.

Dated at Hammond, Indiana on August 25, 2005.

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

Distribution:  
Debtor, Attorney for Debtor  
Trustee, US Trustee  
Derla R. Gross, Esq.