

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

IN RE: )  
 )  
ROOSEVELT HAYWOOD, JR. and ) CASE NO. 01-65238 JPK  
ADEL HAYWOOD, ) Chapter 13  
 )  
Debtors. )

ORDER DENYING MOTION

On August 30, 2005, the debtors, by counsel, filed a Motion to Set Aside Order Striking Filed Document, which requested that the Court vacate its order entered on August 26, 2005 by which the debtors' motions to avoid liens filed on June 19, 2005 were stricken from the record.

The Court's August 26, 2005 order was entered as a result of the debtors' failure to comply with the Court's July 11, 2005 order. This order explained deficiencies in documents filed as docket record entry #77, and stated that those documents would be stricken from the record unless "appropriate remedial action is undertaken by the debtors' counsel within 15 days of the date of entry of this order". The Motion to Set Aside Order Striking Filed Document states that the failure to comply with the July 11, 2005 order was "due to computer and e-mail difficulties". Obviously, these "difficulties" were known by, or should have been known by, debtors' counsel in time to comply with the July 11, 2005 order, and an appropriate motion requesting an extension of time or other remedial relief with respect to the July 11, 2005 order could have – and indeed should have – been filed prior to the July 31, 2005 deadline established by the July 11 order. However, no action was taken in response to the July 11, 2005 order until the Court entered an order almost one month after the July 31 deadline which struck the documents.

The Court finds that the Motion to Set Aside Order Striking Filed Document fails to state any grounds for relief from the Court's order of August 26, 2005 as required by Fed.R.Bankr.P. 9024/Fed.R.Civ.P. 60(b), and that the motion should therefore be denied.

IT IS ORDERED that the debtors' Motion to Set Aside Order Striking Filed Document is denied; provided, however, that the striking of the documents filed on June 19, 2005 is without prejudice to the debtors filing for the relief sought by those motions in accordance with applicable law and rules.

Dated at Hammond, Indiana on September 9, 2005.

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

Distribution:  
Debtors, Attorney for Debtors  
Trustee, US Trustee