

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

IN RE: )  
 )  
KENNETH H. LUNGHOFFER and ) CASE NO. 05-67769 JPK  
ANNA E. LUNGHOFFER, ) Chapter 7  
 )  
Debtors. )

ORDER SCHEDULING HEARING

On December 13, 2005, Great American Assurance Company filed a document entitled "Motion for Relief from Automatic Stay or in the Alternative Motion for Declaratory Judgment, or in the Alternative, Objection to the Lifting of the Stay Filed by Mary E. Krause as Administratrix of the Estate of Mr. Krause". The first two matters addressed by this document are requests for affirmative relief; the third matter is apparently an objection to a motion filed by Mary Krause on November 29, 2005. This document so obviously fails to comply with N.D.Ind.L.B.R. B-9013-1 that mere reference to that rule – without explaining the reasons for its non-compliance – should be sufficient. However, to elaborate. First, an objection to another party's filing which initiates a contested matter must be filed separately from the request by the objectant for affirmative relief. Secondly, the document seeks two forms of relief which are entirely mutually exclusive: motions for relief from the stay in Chapter 7 cases are controlled by N.D.Ind.L.B.R. B-2002-2(a)(4); a request for declaratory relief is not undertaken by motion at all, but requires an adversary proceeding pursuant to Fed.R.Bankr.P. 7001(9).

Ordinarily, the Court would merely strike this document and provide its submitter with an opportunity to address the matters referenced in it to the Court in accordance with required procedures. However, that will not be the procedure followed in this case. Mary Krause herself has filed a totally procedurally deficient motion for relief from the automatic stay with apparent reference to the subject matter of Great American's Hydra-headed document, and the Court has scheduled a hearing on that motion.

The Court finds that it is in in the best interests of judicial administration to conduct a hearing on Great American's request for relief from the stay and on its objection to Mary E. Krause's motion for relief from the stay, rather than require Great American to re-submit a flurry of paperwork. However, the Court finds that it has no jurisdiction over any request for declaratory relief due to non-compliance with Fed.R.Bankr.P. 7001.

IT IS ORDERED that a hearing will be held on **January 13, 2006, at 11:00 A.M.** with respect to Great American Assurance Company's request for relief from the automatic stay and with respect to its objection to the request for relief from the automatic stay filed by Mary E. Krause.

IT IS FURTHER ORDERED that Great American Assurance Company's request for declaratory judgment relief is denied.

Dated at Hammond, Indiana on December 21, 2005.

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

Distribution:  
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