

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
PAUL M. LAMBERT and) CASE NO. 05-62702 JPK
KARENZA LAMBERT,) Chapter 7
)
) Debtors.)
*****)
PAUL M. LAMBERT,)
)
Plaintiff,)
)
v.) ADVERSARY NO. 06-6090
)
RONALD BRUCE FUGATE,)
)
Defendant.)

ORDER FOR HEARING

This adversary proceeding was initiated by a complaint filed on March 23, 2006, alleging that the defendant Ronald Fugate had taken actions in violation of 11 U.S.C. § 362 and of 11 U.S.C. § 524, and seeking that the defendant be held in contempt for violations of those statutory provisions. In addition, the complaint requests that the Court enter an order "directing the Lake Superior Court as to the jurisdiction of this court in bankruptcy matters and to stay that court's proceedings". On May 1, 2006, the plaintiff, by counsel filed a Motion for Default Judgment. Prior to the Court's review of that motion, the Clerk docketed as record entry #8 a hand-written letter under the apparent signature of Ronald Fugate, which appears to seek to respond to the complaint.

It is first necessary to clarify a few matters which the complaint seeks to present to the Court. First, in the Court's view, the remedy of contempt will lie only with respect to a violation of a Court order; because neither 11 U.S.C. § 362(a) nor 11 U.S.C. § 524(a)(2) are implemented by means of an order – but rather arise automatically by operation of the Bankruptcy Code – there is no remedy of "contempt" for their violation; See, *In re Rimsat, Ltd.*, 208 B.R. 910 (Bankr. N.D.Ind., Fort Wayne Division, 1997); *United States v. Dowell*, 257 F.3d 694, 699 (7th Cir. 2001). However,

the matters sought to be addressed by the plaintiff have properly been placed before the Court by means of an adversary proceeding. The nature of the remedies for violation of 11 U.S.C. § 362(a) are specifically provided by 11 U.S.C. § 362(h). There is no counterpart to § 362(h) with respect to violation of 11 U.S.C. § 524; however, the Court deems available remedies for alleged violations of § 524(a)(2) to be requested of the Court: the remedy of contempt, however, is not among them.

The last paragraph of the complaint appears to seek an order of the Court enjoining a state court. The plaintiff is advised that the United States Bankruptcy Court has no jurisdiction or authority to issue such an order; this Court can only enjoin individuals or entities who may be proceeding in state court.

With the foregoing stated, the Court deems the document filed by Ronald Fugate on May 15, 2006 to constitute an answer to the plaintiff's complaint. This "answer" was filed after the deadline for its filing, but was prior to the Court's action on the plaintiff's motion for default. The Court therefore deems it appropriate to conduct a hearing on the plaintiff's motion for default judgment in light of the tendered "answer".

IT IS ORDERED that a hearing will be held on **June 28, 2006, at 9:00 A.M.** with respect to the Motion for Default Judgment filed by the plaintiff on May 1, 2006. The defendant Ronald Fugate is hereby advised that his failure to appear at that hearing, either in person or by counsel, may result in the entry of a judgment by default against him.

Dated at Hammond, Indiana on May 30, 2006.

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

Distribution:

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