UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:	)	
	)	
KATHLEEN ELLEN SCHWERTFEGER,	)	CASE NO. 06-61276 JPK
	)	Chapter 13
Debtor.	)	
**********		
KATHLEEN ELLEN SCHWERTFEGER,	)	
	)	
Plaintiff,	)	
	)	
v.	)	ADVERSARY NO. 06-6163
	)	
ROCHELL HANSEN,	)	
	)	
Defendant.	)	

ORDER REGARDING MOTION FOR EXPEDITED HEARING
ON THE AMENDED TURNOVER COMPLAINT

This adversary proceeding was initiated by a complaint filed on July 3, 2006. The complaint is titled "Emergency Turnover Complaint", and it appears to request relief in the form of an order of the Court requiring turnover of an alcoholic beverage permit to the plaintiff/debtor. Summons was issued on July 5, 2006; as of July 11, 2006 at 1:00 p.m., a certificate of service with respect to service of process has yet to be filed – understandably so. On July 5, 2006, the plaintiff filed an Amended Turnover Complaint, and also filed a document entitled "Motion for Expedited Hearing on the Amended Turnover Complaint". It is this motion which is the focus of this order.

The prayer for relief of the motion is that the Court "set an expedited hearing for equitable relief upon the Amended Complaint for Turnover, and for all other just and proper relief". This prayer is phrased essentially in terms of seeking a final trial on the merits of the case as framed by the Amended Turnover Complaint – apparently in advance of evidence that the defendants have been properly served having been filed of record, and in advance of the deadline provided for the defendants to file an answer or other response to the amended

complaint. The Court will not accommodate such a request.

What can be accommodated with respect to emergency relief, if a request for the same is properly made, is a hearing to determine whether or not a temporary restraining order or a preliminary injunction should be issued pending determination of the merits of the adversary proceeding. In such a hearing, of course, no determination is made regarding the final merits of the case; rather, the issues revolve around whether or not preliminary injunctive relief should be granted in order to avoid prejudice to the petitioning party before the merits of a controversy can be determined. The plaintiff's motion is not phrased in terms of seeking a hearing for a temporary restraining order or for a preliminary injunction.

IT IS ORDERED that the Motion for Expedited Hearing on the Amended Turnover Complaint is denied, without prejudice to the plaintiff's filing of a motion properly presenting a request for preliminary relief to the Court, together with a separate motion requesting an expedited hearing on the motion for preliminary relief – in accordance with Fed.R.Bankr.P. 7065/Fed.R.Civ.P. 65 and with N.D.Ind.L.B.R. B-7065-1.

Dated at Hammond, Indiana on July 11, 2006.

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

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Attorneys of Record