

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

IN RE: )  
)  
DENISE M. O'CONNOR, ) CASE NO. 05-65499 JPK  
) Chapter 7  
) Debtor. )  
\*\*\*\*\* )  
STACIA L. YOON, TRUSTEE, )  
)  
Plaintiff, )  
)  
v. ) ADVERSARY NO. 06-6048  
)  
MICHAEL CULLEN, )  
)  
Defendant. )

ORDER FOR HEARING REGARDING  
MOTION FOR DEFAULT JUDGMENT

On July 12, 2006, the plaintiff, by counsel, filed a Motion for Judgment, seeking a default judgment pursuant to Fed.R.Bankr.P. 7055/Fed.R.Civ.P. 55.

The complaint seeks to obtain turnover of documents from the defendant, as contrasted to the turnover of some form of tangible or intangible property which might comprise property of the bankruptcy estate. Fed.R.Bankr.P. 7001(1) provides that an adversary proceeding may be undertaken "to recovery money or property", a provision which the Court deems to be exclusive of a proceeding to obtain documents. In the Court's view, 11 U.S.C. § 542(e) is the proper mechanism to obtain the documents sought in this adversary proceeding. One might say that the Court is quibbling over a matter of form over substance, especially in light of the fact that the protections accorded a defendant in an adversary proceeding, including the ability to file an answer and affirmative defenses, are more expansive than are the procedures with respect to a motion under 11 U.S.C. § 542(e). That might not be a bad argument. However, the Court is ever-mindful of the relatively strict adherence to rules of procedure in bankruptcy cases evidenced by decisions of the United States Court of Appeals for the Seventh Circuit, and the

Court is loathe to adopt procedures other than those expressly provided for by the Bankruptcy Code and its applicable rules.

IT IS ORDERED that a hearing will be held on **August 18, 2006, at 9:00 A.M.** pursuant to Fed.R.Bankr.P. 7055/Fed.R.Civ.P. 55(b)(2) to address the foregoing matters.

Dated at Hammond, Indiana on July 28, 2006.

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

Distribution:  
Attorneys of Record