

THE SUPREME COURT OF OHIO

IN RE:

DOVE LE MOOR BEY-RAZIN,
ROSE EL.

Plaintiff(S)

CASE NO. 2017-1358

FILED

OCT 05 2017

CLERK OF COURT
SUPREME COURT OF OHIO

RECEIVED

OCT 05 2017

CLERK OF COURT
SUPREME COURT OF OHIO

TRUSTEE'S MOTION TO DISMISS
KEITH L. RUCINSKI, CHAPTER 13
BANKRUPTCY TRUSTEE, AS A PARTY
TO THIS ACTION AND TO DISMISS
SPOUSE OF KEITH RUCINSKI AS A
A PARTY TO THIS ACTION, BOTH IN
ANY OFFICAL CAPACITY AND
PERSONALLY

Now comes Keith L. Rucinski, the Chapter 13 Standing Bankruptcy Trustee, and hereby requests that the Court dismiss the Trustee (and his spouse) as a party to this action. The Trustee does not understand why his spouse is referenced generically in the complaint. The plaintiff has named all respondents and referenced their spouses generically.

The complaint names the respondents in both their official and personal capacity. Therefore the Trustee is requesting dismissal of Keith L. Rucinski and his "spouse" both in any official capacity and personally.

Although the plaintiff's papers are confusing, the respondents are collectively referred to as "European Foreign Colonists". The plaintiff is seeking \$75,000 from each respondent and their spouses for undefined punitive and compensatory damages. The papers filed by the plaintiff do not state a cause of action.

The Trustee and his "spouse" do not know the plaintiff personally. The only interaction the Trustee had with the plaintiff is serving as the assigned Trustee in the plaintiff's Chapter 13 bankruptcy case. The plaintiff's bankruptcy case was dismissed by the U.S. Bankruptcy Court in Akron, Ohio for the plaintiff's failure to make the required payments into her bankruptcy case.

The Trustee is requesting to be dismissed from this case as Trustees cannot be sued in state court without the prior permission of the bankruptcy court. See Barton v. Barbour, 104 U.S. 126, 26 L. Ed. 672 (1881); In re DeLorean Motor Co., 991 F.2d 1236, 1240 (6th Cir. 1993) In re Crown Vantage, Inc., 421 F.3d 963, 970 (9th Cir. 2005); Muratore v. Darr, 375 F.3d 140, 146 (1st Cir. 2004); In re Lehal Realty Assocs., 101 F.3d 272 (2d Cir. 1996); Byrd v. Hoffman, 417 B.R. 320, 326 (D. Md. 2008).

If the plaintiff fails to seek approval from the bankruptcy court, a suit against the Trustee in another court must be dismissed for lack of subject matter jurisdiction. See Carter v. Rodgers, 220 F.3d 1249,1253 (11th Cir 2000); Barton v. Barbour, 104 U.S. 131, 26 L.Ed. 672 (1881).

The Trustee further asserts that the Trustee has immunity from state court suits while serving as Trustee. See Mosser v. Darrow, 341 U.S. 267, 274, 71 S. Ct. 680, 683, 95 L. Ed. 927 (1951); In re Mailman Steam Carpet Cleaning Corp., 196 F.3d 1, 8 (1st Cir. 1999); Yadkin Valley Bank & Trust Co. v. McGee, 819 F.2d 74, 76 (4th Cir. 1987); Lonneker Farms, Inc. v. Klobucher, 804 F.2d 1096, 1097 (9th Cir. 1986); Boullion v. McClanahan, 639 F.2d 213, 214 (5th Cir. 1968).

This derived judicial immunity is not limited to actions for damages, but also extends to requests for injunctive relief. Mullis v. U.S. Bankr. Ct., 828 F.2d 1385, 1394 (9th Cir. 1987). "[A]bsolute immunity bars a suit at the outset and frees the defendant official of any obligation to justify his actions." Gray v. Bell, 712 F.2d 490, 495-96 (D.C. Cir. 1983).

The Plaintiff also lists other actors and at least one state court judge with the same demands. The Trustee is only aware of the bankruptcy proceeding and has no knowledge on how the other actor(s) have or have not interacted with the plaintiff.

As outlined below, the plaintiff is seeking to appeal the dismissal of her bankruptcy case though a complaint with the Ohio Supreme Court. The plaintiff has named several respondents in her complaint, including the U.S. Bankruptcy Judge in her case (The Honorable Alan Koschik) the assigned Trustee in her case (Keith L. Rucinski) and federal employee(s) of the Clerk of the U.S. Bankruptcy Court (Teresa Underwood and Marie Randolph).

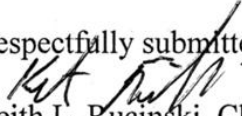
1. The debtor(s) filed her pleading with the Ohio Supreme Court on or about September 27, 2017 listing various public officials as respondents.
2. Keith L. Rucinski serves as the Chapter 13 Bankruptcy Trustee having been appointed pursuant to 28 USC § 586.
3. Pursuant to that appointment, Keith L. Rucinski serves as the Chapter 13 Standing Bankruptcy Trustee for all Chapter 13 cases filed with the U.S. Bankruptcy Court in Akron, Ohio.
4. Pursuant to 28 USC § 1334, U.S. District Courts have original and exclusive jurisdiction of all cases under title 11 (United States Code – Bankruptcy Code). Bankruptcy Courts serve as a unit of the District Court pursuant to 28 USC § 151.
5. The plaintiff in the case before the Ohio Supreme Court did file a Chapter 13 bankruptcy case on or about April 12, 2017 in the Northern District of Ohio, at Akron, case number 17-50858.
6. During the bankruptcy, the plaintiff used the name Rose Lewis.
7. Pursuant to 11 USC § 303, a filing of Chapter 13 bankruptcy can only be done voluntarily.
8. In the bankruptcy case, the plaintiff is referred to as a "debtor" as that term is defined in 11 USC § 101(13)
9. The purpose of Chapter 13 is to help those in financial distress attempt to save their assets, usually their home, by proposing to make up any missed payments due on their

- home, though a Chapter 13 plan over a three to five year time frame. The debtor is required to make monthly plan payments to the Trustee. The Trustee is required to distribute those funds to creditors as ordered by the U.S. Bankruptcy Court.
10. Unlike other bankruptcy chapters, Chapter 13 does not involve the liquidation of property.
 11. Debtors must propose their own plans and payments subject to review by the Trustee for compliance with bankruptcy law and acceptance by the debtor's creditors. Ultimately, only the US Bankruptcy Court has the authority to approve a bankruptcy case or dismiss a bankruptcy case.
 12. The debtor proposed to make monthly plan payments of \$828 for 37 months.
 13. The debtor's plan listed \$17,955.36 due on a land contract for property located at 954 E. Archwood Avenue, Akron, Ohio 44306.
 14. On June 15, 2017, the debtor attended the 341 meeting of creditors which is a required hearing with the Trustee pursuant to 11 USC § 341.
 15. At the time of the 341 meeting, the Trustee provides debtor(s) a status of their case. A copy of that status, signed by the debtor, is attached hereto, made a part hereof, and marked Exhibit "A".
 16. The Trustee made three observations:
 - a. Given the debtor's low monthly budget, the Trustee suggested that the debtor lower her monthly plan payments and extend her plan up to 60 months to help her be successful in her case and have sufficient funds to meet her monthly living expenses.
 - b. That the debtor needed to take the Financial Management Course required by 11 USC § 111 to earn a discharge (successful completion of her bankruptcy case). Note: The Trustee in Akron provides on line and in class courses to help debtors meet this requirement without charge.
 - c. That the attorney in the case needed to file the rights and responsibilities with the U.S. Bankruptcy Court (a disclosure of obligations of the parties).
 17. Subsequent to the 341 meeting the debtor decided to represent herself without counsel.
 18. The debtor made no monthly plan payments as required by 11 USC § 1326.
 19. Pursuant to 11 USC § 1302, the Trustee is directed to file a motion to dismiss with the U.S. Bankruptcy Court for a debtor's failure to make plan payments.
 20. The Trustee filed a motion to dismiss the debtor's case for non-payment. The motion was filed on July 24, 2017. A copy of that motion is attached hereto, made a part hereof, and marked Exhibit "B".
 21. On August 3, 2017, the debtor demanded copies of the bankruptcy judge's tax returns, oath of office, and delegation of authority. A copy of the debtor's demands is attached hereto, made a part hereof, and marked "Exhibit C".
 22. A copy of the order of dismissal entered by the U.S. Bankruptcy Court on or about September 1, 2017 is attached hereto, made a part hereof and marked as "Exhibit D".
 23. The Trustee or his "spouse" does not know the plaintiff in the action before the Ohio Supreme Court personally.
 24. The Trustee's "spouse" is not affiliated with the case in any manner.

25. The only interaction the Trustee had with the plaintiff is serving in his official capacity as the Chapter 13 Standing Bankruptcy Trustee in the debtor's bankruptcy case.
26. The plaintiff has filed a complaint of mandamus pursuant to Ohio Revised Code Section 2731.04, but has failed to state a cause of action.
27. The Court may dismiss the complaint in its entirety or a party to the complaint for the failure to state a cause of action pursuant to Ohio Civ. R. 12 (B)(6).
28. The Trustee respectfully submits for the reasons stated above, that the Ohio Supreme Court does not have subject matter jurisdiction over the U.S. Bankruptcy Court or Trustees. For this reason, the Trustee and his "spouse" requests to be dismissed from this action pursuant to Ohio Civ. R. 12(B)(1).
29. The Trustee respectfully submits for the reasons stated herein that the Trustee has immunity from state court complaints and immunity from requests for injunctive relief. For this reason the Trustee and his "spouse" requests to be dismissed from this action pursuant to Ohio Civ. R. 12(B)(2).

WHEREFORE, Keith L. Rucinski, the Chapter 13 Standing Bankruptcy Trustee and on behalf of his "spouse" requests the Ohio Supreme Court dismiss the Trustee and his "spouse" as parties to this action both in any official capacities and individually for all of the reasons stated herein.

Respectfully submitted,


Keith L. Rucinski, Chapter 13 Trustee
Ohio Reg. No. 0063137
One Cascade Plaza, Suite 2020
Akron, OH 44308
Tel 330.762.6335
Fax 330.762.7072

CERTIFICATE OF SERVICE

I hereby certify that on October 4, 2017, a copy of the foregoing was sent via Regular Mail to:

Dove Le Moor Bey-Razin, Rose El.
954 East Archwood Ave.
Akron, OH 44306

Summit County Court of Common Pleas
209 South High St.
Akron, OH 44308

Daniel Horba and spouse
53 University Ave.
Akron, OH 44308

The Honorable Alan M. Koschik and spouse
2 South Main St.
Akron, OH 44308

Teresa D. Underwood and spouse
2 South Main St.
Akron, OH 44308

United States Bankruptcy Court
2 South Main St.
Akron, OH 44308

Davenport Financial, LLC
50 Public Square #2626
Cleveland, OH 44113

Timothy Winetrow and spouse
1300 East Ninth St.
Cleveland, OH 44114

The Honorable Tammy O'Brien and spouse
209 South High Street
Akron, OH 44308

State of Ohio
77 South High St.
Columbus, OH 43215-6117

Keith Rucinski and spouse
1 Cascade Plaza
Akron, OH 44308

Marie C. Randolph and spouse
2 South Main St.
Akron, OH 44308

Woods Cove II, LLC
1300 East Ninth St.
Cleveland, OH 44114

Lakeside REO Ventures
1213 Prospect Ave., Suite 30
Cleveland, OH 44115

/s/ Keith L. Rucinski
Office of the Chapter 13 Trustee

EXAMINATION SHEET - CHAPTER 13 FIRST MEETING OF CREDITORS

NAME: ROSE LEWIS DATE: JUNE 15, 2017
COUNSEL: MICHAEL MORAN CASE NO: 17-50858

☐ The First Meeting of Creditors has been concluded.

☒ The First Meeting of Creditors has been adjourned for the following reasons:

NOTICE

If you and/or your attorney do not resolve the items below by 7-13-17 at 8:30 AM, PM, the Trustee will ask the court to dismiss your case. Dismissal could result in state court foreclosure and garnishment of your wages. Under the new bankruptcy law, this case may be your only opportunity to save your home and reorganize your debt.

<input type="checkbox"/> Debtor(s) did not appear	<input type="checkbox"/> Attorney did not appear
<input type="checkbox"/> Rescheduled by attorney	<input type="checkbox"/> Chapter 13 payment
<input type="checkbox"/> Tax returns	<input type="checkbox"/> Paystubs
<input type="checkbox"/> Financial statements	<input type="checkbox"/> Proof of auto & homeowner's insurance
<input type="checkbox"/> Trustee to review financial statements	<input type="checkbox"/> Bank Statements
<input type="checkbox"/> Trustee filing motion to dismiss	<input type="checkbox"/> To allow the Trustee time to review, items must be filed by <u> </u>
<input type="checkbox"/> Schedules must be amended for: <u> </u>	

☒ Plan must be amended for: Review plan - Pays can be lower and extend the months.

☒ ~~Means test must be amended for:~~ Take Financial Management within 30 days.

Other: Need Rights & Resp. filed with Court

ATTORNEY FOR DEBTOR(S)

Rose Lewis
Debtor

Debtor

CHAPTER 13
TRUSTEE
KEITH L. RUCINSKI

One Cascade Plaza
SUITE 2020
AKRON, OHIO 44308

(330) 762-6335
FAX: (330) 762-7072

**THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO**

IN RE:

ROSE ETTA LEWIS

Debtor(s)

)
) CHAPTER 13
) CASE NO: 17-50858
)
) ALAN M. KOSCHIK
) BANKRUPTCY JUDGE
)
) TRUSTEE'S MOTION TO DISMISS
) AS 341 FIRST MEETING OF
) CREDITORS CANNOT BE
) CONCLUDED AND 30 DAY
) OBJECTION PERIOD

Now comes Keith L. Rucinski, the Chapter 13 Trustee, and hereby moves this Court for an order of dismissal pursuant to 11 USC § 1307 (c)(1) and Rule 4002. The Debtor(s) failure to timely supply necessary information has hindered the Trustee's ability to administer the case and has caused unnecessary delay by the Debtor(s) which is prejudicial to creditors as the Debtor(s) is enjoying the automatic stay provided by 11 USC § 362 while hindering repayment to creditors by failing to provide necessary information to conclude the 341 meeting. Until the 341 meeting is concluded the Trustee cannot recommend the case for confirmation. Creditors cannot be paid until the case is confirmed by the Court.

On **04/12/2017**, the above named Debtor(s) filed a petition for relief under Chapter 13 of the bankruptcy code.

The original date for the First Meeting of Creditors was **5/25/17**, and has been adjourned several times because the Debtor(s) and attorney for the Debtor(s) have failed to supply the Trustee with certain required information. The Debtor(s) and attorney for the Debtor(s) were instructed to provide the following information to the Trustee.

CHAPTER 13Keith L. Rucinski
Trustee1 Cascade Plaza
Suite 2020
Akron, Oh 44308

(330) 762-6335

Fax

(330) 762-7072

_____ Tax Returns

_____ Proof of auto insurance

_____ Financial Statements

_____ Proof of homeowners insurance

_____ Chapter 13 Payment

___X___ See Below for issues regarding
Chapter 13 Plan

_____ Pay stubs

**- NEED RIGHTS AND RESPONSIBILITY FILED WITH COURT
- NEED A CHAPTER 13 PAYMENT**

WHEREFORE, the Chapter 13 Trustee hereby moves this Court for an order of dismissal of the above Chapter 13 case for all the reasons stated herein.

NOTICE

Pursuant to 11 USC § 102, unless a party in interest requests a hearing on this pleading, the Court may grant the relief requested without a hearing or further notice.

Parties that want to be heard on this matter must file a response to this pleading within 30 days from the date in the below certificate of service.

The response must be filed with the US Bankruptcy Court at:

US Bankruptcy Court
2 South Main Street
455 John F. Seiberling Federal Building
Akron, Ohio 44308-1810

In addition to filing a response with the Court, parties requesting a hearing must serve all parties in the below certificate of service either through the mailing address provided or, where applicable, by the Court's Electronic Filing System (ECF).

Respectfully submitted,

/s/ Keith L. Rucinski

Keith L. Rucinski, Chapter 13 Trustee
Ohio Reg. No. 0063137
One Cascade Plaza, Suite 2020
Akron, OH 44308
Phone: 330.762.6335
Fax: 330.762.7072
Email: krucinski@ch13akron.com

CHAPTER 13

Keith L. Rucinski
Trustee
1 Cascade Plaza
Suite 2020
Akron, Oh 44308
(330) 762-6335
Fax
(330) 762-7072

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent to:

**ROSE ETTA LEWIS
954 E. ARCHWOOD
AKRON, OH 44306
(Via Regular Mail)**

MICHAEL MORAN, ATTORNEY(via ECF)

Keith L. Rucinski, Chapter 13 Trustee(via ECF)

Office of the US Trustee(via ECF)

Date of Service: **7/24/2017**

By: **Tammy Rowe**
Office of the Chapter 13 Trustee

CHAPTER 13

Keith L. Rucinski
Trustee
1 Cascade Plaza
Suite 2020
Akron, Oh 44308

(330) 762-6335
Fax
(330) 762-7072

Affidavit

Writ of Discovery

August 1, 2017(c.c.y.) 1438(M.C.Y.)

Ex Rel: ROSE ETTA LEWIS

Propria Persona: Dove Le Moor Bey

Case No. 17-50858

Magistrate: ALAN M. KOSCHIK

FILED
2017 AUG -3 PM 12:29
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
AKRON

Regarding case number 17-50858 I formerly known as Ex Rel: ROSE ETTA LEWIS in Propria Persona: Dove Le Moor Bey am requesting the following documents: 1040, 1040V, 1040A, 1099 and EIN#, 1099A and 1099 OID, Indemnity bond number, provider (carrier of bond) of bond number and contact telephonic number of provider along with your (ALAN M. KOSCHIK) oath of office, delegation of authority order, bid bond number and All receipts associated with such (case number 17-50858).

Response shall be forwarded via United States certified mail at c/o 954 e Archwood ave Summit county territory of Ohio state Republic, zip exempt [44306] via United States Republic, North America, Non-Domestic, Non-Resident.

Additional contact may be made by telephonic number (330)-388-5677 between the hours of 8-11 a.m. Eastern Standard Time Monday thru Wednesday.

Dove Le Moor Bey

Dove le Moor Bey

Ex Rel: ROSE ETTA LEWIS

In propria persona A Divine Flesh and Blood Natural Person

All rights reserved forever without prejudice or recourse.

This document was signed electronically on September 1, 2017, which may be different from its entry on the record.

IT IS SO ORDERED.

Dated: September 1, 2017



ALAN M. KOSCHIK
U.S. Bankruptcy Judge

THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

In Re:

Rose Etta Lewis

DEBTOR

)
)
) CHAPTER 13
) CASE NO: 17-50858
)
)
) ALAN M. KOSCHIK
) BANKRUPTCY JUDGE
)
)
) ORDER OF DISMISSAL
)
)

.....

CHAPTER 13
Keith Rucinski,
Trustee
One Cascade Plaza
Suite 2020
Akron, Oh 44308
(330) 762-6335
Fax
(330) 762-7072
Email
krucinski@chl3akron.com

On or about July 24, 2017, the Chapter 13 Trustee caused to be filed a Motion to Dismiss Case. Docket No. 30. The Trustee's motion is incorporated herein as if fully rewritten.

The Trustee's Motion was before the Court on August 31, 2017.

At the August 31st hearing, the debtor failed to appear. Counsel for the Chapter 13 Trustee appeared and reported that the debtor had failed to make any plan payments. Given that the debtor failed to appear at the hearing and failed to

make any plan payments in the case, the Court granted the Motion, dismissing the Case.

It is SO ORDERED.

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Submitted by:

/s/ Joseph A. Ferrise
Keith L. Rucinski, Chapter 13 Trustee
Ohio Reg. No. 0063137
Joseph A. Ferrise, Esq.
Ohio Reg. No. 0084477
One Cascade Plaza, Suite 2020
Akron, Ohio 44308
T: 330.762.6335
F: 330.762.7072
E: jferrise@ch13akron.com

cc:

Rose Etta Lewis
954 E. Archwood
Akron, OH 44306
Debtor
(via Regular U.S. Mail)

Michael J. Moran, Esquire
(via ECF at mike@gibsonmoran.com)

Amy Good, Esquire
Office of the U.S. Trustee
(via ECF at Amy.L.Good@usdoj.gov)

Keith L. Rucinski, Chapter 13 Trustee
(via ECF at krucinski@ch13akron.com)

CHAPTER 13
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