



Opinion 532

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Opinion Title: 07/06/2009 UNPUBLISHED In re Lazerus, Case No. 05-34150, Judge Thurman.

Body: In this chapter 7 case, the Court ruled on the appropriate manner to object to the form of order submitted for the Court's signature, and in what instances a Trustee may surcharge exemptions pursuant to 11 U.S.C. § 522(k). The Trustee filed several motions attempting to modify the substance of a prior ruling by this Court, and to compel the turnover of additional records and funds, all after having submitted the Trustee's Final Report. The Court concluded that an objection as to the form of the order is not the mechanism by which the substance of the Court's prior ruling should be challenged.

Additionally, the Court held that the Trustee could not surcharge the Debtor's exempted wages under § 522(k) after collecting those unpaid wages from the Debtor's employer, without a showing that there has been an avoidable transfer. The Court finally concluded that it had appropriately ruled on the surcharge issue at a prior hearing, where albeit the Trustee had not formally pled the issue it had nevertheless argued the issue at a hearing on the Debtor's objection to the Trustee's final report.

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Judge: [Judge William T. Thurman](#) [2]

Date: Monday, July 6, 2009

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