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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH

UNPUBLISHED OPINION

In re	)	Bankruptcy Case No. 82C-02143
	)	
CHARLES LAMBERT and	)	
CAROLE LAMBERT,	)	
	)	
Debtors.	)	
	)	
CHARLES LAMBERT and	)	
CAROLE LAMBERT,	)	
	)	
Plaintiffs.	)	Civil Proceeding No. 83PC-0112
	)	
-vs-	)	
	)	
PETTY MOTOR LEASE, INC., a	)	
Utah corporation, NUPETCO	)	
ASSOCIATES, a Utah limited	)	
partnership, and NEUMAN C.	)	
PETTY, an individual,	)	
	)	
Defendants.	)	District Court No. C83-1334A

MEMORANDUM OPINION AND ORDER

APPEARANCES

Scott A. Call, MOYLE & DRAPER, Salt Lake City, Utah, attorneys for Petty Motor Lease, Inc., Nupetco Associates, and Neuman C. Petty; Ronald C. Barker, Salt Lake City, Utah, for the debtors; and Judith A. Boulden, BOULDEN & GILLMAN, Salt Lake City, Utah, trustee pro se.

### FACTS OF THE CASE

On August 25, 1982, Charles E. Lambert and Carole Ann Lambert filed a joint petition under Chapter 13. Their schedules show unsecured debts totaling \$146,471.86. However, out of this total, the debtors subtracted disputed debts in the sum of \$69,161.00, which leaves the sum of \$77,310.78, representing their undisputed, noncontingent, liquidated, unsecured debt. It is upon this figure, \$77,310.78, that the debtors predicated their eligibility for relief under Chapter 13, in accordance with the requirements of 11 U.S.C. 109(e).

On December 29, 1982, creditors Petty Motor Lease and Nupetco Associates, whose claims the debtors dispute, filed a Motion to Dismiss or Convert the case, under Code Section 1307, on the ground that the debtors are ineligible for relief under Chapter 13 because their total unsecured, noncontingent liquidated debt exceeds the limit of \$100,000.00 set by Section 109(e). These creditors assert that the debtors owe an additional \$48,330.85 to Petty Motor Lease and an additional \$61,130.97 to Nupetco Associates, and that the grand total of debtors' unsecured debt is \$186,772.60.

The discrepancy between the debtors' and creditors' totals was, in part, the subject of state court litigation in the Third Judicial District Court of Salt Lake County in which Petty Motor Lease and Nupetco Associates are plaintiffs and the debtors are defendants. That action was stayed by virtue of the filing of the joint Chapter 13 petition on August 25, 1982.

On December 29, 1982, Petty Motor Lease and Nupetco Associates filed their Motion to Dismiss or Convert to a Chapter 7. On January 19, 1983, the debtors filed a response to that motion, accompanied by the affidavit of Charles E. Lambert. On February 1, 1983, Petty moved to strike the affidavit of Lambert, and on February 2, 1983, Petty filed the counter-affidavit of Neuman C. Petty. A Reply Memorandum was filed by Petty on February 2, 1983, together with the affidavit of Heber Ridd. On February 4, 1983, the debtors filed the supplemental affidavit of Charles E. Lambert; and on that same date, a hearing was held before this Court.

Also on February 4, 1983, the debtors filed an adversary proceeding against Petty, seeking a declaratory judgment establishing the existence between Petty and the debtors of a contract that, effectively, settled and discharged all of Petty's claims against the debtors, and further alleging against Petty causes of action for breach of contract, unjust enrichment, and conversion.

On February 22, 1983, Petty filed, in that proceeding, a Motion to Dismiss, grounded on an objection to this Court's post-Marathon jurisdiction.

Because the debtors demanded a jury trial of the facts raised in the adversary proceeding, this Court, on November 25, 1983, entered a proposed pre-trial order therein and transferred that proceeding to the United States District Court for the District of Utah, Central Division, for trial. On January 5, 1984, that court re-transferred the case to this Court for disposition of the Motion to Dismiss for lack of jurisdiction.

### DECISION

In response to the decision of the United States Supreme Court in the case of Northern Pipeline Construction Co. v. Marathon Pipe Line Co., 458 U.S. 50, 102 S.Ct. 2858, 73 E. Ed. 2d 598 (1982), the United States District Court for the District of Utah promulgated its Interim Rule of December 24, 1982, which supplemented "existing law and rules in respect to the authority of the bankruptcy judges of this district to act in bankruptcy cases and proceedings until Congress enacts appropriate remedial legislation . . ." On April 11, 1984, that Rule, which was meant to rectify any defect in the jurisdiction of the bankruptcy court, was continued in force and effect until further order of the district court. Under that Rule, all civil proceedings arising in cases under Title 11 are referred to the bankruptcy judges. The validity of the Interim Rule was upheld in this district in the case of In re Color Craft Press, Ltd., 27 B.R. 962 (Bky. D. Utah 1983), and in the Tenth Circuit in the case of Oklahoma Health Services Federal Credit Union v. Webb, 726 F.2d 624 (10th Cir. 1984); and Matter of Colorado Energy Supply, Inc., No. 83-1610, slip op. (10th Cir. Mar 6, 1984).

Pursuant to this Rule, the orders and judgments of bankruptcy judges in bankruptcy proceedings (as opposed to "related proceedings") were effective upon entry by the Clerk of the Bankruptcy Court. Subdivision (d)(3)(A) of the Interim Rule expressly lists contested and uncontested matters concerning the administration of the estate and proceedings dealing with the allowance of and objection to claims against the estate. This present adversary proceeding, dealing with the eligibility of Chapter 13 debtors, is clearly a matter concerning the administration of the estate, touching upon the allowance of claims or

debts within the meaning of the Interim Rule. Such proceedings were, therefore, bankruptcy proceedings over which this Court clearly had jurisdiction under the Interim Rule.

Moreover, with the passage of the 1984 Amendments to the Bankruptcy Reform Act, the Court continues to have jurisdiction over this matter under 28 U.S.C. 157, pursuant to which this proceeding is a "core matter" as that term is defined in 28 U.S.C. 157(b)(1) and exemplified in 28 U.S.C. 157(b)(2)(A), -(B), -(J), and -(O). For the reasons set forth herein,

IT IS HEREBY ORDERED that defendant's Motion to Dismiss on grounds of lack of jurisdiction be, and hereby is, dismissed.

DATED this 20 day of September, 1984.

BY THE COURT:

  
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GLEN E. CLARK  
UNITED STATES BANKRUPTCY JUDGE

Rule 6003(c) Designation  
 The Clerk is directed to enter a copy of this order into the Court's Order Book.  
 Entry into Order Book not necessary.