

In the United States Bankruptcy Court

for the Northern District of Iowa

LYLE R. FLETCHALL
DORIS L. FLETCHALL

Bankruptcy No. L90-01910W

Debtor(s).

Chapter 7

LYLE R. FLETCHALL
DORIS L. FLETCHALL

Adversary No. 94-6065KW

Plaintiff(s)

vs.

THE STATE OF IOWA

Defendant(s)

ORDER

The above-captioned matter came on for hearing in Fletchall v. State of Iowa (94-6052KW) on July 8, 1994. Hearing was held by telephone conference call with the Plaintiff Lyle R. Fletchall appearing pro se and the State of Iowa (Iowa Department of Revenue) appearing by Attorney Dale Baker.

The specific matter before the Court for hearing on July 8, 1994 was a Scheduling Conference in this adversary proceeding filed by the Plaintiff on May 4, 1994. However, in addition to the Scheduling Conference, additional matters have confused this record and the Court enters this Order to resolve all of these administrative matters.

As indicated, this adversary is captioned Lyle R. Fletchall and Doris L. Fletchall v. State of Iowa (Iowa Dept. of Revenue and Finance) with File No. 94-6052KW. This adversary was filed May 4, 1994. Also on file in this Court is an adversary proceeding captioned Lyle R. Fletchall and Doris L. Fletchall v. State of Iowa (Iowa Dept. of Revenue and Finance) with File No. 93-6165KW. This adversary was filed October 12, 1993. In addition to the two foregoing adversaries, a third complaint was apparently filed by Mr. Fletchall on May 31, 1994 in this Court. It contains the same caption of Lyle R. Fletchall and Doris L. Fletchall v. State of Iowa (Iowa Dept. of Revenue and Finance) and was given a temporarily assigned number of 94-6065KW. Confusion arose because of the assignment of numbers and the fact these adversary proceedings are all very similar in the relief sought. They all relate to Iowa taxes and their dischargeability. Because of this similarity, apparent confusion arose and those documents numbered under 94-6065KW were placed partly in File No. 93-6165KW and File No. 94-6052KW.

A review of all of these matters now reflect that, for the purposes of administrative clarity, those documents bearing the caption Lyle R. Fletchall and Doris L. Fletchall v. State of Iowa (Iowa Dept. of Revenue and Finance) and bearing File No. 94-6065KW should be segregated and placed in a separate file containing only those documents. It is the Court's understanding that these can be identified and removed from the other two existing files. This would include the original complaint

filed May 31, 1994 as well as documents 7 & 8 in File No. 94-6052KW as well as any other identifiable documents including this Court Order. The file should then be docketed separately and proceed toward determination on the merits. The State of Iowa has filed a Motion to Dismiss which the Court construes to apply to 94-6065KW as well as 94-6052KW.

The Court has previously considered a Motion for Summary Judgment in 93-6165KW. That Motion for Summary Judgment has been granted and a Motion for New Trial and/or Amendment of Judgment has been denied. The Order denying reconsideration was entered on July 6, 1994. As such, File No. 93-6165KW has no matters pending.

As indicated, the specific matter before the Court on July 8, 1994 was a Scheduling Conference relating to the still pending files. Between the filing of the adversaries and the setting of the Scheduling Conference, the Defendant, State of Iowa, has filed a Motion to Dismiss and a Motion for Judgment on the Pleadings which, as the Court has previously indicated, the Court determines to apply to both of the remaining existing files which are 94-6065KW and 94-6052KW.

After discussion with the parties, the Court concludes that no Scheduling Order should be entered at this time until the Motion to Dismiss and the Motion for Judgment on the Pleadings is resolved. As such, the Court concludes that the Scheduling Order will be postponed and the Motion to Dismiss and the Motion for Judgment on the Pleadings will be set for hearing.

WHEREFORE, no further Orders are necessary in 93-6165KW as a final Order has been entered in that file.

FURTHER, the Clerk is requested to isolate and place in a separate numbered file those documents which are designated as 94-6065KW.

FURTHER, the Scheduling Conference scheduled July 8, 1994 in file number 94-6052 is continued and will be subsequently reset for hearing.

FURTHER, the Motion to Dismiss and Motion for Judgment on the Pleadings filed by the State of Iowa will be construed to be applicable to 94-6052KW and 94-6065KW.

FURTHER, the Motion to Dismiss and Motion for Judgment on the Pleadings are set for the **12th** day of **August, 1994** at **9:30 a.m.** for 1/2 hour by **TELEPHONIC CONFERENCE. ATTORNEY FOR DEFENDANT STATE OF IOWA IS TO INITIATE THE TELEPHONE CALL.** Parties should be ready and available to accept said call. The telephone number for Judge Kilburg's chambers is **(319) 365-9507**. **NOTE: THIS HEARING WILL BE TAPED ON ELECTRONIC RECORDING EQUIPMENT.**

FURTHER, briefs on the Motion to Dismiss and Motion for Judgment on the Pleadings shall be filed no later than one week prior to hearing.

SO ORDERED this 13th day of July, 1994.

Paul J. Kilburg
U.S. Bankruptcy Judge