IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TENNESSEE

In re FRANK C. PEASE, Debtor.	U.S. Bankr. Ct. District of Connecticut Case No. 93-53692 Chapter 7
JEFFERSON FINANCIAL SERVICES, INC., Plaintiff/Counterdefendant, v. FRANK C. PEASE, Defendant/Counterplaintiff.	Adv. Pro. No. 94-2126

M E M O R A N D U M

APPEARANCES:

EVANS & BEIER
Douglas R. Beier
818 W. First North Street
Morristown, TN 37816

Frank C. Pease, *Pro Se*
321 Bridgeport Avenue, Apt. 1
Milford, CT 06460

MARCIA PHILLIPS PARSONS
UNITED STATES BANKRUPTCY JUDGE

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This adversary proceeding presently consists of six counts by Jefferson Financial Services, Inc. ("JFS"), asserting the nondischargeablity of various indebtedness allegedly owed by the debtor, five counts by JFS challenging the right of the debtor to a discharge, and five counts by the debtor against JFS alleging, *inter alia*, bad faith by JFS and violations of "Federal Truth & Lending Laws" in its dealings with the debtor. Now in the discovery stage, disputes have arisen between the parties concerning a deposition of the debtor noticed by JFS for June 22, 1995, and a set of interrogatories submitted by the debtor to JFS. Pending before the court are the debtor's objection to plaintiff's notice of deposition, request for leave of the court by the debtor to serve interrogatories in excess of 25, both filed on June 16, 1995, the debtor's motion to cease intimidating, harassing and threatening correspondence filed on July 17, 1995, JFS's objection to debtor's second set of interrogatories and the request by debtor for leave of court to serve interrogatories in excess of 25, and JFS's motion to dismiss for failure to provide discovery, both filed on June 27, 1995. JFS also filed on June 27, 1995, a motion to dismiss the debtor's countercomplaint for failure to state a claim upon which relief can be granted, which the court will consider along with the discovery-related matters.

I. THE NOTICE OF DEPOSITION

JFS's notice of deposition of the debtor was served upon the debtor by mail on May 25, 1995, at the debtor's residence in Milford, Connecticut. That notice advised that the deposition would be taken on June 22, 1995, at the offices of JFS's counsel in Morristown, Tennessee. The notice further directed that the debtor:

> Bring all documents and records concerning all dealings and transactions with Jefferson Financial Services, Inc.; all documents and records from which you used to compile your bankruptcy schedules; copies of all bank statements and records, including cancelled checks for calendar years 1992-1995 inclusive; originals of all documents you claim support your allegations and defenses and all documents you intend to introduce at trial; copies of Federal Income tax returns for the years 1991-1994 (inclusive) including all schedules.

The debtor's objection to the notice of deposition states that JFS has not complied with Fed. R. Civ. P. 45 and 28 U.S.C. § 1821, he is unable to afford to travel to Tennessee for the deposition, and the notice is an attempt by JFS to harass him considering that discovery may be facilitated by other means including written interrogatories or a deposition conducted in Connecticut by JFS' Connecticut counsel.

JFS has moved to dismiss the debtor's countercomplaint for failure of the debtor to appear and give his deposition as noticed. Specifically, JFS contends that the debtor has objected to the notice of deposition without good cause since the court "previously

ordered that Frank Pease would be required to submit to a deposition in Tennessee," the debtor has filed a "specious objection" to the document requests included in the notice of deposition, and the debtor failed to appear at the deposition as noticed which resulted in JFS incurring court reporter fees, expenses by its attorney in preparing for the deposition, and other expenses associated with filing the motion to dismiss. In addition to seeking dismissal of the debtor's countercomplaint, JFS requests that it be awarded a default judgment against the debtor, and that it be granted attorney fees in the amount of $750 and costs of $45.

The debtor apparently contends that he is not required to give a deposition in Tennessee without first being subpoenaed pursuant to Fed. R. Civ. P. 45, as incorporated by Fed. R. Bankr. P. 7045, and compensated in accordance with 28 U.S.C. § 1821. The court initially observes that to take a party's deposition in a case, it is not necessary for the deposing party to subpoena the party to be deposed. *See, e.g., In re Honda*, 106 B.R. 209, 211 (Bankr. D. Haw. 1989) (notice for taking deposition is sufficient to compel the attendance of a witness who is a party to the action); *see also* 8A CHARLES A. WRIGHT & ARTHUR R. MILLER, FEDERAL PRACTICE AND PROCEDURE § 2106 (1994)(notice is sufficient to require a party's attendance at deposition). Indeed, Fed. R. Civ. P. 37(d), which is incorporated by Fed. R. Bankr. P. 7037, provides that the failure of a party to

appear for a deposition after being properly noticed is ground for sanctions under subdivision (b)(2)(A)(B) or (C) of Rule 37. Accordingly, the debtor's objection to the notice of deposition for failure of JFS to subpoena him to the deposition is without merit.

Secondly, the fees for witnesses as provided by 28 U.S.C. § 1821 are generally not allowable to parties to an action. *See Barber v. Ruth,* 7 F.3d 636, 646 (7th Cir. 1993)(as a general rule, parties may not normally collect witness fees); *Green Construction Co. v. Kansas Power & Light Co.*, 153 F.R.D. 670, 679 (D. Kan. 1994)(expenses of witnesses who are parties to litigation normally are not taxable as costs); *Morris v. Carnathan,* 63 F.R.D. 374, 377 (D. Miss. 1974)(court allowed witness fees to all who testified with exception of the parties); *Gillam v. A. Shyman, Inc.*, 31 F.R.D. 271, 273 (D. Alaska 1962)(witness fees in the federal court are not allowed to the parties to the action); *see also* 10 CHARLES A. WRIGHT & ARTHUR R. MILLER, FEDERAL PRACTICE AND PROCEDURE § 2678 (1994)(expenses of witnesses who are themselves parties normally are not taxable as costs). As a result, the court will not require JFS to tender witness fees to the debtor as provided by 28 U.S.C. § 1821 as a condition to taking the debtor's deposition.

Finally, the court will consider the fairness of requiring the debtor to travel to Tennessee from his residence in Connecticut to give his deposition. The underlying bankruptcy case was filed in Connecticut by the debtor and remains pending there. JFS

instituted this adversary proceeding against the debtor in that forum as well. However, JFS, over the debtor's objection, was thereafter successful in having the venue of the adversary proceeding transferred to this district upon the grounds that the debtor previously resided in Tennessee and the transactions which are the subject of the complaint and countercomplaint arose from activities in Tennessee, the special defenses and counterclaims asserted by the debtor require the presence of witnesses who reside in Tennessee, and the debtor was residing in Florida at the time the motion to transfer venue was filed.

The Federal Rules of Civil Procedure do not address where depositions are to be conducted. The general rule espoused by the courts is that a plaintiff is required to make himself available for examination in the district where the suit was brought and remains pending. *See, e.g.*, 8A CHARLES A. WRIGHT & ARTHUR R. MILLER, FEDERAL PRACTICE AND PROCEDURE § 2112 (1994). Although this action involves claims by both parties, and in that sense each is a plaintiff, the countercomplaint by the debtor asserts matters which may be deemed to constitute compulsory counterclaims. Complicating the matter further, JFS, the original plaintiff, had no choice but to institute the adversary proceeding in Connecticut because that is where the debtor chose to file his bankruptcy case. Of course, the adversary proceeding has now made its way to Tennessee. As a result, the general rule regarding where the depositions of the

parties should be conducted does not fit the circumstances of this proceeding.

The court has great discretion in designating the location of taking a deposition. *See, e.g., Thompson v. Sun Oil Co.*, 523 F.2d 647, 648 (8th Cir. 1975); *see also* 8A CHARLES A. WRIGHT & ARTHUR R. MILLER, FEDERAL PRACTICE AND PROCEDURE § 2112 (1994)(court has wide discretion in selecting place of examination). But for the remarks of the debtor at the scheduling conference conducted on May 23, 1995, concerning his desire to depose representatives of JFS, the court would require that the debtor be deposed in Connecticut because he again resides there, JFS has access to counsel there who is familiar with the various claims and bankruptcy procedure generally, and because of the inordinate financial hardship placed upon the debtor in traveling to Tennessee for a deposition which no doubt could be completed in less than one day. However, if the debtor intends to depose representatives of JFS, those depositions should be conducted at or near JFS's principal place of business in Morristown, Tennessee. *See, e.g.*, 8A CHARLES A. WRIGHT & ARTHUR R. MILLER, FEDERAL PRACTICE AND PROCEDURE § 2112 (1994)(the deposition of a corporation by its agents and officers should ordinarily be taken at its principal place of business). Also, the debtor has served upon JFS a request for production of documents. And since the debtor is proceeding *pro se*, he will have to travel to Tennessee to depose representatives of JFS and to review any documents produced

by JFS in response to the debtor's document requests. The depositions which the debtor desires to take may, accordingly, be scheduled on the same date as that on which JFS's counsel may depose the debtor. Likewise, the documents requested by the debtor may be produced in conjunction with those depositions.

Since the court has not been made aware that the debtor's discovery plans have changed, the court directs that JFS and the debtor mutually agree upon a date and time for these depositions and document production. In the event the debtor no longer has any desire to depose anyone in Tennessee for discovery purposes or otherwise, and does not desire to examine and copy the documents requested, the court directs that the debtor file a statement in this regard within ten days after entry of the order accompanying this memorandum. If such a statement is filed, the court will require that the debtor's deposition be noticed for and taken only in Connecticut. The court notes, however, that by doing so the debtor will essentially be foregoing the opportunity to conduct any discovery in Tennessee.

Now, considering JFS's motion to dismiss the debtor's countercomplaint and for judgment by default for failure of the debtor to participate in discovery and comply with this court's order, the court concludes that the motion must be denied. Despite JFS's contentions, the court has not previously ruled upon or determined that the debtor would be required to submit to a deposition in Tennessee. And although procedurally the debtor

should have moved for a protective order pursuant to Fed. R. Civ. P. 26(c), as incorporated by Fed. R. Bankr. P. 7026, the debtor's objection fairly put JFS's counsel upon notice that the debtor would not be attending the deposition as originally noticed. Therefore, the costs associated with the court reporter and other expenses of JFS's counsel were incurred by JFS at its own risk and are not recoverable under Fed. R. Civ. P. 37(b)(2).

Before leaving this matter, the court observes that JFS concluded its motion to dismiss by stating that "[b]ecause of Frank Pease's failure to comply, Jefferson Financial Services, Inc. is unable to meet the requirements of FRCP 26(a)(1)." It must be noted that the discovery dispute regarding the deposition of the debtor does not relieve either party from full compliance with Rule 26(a)(1), as incorporated by Fed. R. Bankr. P. 7026. That rule specifically provides that "[a] party shall make its initial disclosures based on information then reasonably available to it and *is not excused from making its disclosures because it has not fully completed its investigation of the case* or because it challenges the sufficiency of another party's disclosures or because another party has not made its disclosures (emphasis supplied)." Although it may be beneficial to JFS to conduct discovery from the debtor in order to make its disclosures concerning the matters raised by the debtor's countercomplaint, JFS is certainly not entitled to discovery as a condition precedent to

making such disclosures. Moreover, there is no excuse for JFS to delay making the disclosures concerning the claims raised by it against the debtor in its complaint. The court's pretrial order entered June 1, 1995, required that each party make its Fed. R. Civ. P. 26(a)(1) disclosures by July 1, 1995. As it appears that neither party has made these disclosures, the court will allow each party an additional 7 days from the entry of the order accompanying this memorandum to make the Rule 26(a)(1) disclosures in writing and serve the same.

II. JFS's Document Requests

As noted above, JFS's notice of deposition includes a set of document requests, which may only be made upon a party in accordance with Fed. R. Civ. P. 34. *See* Fed. R. Civ. P. 30(b)(5), incorporated by Fed. R. Bankr. P. 7030. A party is allowed no less than thirty days to respond to a document request, and the notice did not provide the debtor the full thirty days. The debtor filed a response to the requests and raised various objections to producing the requested documents. Because the debtor responded to each of the requests without objecting to the form and manner of the document request, the court will treat the document requests as being properly made pursuant to Fed. R. Civ. P. 34 and will examine the debtor's objections thereto to determine if they are meritorious in light of Fed. R. Civ. P. 26(b), as incorporated by Fed. R. Bankr. P. 7026.

In response to the first request which asks the debtor to produce "all documents and records concerning all dealings and transactions with Jefferson Financial Services, Inc. ...," the debtor states that "[t]he documentation requested can be provided by said Plaintiff with substantially greater facility than could otherwise be obtained by said Defendant in that, such records were originated by the Plaintiff." This response is insufficient. JFS is entitled to examine and copy any and all such documents.

The second request asks the debtor to produce "all documents and records used to compile your bankruptcy schedules ...." The debtor responds that he "presented a compiled list of Creditors in conjunction with the amount of debt, [sic] to Chiarelli Law Firm ... for which Joseph Chiarelli prepared the necessary schedules. Any reference to the preparation of said schedules should be ascertained from Attorney Chiarelli directly." This response is likewise inadequate. To the extent that the debtor has such documents, they must be produced for inspection and copying by JFS.

The third request asks the debtor to produce "copies of all bank statements and records, including cancelled checks for calendar years 1992-1995." The debtor responds as follows:

> The request for the documents during calendar years 1994 and 1995 are deemed to be irrelevant in that, these years are postpetition documentation which renders them inadmissable in this action ... [sic] The defendant did not maintain a personal bank account during the calendar years 1992 and 1993. Although bank accounts were maintained for F.P. Construction Company, Inc. and F.P. Construction Company, Inc. dba ALL-IN-ONE Construction Company during the years 1992 and 1993, these too are not

> subject to review in that, said corporation is not seeking a discharge in this action and is subsequently not within this court's jurisdiction.

While this court agrees that the request for production of statements and records, including canceled checks, for calendar years 1994 and 1995 appears to be overbroad in that the information requested pertains to transactions after the bankruptcy filing by the debtor, the other business accounts utilized by the debtor prior thereto are discoverable. Accordingly, the objection by the debtor to production of the bank statements and records, including canceled checks, for 1992 and 1993 is overruled.

The fourth request asks the debtor to produce "originals of all documents you claim support your allegations and defenses and all documents you intend to introduce at trial ...." The debtor responds that he "is prohibited from compliance to this request in that, he has not, at this time, completed his own discovery and subsequently has yet to decide what documentation will be introduced at trial." This response is also insufficient. The initial disclosures mandated by Fed. R. Civ. P. 26(a)(1) require that such documents be identified or copies furnished without awaiting such a discovery request from a party. JFS is entitled to inspect and copy any documents which the debtor may claim as support for the allegations and defenses asserted by him in his answer and countercomplaint. To the extent that the debtor subsequently discovers documents from another source during his

discovery, the debtor may seasonably supplement his response to include those newly discovered documents which support his allegations and defenses.

The last request asks the debtor to produce "copies of Federal Income tax returns for the years 1991-1994 (inclusive) including all schedules." The debtor only objects to the production of his 1994 return as it "is considered postpetition and therefore, [sic] is not relevant in this action." The court agrees. With the exception of the foregoing document requests which the court has determined are overbroad, the debtor is directed to provide copies of or otherwise produce the documents requested for inspection and copying by JFS at the debtor's rescheduled deposition.

III. THE DEBTOR'S INTERROGATORIES

The debtor served a set of interrogatories upon JFS on June 13, 1995, along with a request for production of documents. In connection with those interrogatories, the debtor filed a request for leave of court "for the procurement of five additional answers to interrogatories" on June 16, 1995. JFS objects to the set of interrogatories in that the "request does not comply with FRCP 33 and is designed to harass and burden Plaintiff." JFS contends that the debtor "has actually submitted 127 questions under the guise of 'subparts.'" Indeed, the set of interrogatories appears to be the work of an overzealous litigation attorney than that of a *pro se* litigant. The set of interrogatories, including subparts, exceeds

115 questions. Fed. R. Civ. P. 33(a), as incorporated by Fed. R. Bankr. P. 7033, limits to 25 the number of interrogatories, "including all discrete subparts," that may be served upon a party without leave of court. Moreover, the scope of the interrogatories goes so far as to question the financial arrangements between JFS and its attorneys. The court cannot fathom what admissible evidence or other information the debtor hopes to gleam from interrogatories such as these. Accordingly, the court will sustain JFS's objection, deny the debtor's request for leave of court to serve the additional interrogatories, and will not require any response to the debtor's set of interrogatories. If the debtor chooses to resubmit a set of interrogatories which do not exceed 25 in number, including subparts, and which seek discoverable information within the scope of Fed. R. Civ. P. 26(b)(1), the debtor may do so.

IV. JFS's Motion to Dismiss for Failure to State a Claim

Pursuant to Fed. R. Civ. P. 12(b)(6), as incorporated by Fed. R. Bankr. P. 7012(b), JFS has moved to dismiss the debtor's countercomplaint for failure to state a claim upon which relief can be granted. JFS states that "[a] fair reading of Frank Pease's Counter-Complaint alleges at best a violation of 'the Lender Liability Laws' (See [sic] Count Three) and a violation of 'the Federal Truth and Lending Laws' (Count Four)." However, JFS notes that the debtor "fails to allege any specific US Code provisions

which he contends have been violated, nor does he allege any other statutory grounds upon which this Count can grant him relief."

In considering a Rule 12(b)(6) motion to dismiss for failure to state a claim, the court must construe the complaint in the light most favorable to the plaintiff, accept as true the factual allegations in the complaint, and determine whether the plaintiff undoubtedly can prove no set of facts in support of his claims that would entitle him to relief. *See, e.g., Allard v. Weitzman (In re DeLorean Motor Co.)*, 991 F.2d 1236, 1240 (6th Cir. 1993), *reh'g denied* (1993). A complaint need only give fair notice of what the plaintiff's claim is and the grounds upon which it rests. *Id.* Although this standard is extremely liberal, the plaintiff may not simply assert legal conclusions. Rather, the complaint must contain either direct or inferential allegations respecting all material elements to sustain a recovery under some viable legal theory. *Id.* Of course, the burden of demonstrating that a complaint does not state a claim is on the moving party. 2A MOORE'S FEDERAL PRACTICE, p. 12.07 [2-5].

The debtor's first count (COUNT ONE) alleges that he, while doing business as All-In-One Construction Company, entered into an agreement with JFS on October 18, 1991, whereby certain sales contracts of the debtor would be purchased at a discount by JFS and assigned thereto with recourse. The debtor avers that one such contract with Robbin Glover was purchased by JFS, and that

subsequently, she defaulted in the payment of the contract. JFS filed a collection action against Ms. Glover, and upon trial, the court ruled in her favor as JFS was unable to prove the authenticity of Ms. Glover's signature on the contract. The debtor alleges that he was not advised of the trial or otherwise subpoenaed to appear, and that if he had been, he could have testified that Ms. Glover signed the contract. As relief, and because JFS has allegedly made false accusations concerning the debtor and this transaction, the debtor requests that JFS not be awarded any compensation.

In contrast, *Count 1* of JFS's complaint alleges that the funds which the debtor obtained from the sale of the Glover contract were obtained upon false pretenses as the signature on the contract was not that of Ms. Glover. JFS seeks a nondischargeable judgment in the amount of $1,556.70. Although it is unclear whether the debtor seeks to prevent JFS from obtaining a judgment as to only this amount as the relief sought in the debtor's first count, it is clear that the debtor has not stated an actionable claim against JFS. Rather, the debtor is merely restating his defenses to *Count 1* of JFS as a claim. Accordingly, the court will strike the designation as a counterclaim and treat the debtor's first count as a defense to JFS's complaint. *See* Fed. R. Civ. P. 8(c), as incorporated by Fed. R. Bankr. P. 7008.

The debtor's second count (COUNT TWO) alleges that prior to

making the allegations in *Count 1* of its complaint, JFS attempted to collect the same debt from the debtor by filing a criminal complaint against the debtor alleging theft of property under $1000.00. The debtor further alleges that JFS, in connection with its counsel, "has conspired to commit fraud by illegally, unjustly and maliciously accusing the debtor of such criminal activity." For relief, the debtor requests that JFS "should not be entitled to further compensation ...." Again, this "claim" by the debtor is nothing more than a defense to the claims of JFS. The court will strike the designation as a counterclaim and treat the debtor's second count as a defense to JFS's complaint.

The third count of the debtor (COUNT THREE) alleges that he "has made numerous verbal and written attempts to compensate the Creditor [JFS] for delinquent payments on various loans whereas, said Creditor has refused to accept the same and subsequently is guilty of violations pursuant to the Lender Liability Laws governing creditors in this matter." As relief, the debtor requests that JFS be sanctioned by the disallowance of any claim with regard to the delinquent payments. Although the debtor may be stating a claim, it is unclear as to what "Lender Liability Laws" the debtor is referring. Furthermore, the court concludes that the facts which support this "claim" need to be set out in greater specificity so as to enable JFS to defend or explain its activities at trial. Accordingly, the court will allow the debtor ten days

from entry of the order accompanying this memorandum to set forth in an amended countercomplaint the specific statutes or regulations upon which he is relying, and to state with greater specificity the occasions upon which payments were tendered to, but refused by JFS.

The fourth count of the debtor (COUNT FOUR) alleges that JFS, in its dealings with the debtor, "never offered a '**NOTICE OF RIGHT TO CANCEL:** [sic] **or ACKNOWLEDGMENT OF RECEIPT OF NOTICE OF RIGHT TO CANCEL or AN ELECTION NOT TO CANCEL FORM,**'" and, as a result, "all debts claimed to be owed by said Creditor are null and void in that, such Creditor has violated said Federal Truth & Lending Laws, [sic] pertaining to the Consumer's Rights to Cancel." The debtor also seeks as relief all monies paid to JFS under the various loan agreements. This claim likewise fails to allege what particular statutes or regulations the debtor contends JFS violated. Accordingly, the court will allow the debtor ten days from entry of the order accompanying this memorandum to set forth in an amended countercomplaint the specific statutes or regulations upon which he is relying.

The debtor's last count (COUNT FIVE) alleges that JFS "has submitted to this honorable Court a plethora of Exhibits which are deemed to be forgeries of various types," including Exhibits B, D, F, H, and I to JFS's complaint. The debtor contends that JFS should, therefore, "not be entitled to further compensation by the Debtor, Frank C. Pease." The debtor also requests that he be

awarded "an amount not less than three times the amounts claimed to be owed by said Creditor." This "claim" appears to be a defense to various claims asserted against the debtor by JFS. To that extent, the court will strike the designation as a counterclaim and treat the count as a defense to JFS's complaint. However, to the extent that the debtor intends to state a claim for damages against JFS as a result of the alleged forgeries, the debtor will be allowed ten days from entry of the order accompanying this memorandum to set forth in an amended countercomplaint the nature of any damages incurred as a result of the alleged forgeries.

V. CONCLUSION

There remains one other motion which the court will address in concluding this memorandum. The debtor seeks an order prohibiting JFS's counsel from "orchestrating written correspondences that are intended to intimidate, harass and threaten." In particular, the debtor refers to a copy of letter he received from Mr. Beier dated June 16, 1995, which is attached as an exhibit to the debtor's motion, and states as follows:

> Pease:
>
> If you do not appear at the noticed deposition on June 22, I will ask the court to dismiss your claim for failure to cooperate in the discovery process. You are directed to bring the documents I have requested and if you do not, I will make you come back again when you have them. You would be well-advised to read 28 § [sic] USC 1821. If you did, you would learn that per diem and travel allowances are not available to parties to suit. Judge Parsons ordered you to submit to a deposition here and I expect you to comply. This is not a game and I

will press for all sanctions for your obstructive tactics.

Sincerely,

/s/

Douglas R. Beier
Attorney at Law

The court agrees with the debtor that the letter is unbefitting for an officer of the court. However, it appears that the debtor has also engaged in similar "baiting" tactics with his adversary. In the debtor's reply letter dated June 21, 1995, a copy of which is attached as an exhibit to his motion, the debtor states in pertinent part as follows:

Dear Attorney Beier:

Having received you ill mannered correspondence this date, I respond accordingly.

...

With respect to your threat for pressing sanctions, I will further advise you; **"to do whatever you think is appropriate."** Your allegations of playing games is also unsuited to the matter in that, **"GAMES"** are usually enjoyable ... [sic] Dealing with the likes of you and your disreputable client is far from my contemplation of enjoyment.

With all due respect, I remain

True to my cause,

Frank C. Pease
Defendant, Pro Se

FCP/al
enclosure

P.S. In all future communiques, you are to address me as Mr. Pease !

The court, at the urgence of JFS, included a directive in its scheduling order of June 1, 1995, that "[t]he parties are directed to communicate with each other only in writing except in the event of an emergency that is not created by a party." Considering the foregoing written exchange by JFS's counsel and the debtor, the court must now direct both the debtor and counsel for JFS to eliminate all derogatory, degrading or otherwise unprofessional communications. The court expects that this admonishment and directive will be the last concerning the conduct of the parties and counsel during the discovery process.

In light of the foregoing, and in order to allow the parties sufficient time to conduct their discovery, the court will extend the discovery cutoff date from August 31, 1995, until September 30, 1995. The court will also revise the schedule for filing dispositive motions so as to require any such motion to be filed by October 6, 1995, and any response thereto shall be filed by October 18, 1995.

ENTER: July 21, 1995

BY THE COURT

MARCIA PHILLIPS PARSONS
UNITED STATES BANKRUPTCY JUDGE

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