

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In re:

ROBERT AND LOIS HONEK,

**ORDER FOR  
EVIDENTIARY HEARING**

Debtor(s).

BKY 03-60804

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**IT IS ORDERED:**

1. This matter is set for evidentiary hearing on September 28, 2004 at 1:00 p.m., in Courtroom No. 2, 204 United States Courthouse, 118 South Mill Street, Fergus Falls, Minnesota on **Debtors' Motion to Modify Chapter 12 Plan.**

2. All discovery shall be concluded no later than September 1, 2004, unless an extension is granted upon motion to the Court. **DISCOVERY REQUESTS ARE TO BE LIBERALLY CONSTRUED. COUNSEL SHALL NOT MANIPULATE THE DISCOVERY RULES SO AS TO HINDER, IMPEDE OR OBSTRUCT LEGITIMATE, REASONABLE DISCOVERY REQUESTS. HOWEVER, COUNSEL SHALL NOT USE THE DISCOVERY PROCESS TO HARASS, EITHER BY SEEKING INFORMATION WHOLLY UNRELATED TO THE CAUSE OF ACTION UNDER CONSIDERATION, OR OTHERWISE. SANCTIONS WILL BE IMPOSED UPON A PARTY AND COUNSEL WHO ARE FOUND TO HAVE ABUSED OR MISUSED DISCOVERY. SANCTIONS WILL BE IMPOSED IN THE MINIMUM AMOUNT OF \$500.00, AND MAY BE IMPOSED IN AMOUNTS OF \$1,000.00 OR MORE. ALL DISCOVERY DISPUTES WHICH REQUIRE JUDICIAL RESOLUTION WILL RESULT IN THE IMPOSITION OF SANCTIONS.**

3. On or before September 20, 2004, all parties are expected to confer and enter into stipulations as to the following:

- a) Waiver of objections to the admissibility of exhibits on the grounds of lack of identification or foundation where the identification or foundation is not to be contested;
- b) Waiver of objections to the admissibility of depositions proposed to be offered in evidence, if any.
- c) Facts which are not disputed. This stipulation shall be reduced to writing in a form which can be adopted by the Court as Findings of Fact.

At this conference, counsel shall exchange copies of each exhibit intended to be introduced and relied upon at the hearing. The exhibits shall be pre-marked as required in paragraph 4(d) of this Order.

4. No later than five (5) days prior to the hearing, the parties shall prepare, serve and file the following:

- a) The stipulations regarding admissibility of exhibits and depositions;
- b) The stipulation of facts which are not disputed.

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- c) A final witness list containing the names, addresses and brief summary of the testimony of each witness the party will call. A person not listed on this list may not testify during the party's case-in-chief;
- d) A final exhibit list containing a description of all exhibits to be offered at the hearing. Exhibits not listed on this list may not be offered during the party's case-in-chief. Each exhibit shall be marked and the list shall identify the exhibits by their letters or numbers.

The plaintiff shall identify the plaintiff's exhibits with numbers as follows:

Plaintiff's Exhibit 1  
Plaintiff's Exhibit 2  
etc.

The defendant shall identify the defendant's exhibits with letters as follows:

Defendant's Exhibit A  
Defendant's Exhibit B  
etc.

If there is more than one plaintiff or defendant, then the parties shall confer so as to avoid duplication of exhibit identification;

- e) A list of depositions to be offered at the hearing;
- f) A brief containing a complete chronology of the party's version of the facts and a complete statement of the law on which the party relies.
- g) Proposed Findings of Fact and Conclusions of Law.

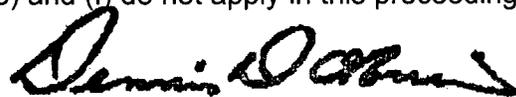
5. At the time that an exhibit is offered at the hearing, the ORIGINAL plus THREE COPIES of the pre-marked exhibits shall be provided to the Court, with a copy being made available to the court recorder operator for the use of the court.

6. Upon settlement, each party has an independent obligation and shall notify the calendar clerk, within 24 hours after a settlement agreement has been reached. Unless the Court orders otherwise, the settlement documents shall be filed within ten (10) days after oral notice of the settlement.

7. The dates fixed in this order are mandatory. Deadlines shall not be extended except on motion and for good cause.

8. Failure to timely comply with this order may result in the imposition of sanctions under Bankruptcy Rule 7016 and Fed. R. Civ. P. 16(f).

9. Fed. R. Civ.P. 26(a)(1), (a)(2), (a)(3) and (f) do not apply in this proceeding.



Dated: July 28, 2004

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Dennis D. O'Brien  
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

I, Delores Campbell, hereby certify:

That I am the Deputy in Charge of the United States Bankruptcy Court for the Sixth Division of the District of Minnesota at Fergus Falls, and that on 7/29/04, true and correct copies of the annexed:

ORDER FOR EVIDENTIARY HEARING

were placed by me in individual envelopes; that said envelopes were addressed individually to each of the person(s), corporations, and firms at their last known addresses, were sealed and on the day aforesaid were placed in the United States mails at Fergus Falls, Minnesota, to:

SEE ATTACHED LIST

and this certificate was made by me.

Delores Campbell  
Delores Campbell  
Deputy Clerk

Filed: <u>7/29/04</u>
PATRICK G. DE WANE, Clerk
By: <u>dc</u> Deputy Clerk

Total notices mailed: 11

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Debtor HONEK, LOIS 41340 150TH ST NW, WARREN, MN 56762  
Aty DUFFY, KEVIN T PO BOX 715, THIEF RIVER FALLS, MN 56701  
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Aty BRAKKE, JON RICHARD VOGEL LAW FIRM, PO BOX 1389, FARGO, ND 58107-1389  
Aty CHAMPEAUX, ROYLENE ANN U S COURTHOUSE, 300 S 4TH ST STE 600, MINNEAPOLIS, MN 55415  
Aty GERMAN, RAYMOND J GERMAN NEIL & HASBROUCK LTD, PO BOX 528, E GRAND FORKS, MN 56721  
Aty HANNAHER, MICHAEL J MCLARNAN HANNAHER VAA PLLP, 730 CENTER AVE STE 202, MOORHEAD, MN 56561-0008  
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Aty MINCH, ROGER J SERKLAND LUNDBERG ERICKSON, PO BOX 6017, FARGO, ND 58108-6017  
U S Trust U S TRUSTEE, 1015 U S COURTHOUSE, 300 S 4TH ST, MINNEAPOLIS, MN 55415