

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

PHILIP JAY BERG,
PLAINTIFF,

v.

TERRY P. DERSHAW AND THE
HONORABLE DIANE W. SIGMUND,
DEFENDANTS.

CIVIL ACTION

No. 07-1051

MEMORANDUM/ORDER

March 19, 2007

On Friday, March 16, 2007, Philip Jay Berg, debtor in a bankruptcy proceeding pending before Chief Bankruptcy Judge Sigmund in the Bankruptcy Court for the Eastern District of Pennsylvania, filed *pro se* a pleading designated a “complaint” and a motion for a temporary restraining order. In that pleading, Mr. Berg sought an order from this court enjoining (1) defendant Terry P. Dershaw, as trustee in plaintiff Berg’s bankruptcy, from presenting, and (2) defendant Chief Judge Sigmund from considering, a motion scheduled to be heard in the Bankruptcy Court on the morning of March 19, 2007. The motion to be heard in the Bankruptcy Court consisted of an application, by defendant Dershaw, for a court order authorizing him, as trustee, to sell certain real property of debtor Berg located on Ridge Pike, Lafayette Hill, Pennsylvania.

At a hearing held in this court at 9:30am on March 19, 2007, Mr. Berg was

present and was represented by counsel. Mr. Dershaw was not present but was represented by counsel. Chief Judge Sigmund (whose chambers had been advised of the March 19 hearing before this court, but who had not been served with Mr. Berg's pleading) was not present at this court's March 19 hearing, being occupied with proceedings in her court.

At the hearing this morning, defendant Dershaw moved to dismiss for lack of *in personam* jurisdiction and subject matter jurisdiction. After a colloquy, Mr. Dershaw withdrew the motion to dismiss for lack of *in personam* jurisdiction.

After further argument, the following orders were announced from the bench:

- (1) the court, for reasons stated from the bench, denied defendant Dershaw's motion to dismiss for lack of subject matter jurisdiction;
- (2) the court, *sua sponte*, for reasons stated from the bench, dismissed the pleading filed by plaintiff Berg for failure to state a claim on the basis of which relief could be granted.

BY THE COURT:

/s/ Louis H. Pollak
Pollak, J.