

FILED

SEP 2 2004

UNITED STATES
BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA

**UNITED STATES BANKRUPTCY COURT
IN AND FOR THE DISTRICT OF ARIZONA**

**THOMAS JAMES COBIA
DEADRA ELIZABETH ROBERSON
aka DEADRA ELIZABETH COBIA,**

Debtors.

**Chapter 7 Proceedings
Case No. 2-04-2012-PHX-CGC**

**THOMAS JAMES COBIA
DEADRA ELIZABETH ROBERSON
aka DEADRA ELIZABETH COBIA,**

Plaintiffs,

Adversary No. 04-903

vs.

**ARIZONA DEPARTMENT OF
REVENUE,**

Defendants.

**MEMORANDUM DECISION RE:
DEFAULT JUDGMENT**

The Debtors filed an adversary proceeding naming the Arizona Department of Revenue as defendant. However, in the body of the complaint, the Debtors/Plaintiffs seek relief not against the Arizona Department of Revenue but against the Internal Revenue Service, a federal government agency. Therefore, the complaint makes no allegations against the defendant that is named while at the same time seeking relief against an unnamed nondefendant.

These infirmities are sufficient to deny the application for a default judgment. More importantly, however, the complaint does not state a complaint upon which relief may be granted. The complaint does not identify the taxes that are in dispute and whether they qualify for exception from discharge under section 523(a)(1). Rather, the complaint seeks relief under section 523(c) which has no substantive provision concerning the dischargeability of taxes. The apparent basis of the claim is that the Debtors seek a discharge of certain taxes because it is a hardship to pay them. There is no provision in the Bankruptcy Code allowing a "hardship discharge" for taxes.

For the foregoing reasons, the Debtors' application for entry of default judgment will

1 be denied and the Court, on its own motion, will dismiss the Plaintiffs' complaint.

2 So ordered.

3 DATED: Sept 11, 2004

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7 CHARLES G. CASE II
8 UNITED STATES BANKRUPTCY JUDGE

9 COPY of the foregoing mailed or sent
10 via facsimile this 24th day of
September, 2004, to:

11 Thomas James Cobia
12 2418 E. Contention Mine Rd.
Phoenix, Arizona 85032

13 Arizona Department of Revenue
14 J. Elliott Hibbs, Director
P.O. Box 29085
15 Phoenix, AZ 85038

16 Attorney General of the United States
Department of Justice, Room B-103
17 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

18 Civil Processing Clerk
19 US Attorney, District of Arizona
40 North Central Avenue
Phoenix, AZ 85004

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21 G. Wambor
22
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24
25
26
27
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