

IN THE UNITED STATES BANKRUPTCY COURT
For the Southern District of Iowa

In the Matter of

RAYMOND N. KENKEL and
EVELYN KENKEL,

Case No. 86-832-W

Debtors.

INNK LAND & CATTLE COMPANY,

Advisory No. 86-0147

Plaintiff,

vs.

RAYMOND N. KENKEL and
EVELYN KENKEL,

Defendants.

RULING AND ORDER ON MOTION TO
MODIFY SCHEDULING ORDER

This proceeding pends upon the defendant/Debtors' motion to modify the scheduling order. On February 8, 1988, a scheduling order was filed which provided that all discovery shall be completed in this adversary proceeding on or before April 30, 1988. The defendant/Debtors now pray that the discovery deadlines be extended for a period of at least sixty days from the ruling on the pending motion for summary judgment and motion for consolidation.

The Debtors filed a voluntary petition under Chapter 7 of the Bankruptcy Code on April 9, 1986.

The complaint herein to determine dischargeability of debt was filed on June 25, 1986, and the answers were filed on September 3, 1986.

The scheduling order of February 8, 1988, was entered after the scheduling conference held on February 2, 1988, which was attended by counsel herein.

DISCUSSION

The three purposes of discovery are as follows:

- (1) To narrow the issues;
- (2) To obtain evidence for use at the trial; and,
- (3) To secure information about the existence of evidence and to ascertain how and from whom it may proceed. Lyell Theatre Corp. v. Loews Corp., 91 F.R.D. 97, 99 (D.C. N.Y. 1981).

The court has inherent power to control the time table on discovery within reasonable limits, Greyhound Lines. Inc. v. Miller, 402 F.2d 134, 144 (CA 8th 1968). This is to encourage the parties to timely complete their discovery so that the issues may be formulated and the case properly prepared for a reasonably prompt trial. ., at 145.

Another purpose of setting time limits on discovery in advance of trial is to assure both sides the opportunity immediately before trial to engage in orderly final trial preparation, uninterrupted by the flurry of "midnight" discovery. King v. Georgia Power Co., 50 F.R.D. 134, 135 (D.C. GA. 1970).

A trial date has not been set at this point and the purpose of setting time limits is not frustrated by an extension of time within which to complete discovery.

However, counsel are advised that they should not wait until the completion of the motion practice in this proceeding to complete discovery. This proceeding has been pending since June, 1986, and counsel and the parties can anticipate that it will be set for trial in the not too distant future.

Accordingly, the motion to modify the scheduling order should be sustained in part and denied in part.

IT IS ACCORDINGLY ORDERED that the scheduling order filed February 2, 1988, is modified to provide that discovery in this proceeding shall be completed on or before the 30th day of June, 1988.

Dated this 25th day of April, 1988.

RUSSELL J. HILL
U.S. BANKRUPTCY JUDGE