

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

BERT J. ALLEN III,

Plaintiff,

v.

Civil No. 01-224-P-C

YORK COUNTY JAIL, ET AL.,

Defendants

Gene Carter, Senior District Judge

**ORDER GRANTING IN PART DEFENDANT LINDA LOCKE
f/k/a LINDA MOOERS' MOTION TO DISMISS**

Now before the Court is Defendant Linda Locke f/k/a Linda Mooers' (hereinafter "Ms. Locke") Motion to Dismiss (Docket Item No. 169). Ms. Locke asserts that because she filed a petition for bankruptcy with the United States Bankruptcy Court and received a discharge in bankruptcy on July 11, 2003, during the pendency of the above-captioned lawsuit, and Plaintiff did not object to his debt being discharged in the bankruptcy proceeding, Plaintiff may not now maintain his cause of action against her.

Title 11 U.S.C. § 524(a)(2) provides that a bankruptcy discharge "operates as an injunction against the commencement or continuation of an action, the employment of process, or an act, to collect, recover or offset any such debt as a *personal liability* of the debtor, whether or not discharge of such debt is waived." *Id.* (emphasis added). Chapter 7 bankruptcy discharge does not, however, serve to discharge any debt or liability

incurred in an official capacity. *See Pelkoffer v. Deer*, 144 B.R. 282, 286 (W.D. Pa. 1992). Therefore, liability may only be imposed, if at all, upon Ms. Locke in her official capacity.

Accordingly, it is **ORDERED** that Defendant Locke's Motion to Dismiss be, and it is hereby, **GRANTED** as to any and all claims asserted against her in her individual capacity and is otherwise **DENIED**.

It is **FURTHER ORDERED** that Plaintiff shall not continue to file any papers with the Court containing bodily fluids, including papers marked for identification with a bloody fingerprint. Such a practice exposes the staff of the Court to unacceptable health hazards. Any further repetition of this practice will result in dismissal of the above captioned action as a sanction.

It is **FURTHER ORDERED** that the stay in this case be, and it is hereby, **LIFTED** and the case should be placed on the next available trial calendar.

/s/ Gene Carter _____
GENE CARTER
United States Senior District Judge

Dated at Portland, Maine this 16th day of February, 2005.

Plaintiff

BERT J ALLEN, III

represented by **BERT J ALLEN, III**
56 SMITH GARRISON ROAD
NEW MARKET, NH 03857
(603)659-5293
PRO SE

V.

Defendant

YORK COUNTY JAIL
TERMINATED: 03/11/2003

represented by **MICHAEL J. SCHMIDT**
WHEELER & AREY, P.A.
27 TEMPLE STREET
P. O. BOX 376
WATERVILLE, ME 04901
873-7771
Email:
mschmidt@wheelerlegal.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

SCOTT
YORK COUNTY JAIL INMATE
TERMINATED: 12/27/2001

Defendant

RICHARD
YORK COUNTY JAIL INMATE
TERMINATED: 12/27/2001

Defendant

DANIEL DOUBOUS
individually and in their official
capabilities as officers of the York
County Jail

represented by **MICHAEL J. SCHMIDT**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

TAMMY LEONARD
individually and in their official
capabilities as officers of the York
County Jail.

represented by **MICHAEL J. SCHMIDT**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

SCOTT BARRIEAU
TERMINATED: 06/11/2002

Defendant

RICHARD LOWELL

TERMINATED: 06/11/2002

Defendant

LINDA MOOERS

TERMINATED: 11/22/2004

represented by **JAMES F. MOLLEUR**

P.O. BOX 619

SACO, ME 04072

(207) 283-3777

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

MICHAEL J. SCHMIDT

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LEAD ATTORNEY

ATTORNEY TO BE NOTICED