ORDERED.

Dated: December 21, 2010

_____

EILEEN W. HOLLOWELL
U.S. Bankruptcy Judge

_____

UNITED STATES BANKRUPTCY COURT

DISTRICT OF ARIZONA

In re)	Chapter 13
)	
)	No. 4-09-bk-05569-EWH
PETER TESCIONE, JR.,)	
)	**MEMORANDUM DENYING MOTION TO**
)	**INCLUDE POWER OF ATTORNEY IN FUTURE**
)	**HEARINGS**
Debtor.)	

Debtor requests an order authorizing the individual to whom he has granted a

power of attorney to sign and file documents in his bankruptcy case be included

telephonically in all hearings, and that she be copied with all pleadings and orders. The

second part of the Debtor's request will be granted. The first part of the Debtor's

request will not and, additionally, the holder of the power of attorney is prohibited from

signing documents to be filed in this case for the Debtor.[1]

DISCUSSION

28 U.S.C. § 1654 permits individuals to personally plead and conduct their own

cases in federal court or retain counsel to do so. There is, however, no statute which

permits a non-attorney to prosecute a case on behalf of another individual.

---

[1] Auto Owners Insurance Co. has requested that the court strike pleadings filed on Debtor's behalf by the holder of the power of attorney, but does not identify which particular documents should be struck. The court, therefore, cannot accommodate the request.

Rule 7017(c) permits a minor or incompetent person to be represented by a "general

guardian", a "conservator" or "a like fiduciary." The Debtor is not a minor. There is no

information in the record which indicates that he is an incompetent person. Indeed, the

Debtor's pleadings assert that:

> On broader matters such as the status of his case and the impact that various decisions made during the course of it may have on him and the future disposition of his home, he is as clear as a non-attorney with no one to advise him may be. Equally, any future decisions and steps taken as a result fo these decisions are his own and arrived at with careful consideration.

Furthermore, Rule 9010(a) of the Federal Rules of Bankruptcy Procedure

provides:

> A debtor, creditor, equity security holder, indenture trustee, committee or other party may (1) appear in a case under the Code and act either in the entity's own behalf or by an attorney authorized to practice in the court, and (2) perform any act not constituting the practice of law, by an authorized agent, attorney in fact, or proxy.

Courts have been clear in ruling that a power of attorney does not entitle the holder

thereof to appear on behalf of the grantor/principal unless the holder himself is

authorized to practice law in his own right. See, e.g., Johns v. County of San Diego,

114 F.3d 874 (9th Cir. 1997), C.E. Pope Equity Trust v. United States, 818 F.2d 696

(9th Cir. 1987), Estate of Keatinge v. Biddle, 316 F.3d 7 (1st Cir. 2002), Gabayzadeh v.

Taylor, 639 F.Supp.2d 298 (E.D.N.Y. 2009), In re Sudano, Inc., 391 B.R. 678 (Bankr.

E.D.N.Y. 2008).

In addition, Rule 9011 requires the Debtor to sign his own pleadings. The

certification requirements of Rule 9011(b) -- that pleadings be filed for a proper purpose

can only be satisfied when an individual or counsel sign pleadings. Accordingly, the

holder of the Debtor's power of attorney *may not* sign pleadings on behalf of the Debtor. Debtor, and only the Debtor, may file pleadings with the court.

The court will, however, treat the Debtor's motion as a motion under Rule 2002 to provide notice to the holder of his power of attorney and will enter an order this date requiring that she be given written notice of all pleadings filed in this case.

Dated and signed above.

Notice to be sent through the
Bankruptcy Noticing Center "BNC"
to the following:

Peter Tescione, Jr.
4471 West Meggan Place
Tucson, AZ 85741

Margaret McCracken
926 North 34th Street
Milwaukee, WI 53208

Thomas A. Denker, Esq.
Munger Chadwick, P.L.C.
333 North Wilmot Rd., Suite 300
Tucson, AZ 85711

Dianne C. Kerns
7320 North La Cholla #154 PMB 413
Tucson, AZ 85741-2305

Office of the U.S. Trustee
230 North First Ave., Suite 204
Phoenix, AZ 85003