

**IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

In Re:	)	Case No. 02-16172
Level Propane, Gases, Inc., et. al.	)	
Debtors.	)	Ch. 11
	)	
*****	)	Hon. Randolph Baxter
Bill Wilhelm	)	
Plaintiff-Appellant	)	Adv. Pro. Case No. 09-1116
	)	
Vs.	)	
	)	
Mark Uhrich, Plan Administrator	)	
of the Consolidated Estate of	)	
Level Propane Gases, Inc.	)	
Defendant-Appellee	)	

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**APPELLANT'S DESIGNATION OF ITEMS TO BE INCLUDED ON THE RECORD  
AND ISSUES TO BE PRESENTED AS TO THE APPEAL OF THE COURT'S  
DECISION OF JUNE 24, 2009 DISMISSING COMPLAINT TO REVOKE  
CONFIRMATION OF PLAN (Docket Item No. 14 and 15)**

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Now comes Bill Wilhelm, by and through counsel undersigned and, pursuant to R. 8006, Federal Rules of Bankruptcy Procedure, hereby submits his Designation of Items to be included in the record and the Issues to be Presented on appeal from the Bankruptcy Court's Memorandum and Order of Dismissal, Docket Item Nos. 14 and 15:

**DESIGNATION OF DOCKET ITEMS TO BE INCLUDED IN  
THE RECORD ON APPEAL**

The docket items to be included in the record on appeal are as follows:

<b>Filing Date</b>	<b>#</b>	<b>Docket Text</b>
03/30/2009	<u>1</u>	Adversary case 09-01116. 51 (Revocation of Confirmation Rule 7001 (5)): Complaint by Bill Wilhelm against Mark Uhrich. Fee Amount \$250 (Attachments: # <u>1</u> cover sheet# <u>2</u> summons) (51 (Revocation of Confirmation Rule 7001 (5)),72 (Injunctive Relief (Other) Rule 7001 (7))) (Brusnahan, Kreig aty) (Entered: 03/30/2009)
04/01/2009	<u>2</u>	Request for Issuance of Summons (dhutc crt) (Entered: 04/01/2009)
04/01/2009	<u>3</u>	Summons Issued on Mark Uhrich Answer Due 5/1/2009 (RE: related document(s) <u>1</u> Adversary case 09-01116. 51 filed by Plaintiff Bill Wilhelm). Pre-Trial Conference set for 5/27/2009 at 10:00 AM at H. M. Metzbaum Judge Baxter - #220 Pretrial. (dhutc crt) (Entered: 04/01/2009)
04/01/2009	<u>4</u>	INITIAL Order Relative to Pre-Trial Signed on 4/1/2009 (RE: related document(s) <u>1</u> Complaint). (dhutc crt) (Entered: 04/01/2009)
04/03/2009	<u>5</u>	Notice of Order on Pre-Trial w/ BNC Certificate of Mailing (RE: related document(s) <u>4</u> ) Service Date 04/03/2009. (Admin.) (Entered: 04/04/2009)
04/27/2009	<u>6</u>	Summons Service Executed on Mark Uhrich 4/6/2009 (Brusnahan, Kreig aty) (Entered: 04/27/2009)
05/01/2009	<u>7</u>	Motion to Dismiss Adversary Proceeding of <i>Plaintiff Bill Wilhelm</i> Filed by Mark Uhrich (Attachments: # <u>1</u> Memorandum In Support) (Phillips, Mark aty) (Entered: 05/01/2009)
05/01/2009	<u>8</u>	Notice of Deadline to Respond to Defendant's Motion to Dismiss Complaint of <i>Plaintiff Bill Wilhelm</i> Filed by Mark Uhrich (RE: related document(s) <u>7</u> Motion to Dismiss Adversary Proceeding of <i>Plaintiff Bill Wilhelm</i> Filed by Mark Uhrich filed by Defendant Mark Uhrich). (Laven, Stuart aty) (Entered: 05/01/2009)
05/04/2009	<u>9</u>	Notice (Amended) (Hearing Date May 26, 2009 at 10:00 a.m.) Filed by Mark Uhrich (RE: related document(s) <u>8</u> Notice of Deadline to Respond to Defendant's Motion to Dismiss Complaint of <i>Plaintiff Bill Wilhelm</i> Filed by Mark Uhrich filed by Defendant Mark Uhrich). (Laven, Stuart aty) (Entered: 05/04/2009)

05/11/2009	<u>10</u>	Memorandum in Opposition to <i>Motion to Dismiss of Defendant Mark Uhrich</i> Filed by Bill Wilhelm (related document(s) <u>7</u> ). (Brusnahan, Kreig aty) (Entered: 05/11/2009)
05/18/2009	<u>11</u>	Supplemental Memorandum in Opposition to <i>Defendant's Motion to Dismiss</i> Filed by Bill Wilhelm. (Brusnahan, Kreig aty) (Entered: 05/18/2009)
05/18/2009	<u>12</u>	Memorandum in Support of <i>Defendant's Motion to Dismiss Complaint of Plaintiff Bill Wilhelm</i> Filed by Mark Uhrich (related document(s) <u>7</u> , <u>11</u> , <u>10</u> ). (Phillips, Mark aty) (Entered: 05/18/2009)
05/19/2009	<u>13</u>	First Amended Document <i>Opposition to Defendant's Motion to Dismiss</i> Filed by Bill Wilhelm. (Brusnahan, Kreig aty) (Entered: 05/19/2009)
06/24/2009	<u>14</u>	Memorandum of Opinion and Order Signed on 6/24/2009 (RE: related document(s) <u>7</u> Motion to Dismiss Adversary Proceeding, <u>10</u> Memorandum in Opposition to, <u>11</u> Memorandum in Opposition to, <u>12</u> Memorandum in Support of). (dhutc crt) (Entered: 06/24/2009)
06/24/2009	<u>15</u>	Judgment Entry Order entered that Defendant Mark Uhrich's Motion to Dismiss is hereby Granted. The Objection of Plaintiff Bill Wilhelm is hereby overruled and the Plaintiff's case is dismissed Signed on 6/24/2009 . (dhutc crt) (Entered: 06/24/2009)
06/26/2009	<u>16</u>	Notice of Order for Judgement w/ BNC Certificate of Mailing (RE: related document(s) <u>15</u> ) Service Date 06/26/2009. (Admin.) (Entered: 06/27/2009)
06/26/2009	<u>17</u>	Memorandum of Opinion (PDF) w/ BNC Certificate of Mailing (RE: related document(s) <u>14</u> ) Service Date 06/26/2009. (Admin.) (Entered: 06/27/2009)

### STATEMENT OF THE ISSUES ON APPEAL

Appellant herein, Bill Wilhelm, respectfully submits the following statement of the issues on appeal:

1.) Whether the Bankruptcy Court erred in its decision to dismiss the Complaint when it stated a cause of action.

**APPELLANT'S RESERVATION OF RIGHT TO AMEND**

Appellant, Bill Wilhelm, respectfully reserves the right to amend and supplement the items designated and the issues stated herein.

Dated: July 1, 2009

Respectfully Submitted,

/s/ Kreig J. Brusnahan  
Kreig J. Brusnahan (OBR No. 0031147 )  
Brusnahan & Associates  
Counsel for Plaintiff Bill Wilhelm  
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**SERVICE**

I hereby certify that on this 1<sup>st</sup> day of July, 2009, the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Kreig J. Brusnahan  
Kreig J. Brusnahan (OBR No. 0031147 )  
Brusnahan & Associates  
Counsel for Plaintiff Bill Wilhelm