

**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
*****)	
Bill Wilhelm)	Hon. Randolph Baxter
Plaintiff)	Adv. Pro. Case No. 09-1116
)	
Vs.)	
)	
Mark Uhrich, Plan Administrator)	
of the Consolidated Estate of)	
Level Propane Gases, Inc.)	
Defendant)	

PLAINTIFF'S NOTICE OF APPEAL

Bill Wilhelm, pursuant to 28 U.S.C. Sec. 158(a), hereby appeals from the Order of the Bankruptcy Court by which his Complaint to Revoke Confirmation of Plan was Dismissed, Docket Item No. 14, Opinion, and Docket Item No.15 , Judgment Entry Order, both dated and entered of record June 24, 2009.

The names of the parties to the Order appealed from and the names, addresses, and telephone numbers of their respective attorneys are as follows:

Plaintiff: Bill Wilhelm

Counsel: Kreig J. Brusnahan (OBR No. 0031147)
Brusnahan & Associates
Counsel for Plaintiff Bill Wilhelm
158 Lear Rd., #A
Avon Lake, Ohio 44012
(440) 930-2600
allaw@centurytel.net

Defendant: Mark Urich, Plan Administrator

Defendant's Counsel: Mark A. Phillips (OBR No. 0047347)
Benesch, Freidlander, Coplan & Aronoff
2300 BP Tower, 200 Public Square
Cleveland, Ohio 44114-2378
Phone: (216) 363-4500
Fax: (216) 363-4588

Dated: June 30, 2009

Respectfully Submitted,

/s/ Kreig J. Brusnahan
Kreig J. Brusnahan (OBR No. 0031147)
Brusnahan & Associates
Counsel for Plaintiff Bill Wilhelm
158 Lear Rd., #A
Avon Lake, Ohio 44012
(440) 930-2600
allaw@centurytel.net

SERVICE

I hereby certify that on this 30th day of June, 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

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In Re:)	Case No. 02-16172
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*****)	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)	

**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)**

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:

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Filing Date	#	Docket Text
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. Metzenbaum 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 Plaintiff <i>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 Plaintiff <i>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
158 Lear Rd., #A
Avon Lake, Ohio 44012
(440) 930-2600
allaw@centurytel.net

SERVICE

I hereby certify that on this 1st 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

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
Eastern Division

In Re:

In Proceedings Under Chapter 11

LEVEL PROPANE GASES, INC., et. al.

Case No.: 02-16172

Debtors.

BILL WILHELM,

Adv. Proc. No. 09-1116

Plaintiff,

JUDGE RANDOLPH BAXTER

v.

MARK UHRICH,
PLAN ADMINISTRATOR,

Defendant.

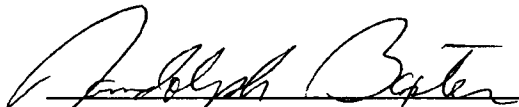
JUDGMENT

In Cleveland, in said District, on this 24th day of June, 2009.

A Memorandum Of Opinion And Order having been rendered by this Court in this matter.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED 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.

IT IS SO ORDERED.



JUDGE RANDOLPH BAXTER
UNITED STATES BANKRUPTCY COURT

FILED
09 JUN 24 PM 3:15
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
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IT IS THEREFORE ORDERED, ADJUDGED AND DECREED 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.

IT IS SO ORDERED.


JUDGE RANDOLPH BAXTER
UNITED STATES BANKRUPTCY COURT

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09 JUN 24 PM 3:15
U.S. BANKRUPTCY COURT
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CLEVELAND