

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO**

In re:)	Chapter 11
)	
LEVEL PROPANE GASES, INC., <i>et al.</i>)	Case No. 02-16172
)	Jointly Administered
Debtors.)	
)	Randolph Baxter
)	
)	Adversary Proceeding No. 09-01116
)	
BILL WILHELM)	
)	
Plaintiff,)	
)	
v.)	
)	
MARK UHRICH, PLAN ADMINISTRATOR)	
)	
Defendant.)	
)	

**DEFENDANT’S MOTION TO DISMISS COMPLAINT
OF PLAINTIFF BILL WILHELM**

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, made applicable to this adversary proceeding by Federal Rule of Bankruptcy Procedure 7012, defendant Mark Uhrich, the Plan Administrator for the Consolidated Estate of Level Propane Gases, Inc., and its affiliated debtors and former debtors in possession in the above-captioned chapter 11 cases, through his undersigned counsel, hereby respectfully moves this Court for entry of an order dismissing the Complaint of plaintiff Bill Wilhelm (the “Complaint”). As set forth in greater detail in the memorandum of the Plan Administrator, filed in conjunction herewith and incorporated herein by reference, the Complaint should be dismissed for failure to state a claim upon which relief may be granted.

Dated: May 1, 2009

Respectfully submitted,

/s/ Mark A. Phillips

Mark A. Phillips (Ohio # 0047347)
Stuart A. Laven, Jr. (Ohio # 0071110)
Matthew J. Samsa (Ohio # 0084256)
BENESCH, FRIEDLANDER,
COPLAN & ARONOFF LLP
200 Public Square, Suite 2300
Cleveland, OH 44114
Phone: (216) 363-4500
Fax: (216) 363-4588
Email: mphillips@beneschlaw.com
slaven@beneschlaw.com
msamsa@beneschlaw.com

Attorneys for Mark Uhrich, Plan Administrator
of the Consolidated Liquidating Estate of
Level Propane Gases, Inc. et al.

CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2009, a copy of the foregoing Defendant's Motion to Dismiss Complaint of Plaintiff Bill Wilhelm with Memorandum In Support was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's system.

/s/ Mark A. Phillips

One of the Attorneys for Mark Uhrich, Plan
Administrator of the Consolidated Liquidating
Estate of Level Propane Gases, Inc., et al.