

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
JOHN T. YOUNG and) CASE NO. 08-24237 JPK
PAMELA K. YOUNG,) Chapter 7
)
Debtors.)

ORDER REGARDING MOTION TO COMPEL DEBTOR
TO FILE INSURANCE CLAIM ("MOTION")

The Motion, filed on behalf of John Deere Construction and Forestry Company on May 1, 2009, requests that the court enter an order directing John T. Young – a debtor in this case – to file an insurance claim on behalf of Young Plumbing, Inc. – which is not a debtor in this case.

The court first notes that the relief requested by the Motion is an affirmative injunction or other equitable relief within the provisions of Fed.R.Bankr.P. 7001(7): the relief must be sought by means of an adversary proceeding pursuant to Fed.R.Bankr.P. 7001 et seq. rather than by means of a motion pursuant to Fed.R.Bankr.P. 9014. The court also questions its subject matter jurisdiction with respect to the requested relief. The court notes that an order was entered on March 12, 2009 which abandoned the Excavator apparently subject to an insurance policy from the debtor's Chapter 7 bankruptcy estate. Obviously, the matter raised by the Motion is not within the provisions of 28 U.S.C. § 1334(a), nor is it a matter "arising under title 11" or "arising in (a case) under title 11". It is also beyond the court's ken as to how the requested relief is "related to" a case under title 11.

IT IS ORDERED that the Motion is denied, without prejudice to the filing of an adversary proceeding.

IT IS FURTHER ORDERED that any complaint filed to initiate an adversary proceeding in relation to relief requested by the Motion shall include in the jurisdictional statement required by Fed.R.Bankr.P. 7008(a)/Fed.R.Civ.P. 8(a)(1) a detailed recitation, including citation to

appropriate authority, of the basis for the court's subject matter jurisdiction.

Dated at Hammond, Indiana on May 15, 2009.

/s/ J. Philip Klingeberger
J. Philip Klingeberger, Judge
United States Bankruptcy Court

Distribution:

Debtors, Attorney for Debtors
Trustee, US Trustee
Attorney for Creditor