

# Not Intended for Publication or Citation

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION AT LAFAYETTE

IN RE: CASE NO. 10-40045	)	
	)	
JUSTIN T. YOUNKIN	)	
	)	
Debtor	)	
	)	
	)	
ESTATE OF KARL E. RUTHERFORD,	)	
DECEASED	)	
	)	
Plaintiff	)	
	)	
vs.	)	PROC. NO. 10-4014
	)	
JUSTIN T. YOUNKIN	)	
	)	
Defendant	)	

## DECISION AND ORDER

At Fort Wayne, Indiana, on September 9, 2010.

The court's order of August 11, 2010 denied the plaintiff's motion for default judgment because there was no return demonstrating service of the summons and complaint upon the defendant. Nearly three weeks later, the plaintiff filed a motion asking the court to reconsider that decision stating that the defendant was properly served, including who was served, as well as when, where, and how service was made. Attached to the motion is a copy of the certificate of service demonstrating that the summons and complaint were mailed to the defendant/debtor at the address provided in the petition and counsel for the debtor on April 27, 2010. Had this information been provided with the plaintiff's original motion,<sup>1</sup> the result would have been different. Accordingly,

---

<sup>1</sup>Although the plaintiff asserts that this information was attached to the motion for default judgment, the only thing attached is a copy of the summons issued by the clerk, not the return.

it seems appropriate to grant the motion to reconsider. This is particularly so, since the original motion was denied without prejudice, and all that would be necessary to again place the issue before the court would be for the plaintiff to file a second motion for default judgment. There is no need to magnify the labors of either the plaintiff or the court by following that path.

The court is satisfied that the defendant was properly and timely served with the summons and complaint and that no answer has been filed within the time required. The plaintiff's motion to reconsider is GRANTED, the order of August 11, 2010 is vacated, and the plaintiff's motion for default judgment is granted. Judgment will be entered accordingly.

SO ORDERED.

*/s/ Robert E. Grant*  
Chief Judge, United States Bankruptcy Court