

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

IN RE:

DONALD CLAUDE ROBINSON

**Case No. 96-10069
Chapter 7**

Debtor.

JOHN C. CANNEY, III, Trustee,

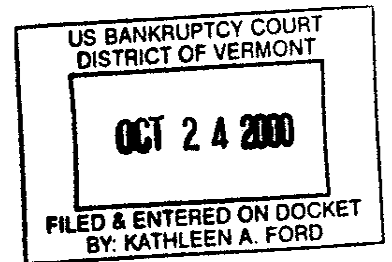
**Advisory Proceeding
No. 99-1048**

Plaintiff,

v.

**RICHARD GATES HOFFMAN & CLAY,
TEMPLE PLUMBING, LEADER
HOME CENTER, DERRIG EXCAVATING,
and SANDRA SELLERS,**

Defendants.



**ORDER DENYING DEFENDANTS'
MOTIONS FOR SUMMARY JUDGMENT**

WHEREAS Motions for Summary Judgment have been filed by the Defendants, without accompanying Statements of Undisputed Facts;

WHEREAS a Memorandum of Law in Opposition to Motion for Summary Judgment has been filed by the Plaintiff, John C. Canney, III, Trustee, dated June 27, 2000, without an accompanying Statement of Disputed Facts;

WHEREAS the parties previously filed statements of material facts, respectively, regarding Plaintiff's prior Motion for Summary Judgment, which was denied by this Court (Krechevsky, J.) pursuant to an Order dated January 21, 2000 because the Court was unable to determine the absence

of a genuine issue of material fact based upon a lack of any determinative statement(s) of fact, affidavits or any other supporting materials filed of record;

WHEREAS this Court has the discretion to deny summary judgment based solely upon the lack of sufficient matters filed of record;

IT IS ORDERED that Defendants' motions for summary judgment are hereby DENIED because the prior statements of material facts submitted by the parties, which have not been modified or supplemented except to the extent of the Affidavit of Defendant Leader Home Center, and the record are inadequate to allow this Court to determine the absence of a genuine issue of material fact regarding the relief sought and the nature and existence of any underlying claims by the Internal Revenue Service and the State of Vermont necessary to support the summary judgment motions.

Wherefore, the Clerk is directed to schedule the adversary proceeding for a final pre-trial conference within three (3) weeks, so that a scheduling order can be entered and a trial date set.

SO ORDERED.

Dated at Rutland, Vermont this 23rd day of October, 2000.



Colleen A. Brown
United States Bankruptcy Judge

To: John R. Canney, III, Trustee
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