

CSD 3000A [11/15/04]

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Attorney for Creditor, The Honorable Frank A. Brown

**UNITED STATES BANKRUPTCY COURT**  
SOUTHERN DISTRICT OF CALIFORNIA  
325 West "F" Street, San Diego, California 92101-6991

In Re

RICHARD MARK ANDERSON,  
Debtor.

BANKRUPTCY NO. 05-00202-H7

THE HONORABLE FRANK A. BROWN, CREDITOR,  
Plaintiff(s)

ADVERSARY NO. 05-90220-H

v.  
RICHARD MARK ANDERSON, ET AL.,  
Defendants(s)

Date of Hearing: September 8, 2005  
Time of Hearing: 10:00 a.m.  
Name of Judge: Hon. John J. Hargrove

**ORDER AFTER HEARING ON MOTION FOR SUMMARY JUDGMENT, OR ALTERNATIVELY  
SUMMARY ADJUDICATION**

IT IS ORDERED THAT the relief sought as set forth on the continuation pages attached and numbered two (2) through (2) with exhibits, if any, for a total of (3) pages, is granted. Motion/Application Docket Entry No. 21

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DATED: **September 16, 2005**

Signature by the attorney constitutes a certification under Fed. R. of Bankr. P. 9011 that the relief in the order is the relief granted by the court.

Submitted by:

LAW OFFICE OF WILLIAM P. FENNELL

By: /s/William P. Fennell  
Attorney for Plaintiff, The Honorable Frank A. Brown

The hearing on the motion filed by the Honorable Frank A. Brown ("Plaintiff"), in the above-referenced adversary matter for summary judgment or alternatively for summary adjudication came on for regular hearing on September 8, 2005, at 10:00 a.m. in Department Three of the United States Bankruptcy Court, Southern District of California, before the Honorable John J. Hargrove, Bankruptcy Judge presiding. Appearances were made by William P. Fennell, Esq., on behalf of Plaintiff, Derek Lobo, Esq., of Page, Lobo & Costales, on behalf of Richard Mark Anderson ("Debtor"), Mathew Stohl, Esq., of Quintrall & Associates, on behalf of Paul Hansen Equipment. Inc., Thomas D. Bunton, Esq., on behalf of the County of San Diego, Timothy J. Nash, Esq., of the Law Office of Cary R. Bond, on behalf Stanley J. Anderson, were also present. The court having considered the Plaintiff's motion and no opposition having been filed and good cause appearing thereon;

IT IS HEREBY ORDERED that:

1. Plaintiff's motion is granted in its entirety;
2. Judgment is entered against Defendants, and each of them, and in favor of Plaintiff as a tenant-in-common with the Debtor, Plaintiff shall be paid fifty percent (50%) of the net sale proceeds from that sale of certain real property located at Cavello Street, San Diego, California, County of San Diego, Assessor's Parcel Number 307-330-90, with the legal description attached hereto and incorporated herein as Exhibit "A" ("Property") and all liens of all creditors of Debtor, the Defendants in this matter, are not now and at no time in the past have been attached to Plaintiff's interest in the Property or proceeds thereof resulting from the sale of the Property as authorized by the court pursuant to the order entered on May 24, 2005, authorizing the sale of real property free and clear of liens and interests of creditors of Anderson;
3. As the liens of all Defendants in this matter attached only to Debtor's fifty percent (50%) interest in the Property and consequently those liens attached only to Debtor's fifty percent (50%) interest in the sale, Plaintiff is entitled to 50% of the net sale proceeds in the amount of \$184,643.56;
4. Additionally, Plaintiff is entitled to reimbursement of all costs advanced for purchase of the Property and advances made for payment of Property expense which total \$37,710.60;
5. Debtor's counsel, Derek Lobo, is directed to make the check to pay to the order of the Honorable Frank A. Brown, from the Wells Fargo, court blocked account number 888-7107996 ("Blocked Account") a total of \$222,318.23 (\$184,643.56 + \$37,710.60) together with interest accrued on this amount since the time the account was opened on or about June 28, 2005 the check shall be delivered Plaintiff's counsel, William P. Fennell, Esq.;
6. The balance of the sale proceeds in the Blocked Account shall remain in that account pending further proceedings on Plaintiff's quiet title action, and pending further order of this court or other court of competent jurisdiction.

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SAN DIEGO AND IS DESCRIBED AS FOLLOWS:

LOT 127 OF CARMEL DEL MAR NEIGHBORHOOD 5, UNIT NO. 11, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 12440, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, AUGUST 10, 1989.

EXCEPTING THEREFROM THAT PORTION OF LOT 127 CONVEYED TO THE CITY OF SAN DIEGO FOR RIGHT OF WAY PURPOSES IN GRANT DEED RECORDED JULY 25, 1994 AS FILE NO. 1994-0458234 OF OFFICIAL RECORDS.

*Exhibit "A"*