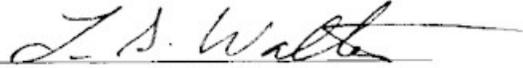


This document has been electronically entered in the records of the United States Bankruptcy Court for the Southern District of Ohio.

IT IS SO ORDERED.

Dated: January 31, 2006

  
Lawrence S. Walter  
United States Bankruptcy Judge

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UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

In re: JOHN R. MONROE  
ANNA M. MONROE,

*Debtors*

Case No. 04-40475  
Adv. No. 05-3223

---

JAMES R. WARREN, CHAPTER 7 TRUSTEE,

*Plaintiff*

Judge L. S. Walter  
Chapter 7

v.

JENNIFER LYNN KEECHLE-SOWDER, ET AL.,

*Defendants*

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DECISION AND ORDER DENYING DEFENDANT-DEBTORS'  
MOTION FOR SUMMARY JUDGMENT

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This matter is before the court on the Motion for Summary Judgment filed by Defendant-Debtors John and Anna Monroe ("Debtors") against their Co-Defendant, Jennifer Lynn Keechle-Sowder ("Defendant Keechle") [Adv. Doc. 34]. Plaintiff-Trustee James R. Warren filed a

response in support of the Debtors' Motion [Adv. Doc. 36]. Defendant Keechle did not timely respond to the Debtors' Motion.

Although Defendant Keechle did not respond, the court must still determine whether the Debtors are entitled to summary judgment in their favor. The appropriate standard to address their motion is contained in Fed. R. Civ. P. 56(c) and incorporated in bankruptcy adversary proceedings by reference in Fed. R. Bankr. P. 7056. Rule 56(c) states in part that a court must grant summary judgment to the moving party if:

the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.

Fed. R. Civ. P. 56(c). In order to prevail, the moving party, if bearing the burden of persuasion at trial, must establish all elements of its claim. *Celotex Corp. v. Catrett*, 477 U.S. 317, 331 (1986). If the burden is on the nonmoving party at trial, the movant must: 1) submit affirmative evidence that negates an essential element of the nonmoving party's claim; or 2) demonstrate to the court that the nonmoving party's evidence is insufficient to establish an essential element of the nonmoving party's claim. *Id.* at 331-32.

In this case, the Debtors' motion and the attached evidentiary materials do not adequately negate or even address the specific elements of the cross-claims raised in Defendant Keechle's Answer, Counter-Claim and Cross-Claim [Adv. Doc. 13]. Specifically, the Debtors do not discuss Defendant Keechle's claims regarding the existence of an express, resulting or constructive trust. In addition, their motion fails to address the sufficiency of Defendant Keechle's claim that the Debtors were unjustly enriched through the conveyance of the New Carlisle property at 242 Shepard Street. Furthermore, the Debtors' reliance on two municipal court entries to establish ownership interests in the New Carlisle property valued at \$60,000.00 in the Debtors' Schedule A raises questions as to whether the entries, if intended to settle ownership interests in the property, exceed municipal court jurisdiction. *See* Ohio Rev. Code § 1901.17.

Because there remain disputed issues of fact as to the cross-claims raised in Defendant Keechle's Answer, Counter-Claim and Cross-Claim, the Debtors' Motion for Summary Judgment [Adv. Doc. 34] **is denied.**

**SO ORDERED.**

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