

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

IN RE:)
)
S. I. EXTENDED CONTRACTORS,) Bankruptcy Case No. 98-41201
INC.,)
)
Debtors.)

OPINION

This matter having come before the Court on Travelers Casualty and Surety Company f/k/a Aetna Casualty and Surety Company's Motion for Summary Judgment, a Motion for Summary Judgment filed by the Debtor corporation, and replies thereto; the Court, having heard arguments of counsel and being otherwise fully advised in the premises, makes the following findings of fact and conclusions of law pursuant to Rule 7052 of the Federal Rules of Bankruptcy Procedure.

In order to prevail on a motion for summary judgment, the movant must meet the statutory criteria set forth in Rule 56 of the Federal Rules of Civil Procedure, made applicable to adversary proceedings by Federal Rule of Bankruptcy procedure 7056. Rule 56(c) reads in part:

(T)he judgment sought shall be rendered forthwith 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 judgment as a matter of law.

Fed.R.Civ.P. 56(c); See Donald v. Polk County, 836 F.2d 376, 378-379 (7th Cir. 1988).

The United States Supreme Court has issued a series of cases which

encourage the use of summary judgment as a means of disposing of factually unsupported claims. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 106 S.Ct. 2505 (1986); Celotex Corp. v. Catrett, 477 U.S. 317, 106 S.Ct. 2548 (1986); Matsushita Electric Industrial Co. v. Zenith Radio Corp., 475 U.S. 574, 106 S.Ct. 1348 (1986). "The primary purpose for granting a summary judgment motion is to avoid unnecessary trials when there is no genuine issue of material fact in dispute." Farries v. Stanadyne/Chicago Div., 832 F.2d 374, 378 (7th Cir. 1987) (quoting Wainwright Bank & Trust Co. v. Railroadmens Federal Savings & Loan Ass'n, 806 F.2d 146, 149 (7th Cir. 1986)). The burden is on the moving party to show that no genuine issue of material fact is in dispute. Anderson, 477 U.S. at 256, 106 S.Ct. at 2514. There is no genuine issue for trial if the record, taken as a whole, does not lead a rational trier of fact to find for the non-moving party. Matsushita, 475 U.S. at 587, 106 S.Ct. at 1356. "If the evidence is merely colorable or is not significantly probative, summary judgment may be granted." Anderson, 477 U.S. at 249-250, 106 S.Ct. at 2511.

In considering the arguments of the parties and having reviewed all the pleadings filed in this matter, the Court finds that there are numerous factual disputes which render this matter inappropriate for summary judgment under Rule 7056 of the Federal Rules of Bankruptcy Procedure. Thus, the Court finds that it must deny all the motions for summary judgment presently before the Court and that a trial will be held in this matter on July 24, 2000, at 9:00 a.m., in the Melvin Price

Federal Building, 750 Missouri Lane, East St. Louis, Illinois.

ENTERED: May 17, 2000.

/s/ GERALD D. FINES
United States Bankruptcy Judge