



UNITED STATES BANKRUPTCY COURT  
FOR THE  
WESTERN DISTRICT OF KENTUCKY

IN RE: ) Chapter 13  
)  
TOMMY ESTES ) Case No. 95-31959  
)  
)  
Debtor. )

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**MEMORANDUM**

This matter comes before the Court on the Debtor's Request For Creditor, Swope Automotive To Return Property Essential To The Debtor's Reorganization Plan. The Debtor is seeking the return of a vehicle repossessed prepetition. The pleading filed by the debtor, however, is procedurally defective. Bankruptcy Rule 7001(1) provides that an adversary proceeding is a proceeding to recover money or property.

We hereby adopt and incorporate by reference the Memorandum Opinion written by Judge Charles M. Allen of the United States District Court in the case of In re Carolyn Louise Carter (Liberty National Bank and Trust Co. v. Carolyn Louise Carter), Civil Action No. C-93-0728-L(A) (unpublished opinion). (Judge Allen has consented to our publication of this opinion vis-a-vis this Memorandum). In the Carter case, Judge Allen directed the Bankruptcy Court for the Western District of Kentucky to discontinue accepting motions seeking turnover in Chapter 13 cases "in direct contravention to the plain and unambiguous language of Bankruptcy Rule 7001." (Memorandum Opinion, at page 5).

In compliance with Judge Allen's directive, we shall enter an Order incorporating this Memorandum and shall remand the Debtor's request based on his failure to file an adversary proceeding.

August \_\_\_\_\_, 1995

DAVID T. STOSBERG  
UNITED STATES BANKRUPTCY JUDGE

ENTERED  
DIANE S. ROBL, CLERK  
August 3, 1995  
U.S. BANKRUPTCY COURT  
WESTERN DISTRICT OF KENTUCKY