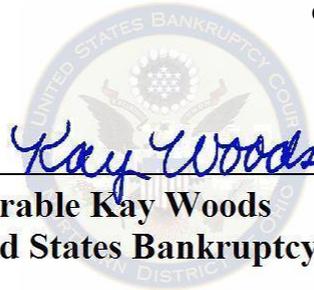


IT IS SO ORDERED.



Honorable Kay Woods
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

IN RE:	*	
	*	
TWO SPRINGS MEMBERSHIP CLUB,	*	
	*	CASE NUMBER 04-44837
Debtor.	*	
	*	
*****	*	
	*	
ELAINE B. GREAVES, Trustee,	*	
	*	ADVERSARY NUMBER 06-4112
Plaintiff,	*	
	*	
vs.	*	
	*	
OFFICE OF THE DELAWARE	*	
ATTORNEY GENERAL, et al.,	*	
	*	HONORABLE KAY WOODS
Defendants.	*	
	*	

MEMORANDUM OPINION (I) VACATING JUNE 30, 2008, OPINION DENYING
MOTION OF CAMP COAST TO COAST FOR SUMMARY JUDGMENT AND
(II) DENYING MOTION OF CAMP COAST TO COAST FOR SUMMARY JUDGMENT
RELATING TO COUNTS I AND II OF COAST'S ANSWER AND COUNTERCLAIM
Not Intended for National Publication

The following Memorandum Opinion is not intended for

national publication and carries limited precedential value. The availability of this Opinion by any source other than www.ohnbuscourts.gov is not the result of direct submission by this Court. The Opinion is available through electronic citation at www.ohnb.uscourts.gov pursuant to the E-Government Act of 2002 (Pub. L. No. 107-347).

Before the Court is Motion for Summary Judgment (Doc. # 54)¹ filed by Defendant Camp Coast to Coast, Inc. and Affinity Group, Inc. (collectively, "Coast") on April 4, 2008. The United States ("Government"), also a defendant in this adversary proceeding, filed United States' Response in Opposition to Motion for Summary Judgment Filed by Camp Coast To Coast, Inc., and Affinity Group, Inc. ("Government Response") (Doc. # 59) on April 24, 2008. Coast also filed Answer, Counterclaim and Crossclaim of Camp Coast to Coast, Inc. and Affinity Group, Inc. ("Coast Counterclaim") (Doc. # 15) on July 20, 2006, and Designation of Issues (Doc. # 43) on January 25, 2008. Both Coast and the Government jointly filed Stipulation on Documents and Facts ("Stipulation") (Doc. # 42) on January 14, 2008, and Exhibit List ("Exhibit") (Doc. # 58) on April 24, 2008.

On June 30, 2008, this Court entered Opinion Denying Motion for Summary Judgment (Doc. # 62) and Order (Doc. # 63)

¹Unless otherwise noted, all Docket numbers in this Opinion refer to documents contained in the docket of this Adversary Proceeding, Case No. 06-4112.

(collectively, "June 30 Order"), which denied Coast's Motion for Summary Judgment, and also indicated the Court's intention to enter summary judgment against Coast, *sua sponte*, on the basis that the statute of limitations had run, resulting in Coast's theoretical fraudulent transfer action having no basis in law. The Court provided Coast with ten days' notice to present all relevant evidence opposing the Court's *sua sponte* basis for summary judgment against it. In response, Coast filed Memorandum in Response to Court's Sua Sponte Order (Doc. #67) ("Coast's Memo") on July 9, 2008. The Government filed United States' Motion to Reconsider (And Reply to Coast's Response to Sua Sponte Order) (Doc # 68) ("Government's Motion to Reconsider") on July 16, 2008.

Having reviewed all of the documents, the Court vacates the June 30 Order and enters this Opinion, which supersedes and replaces the June 30 Order. For the reasons set forth below, the Court finds that Coast's Motion for Summary Judgment must be denied and that judgment against Coast will be entered on Counts I and II of Coast's Counterclaim.

This Court has jurisdiction pursuant to 28 U.S.C. § 1334 and the general order of reference (General Order No. 84) entered in this district pursuant to 28 U.S.C. § 157(a). Venue in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(O). The following constitutes the Court's findings of fact and conclusions of law pursuant to FED. R. BANKR. P. 7052.

I. STANDARD FOR REVIEW

The procedure for granting summary judgment is found in FED. R. CIV. P. 56(c), made applicable to this proceeding through FED. R. BANKR. P. 7056, which provides, in part, that

[t]he judgment sought should be rendered if the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law.

FED. R. CIV. P. 56 (West 2008). Summary judgment is proper if there is no genuine issue of material fact, and the moving party is entitled to judgment as a matter of law. FED. R. CIV. P. 56(c); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322-23 (1986). A fact is material if it could affect the determination of the underlying action. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). An issue of material fact is genuine if a rational fact-finder could find in favor of either party on the issue. *Liberty Lobby*, 477 U.S. at 248-49. Thus, summary judgment is inappropriate "if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." *Id.* at 248.

In a motion for summary judgment, the movant bears the initial burden of establishing an absence of evidence to support the nonmoving party's case. *Celotex*, 477 U.S. at 323. The burden then shifts to the nonmoving party to demonstrate the existence of a genuine dispute. *Matsushita Elec. Indus. Co., Ltd v. Zenith Radio Corp.*, 475 U.S. 574, 586-87 (1986). The evidence must be viewed in

the light most favorable to the nonmoving party. *Matsushita*, 475 U.S. at 587. However, in responding to a proper motion for summary judgment, the nonmoving party "cannot rely on the hope that the trier of fact will disbelieve the movant's denial of a disputed fact, but must 'present affirmative evidence in order to defeat a properly supported motion for summary judgment.'" *Street v. J.C. Bradford & Co.*, 886 F.2d 1472, 1479 (6th Cir. 1989) (quoting *Anderson*, 477 U.S. at 257). That is, the nonmoving party has an affirmative duty to direct the court's attention to those specific portions of the record upon which it seeks to rely to create a genuine issue of material fact. *Street*, 886 F.2d at 1479-80.

II. FACTUAL AND PROCEDURAL BACKGROUND

Two Springs Membership Club ("Debtor") is one of several campgrounds owned and/or operated by Raymond Novelli ("Novelli") and various associates (collectively, "Novelli Group"). (Mot. for Summ. J. at 2; Gov't Resp. at 11.) Many of the Novelli Group campgrounds have filed for one or more bankruptcies. (Mot. for Summ. J. Ex. A; Gov't Resp. at 17.) Debtor filed a chapter 11 voluntary petition in this Court on October 4, 2004 (Case No. 04-44837) ("Debtor's Case"). Revcon Motorcoach, Inc., a Nevada corporation ("Revcon NV"), another Novelli Group campground, also filed a chapter 11 voluntary petition in this Court on October 4, 2004 (Case No. 04-44836) ("Revcon NV Case"). Both cases were converted to chapter 7 on June 30, 2005.

Debtor did not list Coast as a creditor in its voluntary petition, but Revcon NV listed Coast as its largest creditor, with an unsecured claim of \$3,880,038.54.² The Court entered Notice of Need to File Proof of Claim Due to Recovery of Assets in (i) Debtor's Case, and (ii) the Revcon NV Case, setting the last dates to file claims in each case. The claims deadline for the Revcon NV Case was December 28, 2005 (Revcon NV Case, Doc. # 43). The claims deadline for Debtor's Case was November 9, 2005 (Debtor's Case, Doc. # 61). Coast filed claims for \$3,880,038.54 in: (i) the Revcon NV Case (Revcon NV Case, Claim # 3) on April 17, 2007, and (ii) Debtor's Case (Debtor's Case, Claim # 10) on April 18, 2007. The Revcon NV chapter 7 trustee, Michael Buzulencia ("Revcon NV Trustee"), filed Trustee's Final Report on January 17, 2008 (Revcon NV Case, Doc. # 57), in which he noted that no distribution was paid on Coast's Claim # 3 because it had been filed late.

Debtor's estate included real property located at 14300 Indian Avenue, North Palm Springs, California 92258 ("Indian Avenue Property"). On October 24, 2005, the Court entered Order Authorizing Sale of Property Free and Clear of All Liens, Encumbrances, Claims and Other Interests ("Sale Order") (Debtor's Case, Doc. # 75), which (i) authorized Elaine B. Greaves, Debtor's chapter 7 trustee ("Trustee"), to sell the Indian Avenue Property; and (ii) directed Trustee to thereafter "commence an adversary

²Revcon NV listed Coast as having a disputed claim, which required Coast to file a proof of claim prior to the bar date in order to be entitled to a distribution from the Revcon NV bankruptcy estate.

proceeding seeking a determination of the validity, priority and extent of the Encumbrances against the Property[.]” (Sale Order at 6.) After the Indian Avenue Property was sold, in compliance with the Sale Order, Trustee filed Complaint to Determine Validity, Priority, and Extent of Liens and and [sic] Determination of Income Tax Liability (“Complaint”) (Doc. # 1), which commenced this Adversary Proceeding on June 1, 2006. The Complaint names 20 defendants, including Coast, the Government, and Revcon NV, who are “potential parties in interest to the real estate and hence to the proceeds of sale.” (Compl. ¶ 4.)

The following facts are relevant to Coast’s claim. Revcon NV purchased the Indian Avenue Property from Miles Shook on March 5, 1993, and recorded the grant deed on May 19, 1993. (Stip. at 7; Ex. 2.) Revcon NV paid for the Indian Avenue Property with a \$1,080,000.00 promissory note secured by a deed of trust for such property. (Stip. at 7; Ex. 75.)

Revcon NV and other Novelli Group entities filed suit against Coast and other defendants (“California Case”) in the Superior Court of the State of California in and for the County of Orange (“California Court”) on January 28, 1998. (Stip. at 8; Ex. 6.) The California Court ruled in favor of all defendants on October 10, 2000. (Stip. at 8; Ex. 9.) Coast obtained a joint and several judgment against Revcon NV and the other California Case plaintiffs for \$3,880,038.54 (“Judgment”) on February 14, 2001. (*Id.*) Debtor was not a party to the California Case.

Debtor was incorporated as a Delaware corporation on March 28, 2001. (Stip. at 9; Ex. 16.) Revcon NV transferred the Indian Avenue Property to Debtor for no consideration on April 21, 2001. (Mot. for Summ. J. at 10.) Debtor recorded a grant deed for the Indian Avenue Property on April 25, 2001. (Stip. at 9; Ex. 17.) Thereafter, on October 15, 2001, Coast filed an abstract of the Judgment. (Stip. at 9; Ex. 10.) Coast took no action to collect on the Judgment prior to filing Claim # 3 in the Revcon NV Case on April 17, 2007.

Novelli is alleged to be the "principal architect of the campground business operations from 1986 forward[.]" (Mot. for Sum. J. at 2.) Coast cites to portions of Novelli's deposition to establish that: (i) Revcon NV transferred the Indian Avenue Property to Debtor "to make sure we protected our members against any actions of Coast," which actions were identified by Novelli as Coast getting a judgment against Revcon NV; (ii) Debtor did not pay any money or other type of consideration to Revcon NV for the Indian Avenue Property; and (iii) transfer of the Indian Avenue Property did not result in any changes to the campground or the rights of the members of the campground. (Mot. for Summ. J. at 10, citing R. Novelli Deposition, p. 75, l. 16 to p. 77, l. 8.)

III. ANALYSIS

A. Statute of Limitations

This Court reverses its prior position that the statute of limitations has run, thus time-barring any claim by Coast based

on fraudulent transfer. As both parties pointed out, this Court overlooked 11 U.S.C. § 108(b), which effectively tolls the state statute of limitations while the automatic stay in § 362 is in place. The California statute of limitations for fraudulent transfer is four years after the transfer was made (Cal. Civ. Code § 3439.09). Since Revcon NV transferred the Indian Avenue Property to Debtor on April 21, 2001, the four-year statute of limitations (*i.e.*, April 21, 2005) had not expired when Debtor's case was filed on October 4, 2004. Section 108(b) of the Bankruptcy Code provides that, since the limitations period had not expired as of the Debtor's petition date, "such period does not expire until the later of - (1) the end of such period, including any suspension of such period occurring on or after the commencement of the case; or (2) 30 days after notice of the termination or expiration of the stay under section 362. . . of this title[.]" 11 U.S.C. § 108(b) (West 2008). The automatic stay in § 362 has not been terminated in this case, thus the applicable statute of limitations has not run.

The Court also agrees that, once the two year period in 11 U.S.C. § 546(a) for a trustee to bring an avoidance action has run, a creditor, such as Coast, is not prohibited from pursuing causes of action for fraudulent transfer. *Buckeye Retirement Co., LLC, Ltd. v. Hake (In re Hake)*, Nos. 05-8026 and 05-8031 (consolidated) (6th Cir. B.A.P. (Ohio) Aug. 23, 2006) at 2. ("[T]he right of the trustee to pursue the state law claims has lapsed, and it remains to the [creditor] to pursue them.")

Accordingly, the Court finds that the California statute of limitations concerning fraudulent transfers has not run. Since that was the basis for the Court's finding, *sua sponte*, that Coast's alleged cause of action had no basis in law, the June 30 Order is hereby vacated.

As a consequence, the Court has reconsidered Coast's arguments. Despite such reconsideration, as set forth below, Coast's arguments are still unavailing.

B. Coast's Claim

Coast's Motion for Summary Judgment asks the Court to find that its claim against the Indian Avenue Property sale proceeds "constitutes the first and best claim against such proceeds, subject only to the administrative claims of the Trustee and superior to the claim of the United States of America, Internal Revenue Service[.]" (Mot. for Summ. J. at 1.) The Motion for Summary Judgment is based solely on Coast's assertion that Revcon NV's transfer of the Indian Avenue Property to Debtor was fraudulent.

Coast asserts that "but for the transfer, on April 25, 2001, by Revcon [NV] . . . to this Debtor, . . . [Coast's Judgment Lien] would have directly encumbered the [Indian Avenue P]roperty." (Mot. for Summ. J. at 10 (emphasis added).) Coast also maintains that said transfer was "an actual fraudulent transfer." (Mot. for Summ. J. at 11.) Coast contends that California law provides it with "two avenues of relief." (*Id.*)

Count II of Coast's Counterclaim asserts a claim against the proceeds of sale of the Indian Avenue Property based on fraudulent transfer. Coast cites the California Fraudulent Transfer Act, California Civil Code ("Cal. Civ. Code") § 3439.08, for its two asserted bases for relief - *i.e.*, that Coast can: (i) avoid the transfer and recovery from the transferor (Revcon NV); or (ii) seek a judgment against the transferee (Debtor) for the amount of its judgment or the value of the transferred property, whichever is less. Coast's Counterclaim, however, only seeks to recover against Debtor, as transferee. (Coast Countercl., ¶¶ 13-14.) The applicable California Code section provides:

(b) Except as otherwise provided in this section, to the extent a transfer is voidable in an action by a creditor under paragraph (1) of subdivision (a) of Section 3439.07, the creditor may recover judgment for the value of the asset transferred, as adjusted under subdivision (c), or the amount necessary to satisfy the creditor's claim, whichever is less. The judgment may be entered against the following:

(1) The first transferee of the asset or the person for whose benefit the transfer was made.

Cal. Civ. Code § 3439.08(b)(1) (Deering 2008) (emphasis added).

Coast takes the position that it has the first and best lien on the property because the transfer of the Indian Avenue Property was fraudulent (Mot. for Summ. J. at 11-12; Coast Countercl., ¶ 14). Coast also argues that it has the "ability to obtain a separate money judgment against [Debtor as] transferee" because the transfer was fraudulent. (Coast's Memo at 3; Mot. for Summ. J. at 11.) Coast cites *Imperial Corp. of America v. Shields*,

1997 WL 808636 (S.D. Cal. 1997) for the proposition that "avoidance of transfers and recovery from transferees are distinct concepts under bankruptcy law." *Id.* at *3. Thus, Coast argues that, because the transfer of the Indian Avenue Property was fraudulent, it has a claim against Debtor for the value of the transferred property.

The Court herein examines each of Coast's alleged bases to recover based on fraudulent transfer.

1. Recovery against Transferor

The Revcon NV Trustee never attempted to avoid the transfer and recover the Indian Avenue Property for the Revcon NV estate. Since the statute of limitations for the Revcon NV Trustee's cause of action has expired,³ Coast now has the theoretical ability to pursue such fraudulent transfer action against Revcon NV. However, Coast has never done so. Indeed, the only crossclaim Coast has asserted against Revcon NV herein is based on the theory of alter ego - not fraudulent transfer. Coast filed its Answer (which contained Counterclaims and Crossclaim) in this Adversary Proceeding more than two years ago, on July 20, 2006 - approximately a year and a half before the Revcon NV Trustee filed the final accounting for that estate, and approximately nine months before Coast filed claims in either Debtor's Case or the Revcon NV Case. The Revcon NV Trustee has liquidated the Revcon NV estate without distribution to Coast on

³11 U.S.C. § 546 provides a statute of limitations, which is the longer of two years after the order for relief or one year after the appointment or election of the first trustee. The first trustee in the Revcon NV Case was appointed on or about July 7, 2005. As a consequence, the statute of limitations ran one year later - on July 7, 2006.

the grounds that Coast, despite being scheduled as having a disputed unsecured claim, failed to timely file a proof of claim.

Currently, Coast has no lien against the Indian Avenue Property because Coast did not file its judgment until after Revcon NV transferred the Indian Avenue Property to Debtor. Count I of Coast's Counterclaim alleges that: (i) Coast filed its judgment lien against Revcon NV on October 15, 2001; (ii) Revcon NV filed its bankruptcy case in this Court, which was converted to a chapter 7 case; and (iii) "[b]y virtue of the filing of the Judgment Lien, [Coast] obtained a lien against the [Indian Avenue] Property, which lien has been transferred to the Net Proceeds, and is a valid and subsisting lien upon such Net Proceeds." (Coast Countercl., ¶¶ 10-13.) Inexplicably, Coast offers no support for its leap that its judgment against Revcon NV, when filed after Revcon NV had transferred the Indian Avenue Property, becomes a judgment lien against the proceeds of Trustee's sale of the Indian Avenue Property. Coast merely states: "It is asserted that the lien filed against Revcon [NV] dba Two Springs, under California law, does in fact encumber the property held in the name of [Debtor] and the fund resulting from its sale." (Mot. for Summ. J. at 11-12.) Although this proposition may be self-evident to Coast, it is contrary to California law.

Under California law, "a judgment lien on real property is created . . . by recording an abstract of a money judgment with

the county recorder."⁴ California Code of Civil Procedure ("CAL. CODE CIV. P.") § 697.310 (Deering 2008). In California, "an abstract of judgment attaches to all interests . . . in real property in the county in which the abstract is recorded. . . . But the abstract does not attach until it is recorded and it therefore cannot affect previously transferred property." *Casey v. Gray*, 16 Cal. Rptr. 2d 538, 539 (Cal. Ct. App. 1993) (citing CAL. CODE CIV. P. § 697.340) (emphasis added). The *Casey* court held that "an executed and delivered (but unrecorded) quit-claim deed conveys title free and clear of a subsequently recorded abstract of judgment" even where the judgment was obtained prior to execution of the quit-claim deed. *Id.* As a consequence, California law does not support - and directly defeats - Coast's Count I.

Although Cal. Civ. Code § 3439.07 authorizes Coast to seek to avoid Revcon NV's transfer of the Indian Avenue Property to Debtor, the avoidance of such transfer would not and, indeed, could not, result in a secured claim against this Debtor. Avoidance of the transfer would result in transfer of the property being a nullity - *i.e.*, title would revert to the transferor (Revcon NV, now the

⁴In the Motion for Summary Judgment, Coast cites one case in support of its position: *Coleman v. J&B Enters., Inc. (In re Veterans Choice Mortgage)*, 291 B.R. 894 (Bankr. S.D. Ga. 2003). However, the *Veterans Choice* court applied Georgia law. In Georgia, "[a] creditor acquires a lien against defendant as soon as he obtains a judgment." *Veterans Choice*, 291 B.R. at 896, n.1 (citing Official Code of Georgia Annotated § 9-12-80). Additionally, *Veterans Choice* addresses an issue different from that raised by the Motion for Summary Judgment. The *Veterans Choice* trustee brought an adversary proceeding against a creditor to reclaim property for the estate under 11 U.S.C. §§ 547 and 548. Pre-petition, the creditor had obtained and filed a judgment against the debtor in state court, after which the state court issued a Writ of Fieri Facias, which was recorded in the appropriate county. *Id.* at 896. The trustee filed a motion to determine whether the creditor's claim was secured or unsecured. *Id.*

Revcon NV bankruptcy estate). If the transfer were voided, Trustee could be compelled to turn over the proceeds of the sale to the Revcon NV Trustee. Avoiding the transfer could not result in a secured claim by Coast against Debtor.

As a consequence, Coast's Motion for Summary Judgment on the basis that it has a secured claim against Debtor because it can avoid Revcon NV's transfer of the Indian Avenue Property to Debtor fails as a matter of law.

2. Recovery Against Transferee

Debtor did not schedule Coast as a creditor. Although Coast filed a general unsecured claim for \$3,880,038.54 (Claim # 10) in Debtor's Case, it did so approximately seventeen (17) months after the bar date for filing claims. Although Trustee has not objected to Coast's claim, the Government, in Government's Motion to Reconsider, attempts to object to Coast's claim. (Gov't Mot. to Recon. at 12.) The Government cannot object to Coast's claim now as part of the Adversary Proceeding without seeking leave of court to amend its Answer. The Government has not done so, and its attempt to assert a claim objection for the first time in its Motion to Reconsider is improper.

The evidence presented by Coast for finding the transfer of the Indian Avenue Property to be fraudulent is based on the deposition testimony of Novelli, which has not been contradicted or refuted. Viewing the allegations in the light most favorable to Coast, the Court will assume, for purposes of Coast's Motion for

Summary Judgment only, that the transfer by Revcon NV to Debtor was fraudulent. As a consequence, Coast would be able to recover a judgment for the value of the transferred property from Debtor. Any such judgment against Debtor, however, could not be perfected as a lien. See § 362(a)(4). Thus, Coast could - at most - have only an unsecured claim against Debtor under its second theory of recovery.

The Court will not address the viability of Coast's Claim # 10 at this time because such discussion is not ripe. What is clear, however, is that, based upon the theory of fraudulent transfer, Coast may recover a judgment against Debtor, but Coast does not have a lien against Debtor's property. Accordingly, Coast cannot have a secured claim in Debtor's Case. As a consequence, Coast's Motion for Summary Judgment based on recovery from Debtor as the transferee of the Indian Avenue Property, based on fraudulent transfer, also fails.⁵

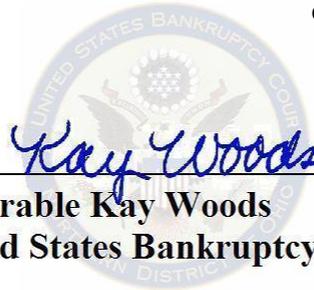
IV. CONCLUSION

For the reasons given above, Coast's Motion for Summary Judgment will be denied, and judgment against Coast on Counts I and II of its Answer will be entered. An appropriate order will follow.

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⁵This Court is aware that Coast's Crossclaim, at Count III, asserts that Coast has a secured claim based on the theory that Debtor and Revcon NV are alter egos. (Coast Countercl. at 4-5.) That claim was not fully addressed by Coast in the Motion for Summary Judgment. In fact, rather than attempting to establish that Debtor and Revcon NV are alter egos, Coast concedes that "the discussion to this point suggests that there was a unity of interest between . . . Revcon [NV] and [Debtor][.]" (Mot. for Summ. J. at 15 (emphasis added).) Coast also acknowledges that the argument regarding alter ego is "very fact intensive[.]" (*Id.* at 3.) Because Coast did not argue Count III in the Motion for Summary Judgment, the Court has not dealt with it herein.

IT IS SO ORDERED.



Honorable Kay Woods
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

IN RE:	*	
	*	
TWO SPRINGS MEMBERSHIP CLUB,	*	
	*	CASE NUMBER 04-44837
Debtor.	*	
	*	
*****	*	
	*	
ELAINE B. GREAVES, Trustee,	*	
	*	ADVERSARY NUMBER 06-4112
Plaintiff,	*	
	*	
vs.	*	
	*	
OFFICE OF THE DELAWARE	*	
ATTORNEY GENERAL, et al.,	*	
	*	HONORABLE KAY WOODS
Defendants.	*	
	*	

ORDER (I) VACATING JUNE 30, 2008, OPINION DENYING MOTION OF
CAMP COAST TO COAST FOR SUMMARY JUDGMENT AND
(II) DENYING MOTION OF CAMP COAST TO COAST FOR SUMMARY JUDGMENT
RELATING TO COUNTS I AND II OF COAST'S ANSWER AND COUNTERCLAIM

For the reasons given in the Memorandum Opinion dated this day,
Coast's Motion for Summary Judgment is hereby denied, and judgment
against Coast on Counts I and II of its Answer is hereby entered.

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