

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

Chapter 7
Bky. Case No. 04-44186

John Carlos DiPetrillo and
Stacy Lynn DiPetrillo,

**RESPONSE TO TRUSTEE'S
OBJECTION TO
CLAIMED EXEMPT PROPERTY**

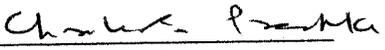
Debtors.

TO: THE COURT, UNITED STATES TRUSTEE, AND BANKRUPTCY ESTATE
TRUSTEE DORRAINE A. LARISON:

1. Charles E. Paschke, attorney for the above-named debtors, moves the Court for relief requested below and gives notice of hearing.
2. The Court will hold a hearing on this motion at 9:30 a.m. on October 20, 2004, in Courtroom No. 8 West, at the United States Courthouse, at 300 South Fourth Street in Minneapolis, Minnesota.
3. Debtors have claimed as exempt the following assets which are tools or machines used by debtor John C. DiPetrillo in his trade: 2004 Melroe Bobcat T190, Kincade hydroseeder, and Trailer all claimed exempt under MSA § 550.37 subd. 6.
4. The debtors submit that for the reasons stated in the attached affidavits the above-described items are tools or machines reasonably necessary for debtor John C. DiPetrillo to use as an employee of Buffalo Bituminous, Inc.. Buffalo Bituminous, Inc. hired debtor John C. DiPetrillo with the understanding that he would use the Bobcat and hydroseeder and trailer on a regular basis during the course of his employment, As such, the items are tools or machines of debtor John C. DiPetrillo's trade.

WHEREFORE, Applicant moves the Court for an order disallowing trustee's objection to claimed exempt property and such other relief as may be just and equitable.

Dated this 7th day of October, 2004.


Charles E. Paschke
I.D. No. 8427X
P.O. Box 189
Howard Lake, MN 55349
(320) 543-3411
Attorney for Debtors

VERIFICATION. I, Charles E. Paschke, attorney for the debtors, declare under penalty or perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Dated: October 7, 2004


Charles E. Paschke
Attorney for Debtors

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

Chapter 7
Bky. Case No. 04-44186

John Carlos DiPetrillo and
Stacy Lynn DiPetrillo,

**UNSWORN CERTIFICATE
OF SERVICE**

Debtors.

I, Patricia K. Kubasch, declare under penalty of perjury that on October 8, 2004, I mailed the following document:

RESPONSE TO TRUSTEE'S OBJECTION TO CLAIMED EXEMPT PROPERTY

By first class mail postage prepaid to each entity named below at the address stated below for each entity:

UNITED STATES TRUSTEE
1015 US COURTHOUSE
300 SOUTH FOURTH STREET
MINNEAPOLIS, MN 55415

DORRAINE A. LARISON
ATTORNEY FOR TRUSTEE
GRAY, PLANT, MOOTY, MOOTY & BENNETT, P.A.
1010 WEST ST. GERMAIN STREET
SUITE 600
ST. CLOUD, MN 56301

Executed on: October 8, 2004


Patricia K. Kubasch

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

Chapter 7
Bky. Case No. 04-44186

John Carlos DiPetrillo and
Stacy Lynn DiPetrillo,

**AFFIDAVIT OF
JOHN C. DIPETRILLO**

Debtors.

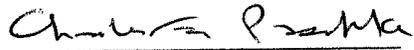
John C. DiPetrillo, being first duly sworn on oath, states as follows:

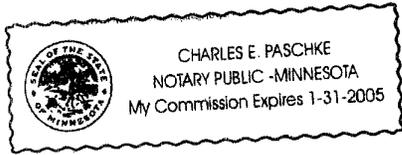
1. That your Affiant is the above-named debtor and I reside at 8787 West 50th Street NW, Annandale, MN 55302.
2. That I was hired by Buffalo Bituminous, Inc. on or about April 1, 2004 to perform general construction and landscaping work. Two of the principal jobs I was hired to perform were Bobcat work and grass restoration.
3. Buffalo Bituminous, Inc. owns and operates several Skidster loaders. I am far more proficient and skilled at operating a Bobcat loader as opposed to a Skidster loader. The controls and mechanics of a Bobcat loader are different from the controls and mechanics of a Skidster loader. I believe Buffalo Bituminous, Inc. decided to hire me in large part because I am very skilled at operating a Bobcat loader and because of my experience in operating a Kincade hydroseeder.
4. At the time that Buffalo Bituminous, Inc. hired me I already owned a Bobcat and a Kincade hydroseeder and a trailer I used to transport the Bobcat and hydroseeder to jobsites. I was hired by Buffalo Bituminous, Inc. with the understanding that I would on an almost daily basis use my own Bobcat at Buffalo Bituminous, Inc. jobsites and that I would use my own Kincade hydroseeder at Buffalo Bituminous, Inc. jobsites on an as needed basis. Buffalo Bituminous, Inc. does not own its own hydroseeder.
5. At the time that Buffalo Bituminous, Inc. hired me Buffalo Bituminous, Inc. agreed to pay me my normal wages plus \$6,000.00 per year provided I continued to use my own Bobcat and hydroseeder at Buffalo Bituminous, Inc. jobsites, and provided that I used my own trailer to transport both pieces of equipment to Buffalo Bituminous, Inc. jobsites.

6. Further your Affiant sayeth not.


John C. DiPetrillo

Subscribed and sworn to before me
this 7th day of October, 2004.


Notary Public



**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

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Chapter 7
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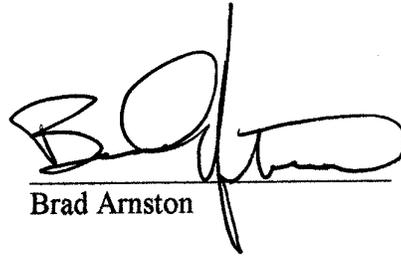
John Carlos DiPetrillo and
Stacy Lynn DiPetrillo,

**AFFIDAVIT OF
BRAD ARNSTON**

Brad Arnston, being first duly sworn on oath, states as follows:

1. That your Affiant is a Vice-President of Buffalo Bituminous, Inc., 2852 County Road 12 North, Buffalo, MN 55313.
2. That on or about April 1, 2004, Buffalo, Bituminous, Inc. hired debtor John C. DiPetrillo to perform general construction and landscaping work. Two of the principal jobs John C. DiPetrillo was hired to perform were Bobcat work and grass restoration.
3. Buffalo Bituminous, Inc. owns and operates several Skidster loaders. Debtor John C. DiPetrillo is far more proficient and skilled at operating a Bobcat loader as opposed to a Skidster loader. The controls and mechanics of a Bobcat loader are different from the controls and mechanics of a Skidster loader. Buffalo Bituminous, Inc. decided to hire debtor John C. DiPetrillo in large part because of his exceptional skill at operating a Bobcat loader and because of his experience in operating a Kincade hydroseeder.
4. At the time that Buffalo Bituminous, Inc., hired debtor John C. DiPetrillo he already owned a Bobcat and a Kincade hydroseeder and a trailer John C. DiPetrillo used to transport the Bobcat and hydroseeder to jobsites. Debtor John C. DiPetrillo was hired by Buffalo Bituminous, Inc. with the understanding that John C. DiPetrillo would on an almost daily basis use his own Bobcat at Buffalo Bituminous, Inc. jobsites and that John C. DiPetrillo would use his Kincade hydroseeder at Buffalo Bituminous, Inc. jobsites on an as needed basis. Buffalo Bituminous, Inc. does not own its own hydroseeder.
5. At the time that Buffalo Bituminous, Inc. hired John C. DiPetrillo Buffalo Bituminous, Inc. agreed to pay John C. DiPetrillo his normal wages plus \$6,000.00 per year provided John C. DiPetrillo continued to use his own Bobcat and hydroseeder at Buffalo Bituminous, Inc. jobsites, and provided that John C. DiPetrillo used his own trailer to transport both pieces of equipment to Buffalo Bituminous, Inc. jobsites.

6. Further your Affiant sayeth not.


Brad Arnston

Subscribed and sworn to before me
this 7th day of October, 2004.


Notary Public

