

The document below is hereby signed.

Signed: December 18, 2014



A handwritten signature in black ink that reads "S. Martin Teel, Jr." with a stylized flourish at the end.

S. Martin Teel, Jr.
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLUMBIA

In re)	
)	
STEPHEN THOMAS YELVERTON,)	Case No. 09-00414
)	(Chapter 7)
Debtor.)	
)	Not for publication in
)	West's Bankruptcy Reporter.

MEMORANDUM DECISION AND ORDER COMPELLING ABANDONMENT

This addresses the debtor's *Motion to Compel Chapter 7 Trustee to Abandon Property and Claims Under 11 U.S.C. 554(b)* (Dkt. No. 836). The proposed order submitted by the debtor would direct abandonment of certain property of the estate (the property and litigation claims in Adversary Proceeding No. 10-10045, and the underlying Mercedes-Benz, and related litigation claims) to the debtor but would also add that "Article III standing reverts to him *nunc pro tunc*." It would not be appropriate to include that additional language in the order compelling abandonment as the issue of whether the abandonment should be treated as *nunc pro tunc* to the commencement of this

case is not before this court on a motion to compel abandonment.¹
For all of these reasons, it is

ORDERED that the property and litigation claims in Adversary Proceeding No. 10-10045, and the underlying Mercedes-Benz, and related litigation claims are abandoned to Stephen Thomas Yelverton, pursuant to 11 U.S.C. § 554(b), and Fed. R. Bankr. P. 6007(b). It is further

ORDERED that this order in no way affects the status of Adversary Proceeding No. 10-10045 as a dismissed adversary proceeding, but the abandonment of the claims that had been asserted in that adversary proceeding nevertheless permits Yelverton to pursue the claims in a new action in a court of competent jurisdiction.

[Signed and dated above.]

¹ Additionally, this court explained at great length in Adversary Proceeding No. 10-10045 why any relation back doctrine would not be of any benefit to Yelverton in that dismissed adversary proceeding. See *Memorandum Decision on Remand* and *Memorandum Decision re Plaintiff's Motion to Alter or Amend Decision per Rule 59(e)* ("Yelverton cannot pursue any claims in the adversary proceeding (as opposed to pursuing the claims in a new action) because it remains a dismissed adversary proceeding."). Cases like *Williams v. United Technologies Carrier Corp.*, 310 F. Supp. 2d 1002, 1011-12 (S.D. Ind. 2004), and *Barletta v. Tedeschi*, 121 B.R. 669, 674 (N.D.N.Y. 1990), hold that a debtor's previous lack of standing, in an action that had not been dismissed, could be cured by the relation back doctrine applicable to an abandonment. The relation back doctrine cannot be used by a debtor to resuscitate an adversary proceeding that was dismissed ages before the debtor secured an abandonment to her of the claims that had been asserted in the adversary proceeding.

