

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN THE MATTER OF:)
)
OVA ANN CORY) CASE NO. 06-11540
)
Debtor)

DECISION AND ORDER DENYING MOTION TO AVOID LIEN

At Fort Wayne, Indiana, on January 11, 2007

The motion to avoid a non-possessory, non-purchase money security interest in exempt property filed by the debtor on November 28, 2006 is DENIED, without prejudice, because the movant has failed to allege sufficient facts to state a cognizable claim for lien avoidance pursuant to § 522(f)(1). See, In re Wall, 127 B.R. 353, 355 (Bankr. E.D. Va. 1991). Unlike adversary proceedings which contemplate notice pleading, motions initiating contested matters are required to state the grounds for relief “with particularity.” See, Fed. R. Bankr. P. Rule 9013.

In order for the court to determine if the lien impairs an exemption to which a debtor may be entitled, the motion must, at a minimum, provide information concerning the exemption actually claimed by the debtor and that the exemption is impaired by the creditor’s lien. The debtor’s motion does not provide any of this information. Without allegations concerning these facts, the motion fails to state a cognizable claim for lien avoidance pursuant to § 522(f)(1), (f)(2)(B).

Furthermore, the notice of the motion and opportunity to object which was served does not comply with the local rules of this court, because the notice does not correctly state the date upon which the motion was filed. N.D. Ind. L.B.R. B-2002-2(c)(2). The motion was filed on November 28, 2006, while the notice refers to a motion filed on November 10, 2006. Consequently, not only

is the motion deficient,¹ but creditors and parties in interest have not been given appropriate notice of the motion and the opportunity to object thereto.

IT IS THEREFORE ORDERED that the motion to avoid a non-possessory, non-purchase money lien filed by the debtor on November 28, 2006, is denied, without prejudice.

SO ORDERED.

/s/ Robert E. Grant
Judge, United States Bankruptcy Court

¹The court notes that the debtor did not file a proposed form of order as required by the local rules of this court. N.D. Ind. L.B.R. B-9013-1(c).