

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION

IN THE MATTER OF: )  
 )  
NYAL ELWOOD CHIDDISTER ) CASE NO. 08-11077  
RHONDA LEE CHIDDISTER )  
 )  
Debtors )

**DECISION AND ORDER DENYING MOTION TO AVOID LIENS**

At Fort Wayne, Indiana, on August 14, 2008.

The debtor filed a motion to avoid judicial liens, pursuant to 11 U.S.C. § 522(f). The liens in question are held by Cincinnati Insurance Company and Steuben County upon property located at 260 Lane 587, Fremont, Indiana 46737. There have been no objections to the motion within the time required, see, N.D. Ind. L.B.R. B-2002-2(b)(2), and the matter is, therefore, before the court.

A motion to avoid a judicial lien initiates a contested matter governed by Bankruptcy Rule 9014. Fed. R. Bankr. P. Rule 4003(d). The motion should “be served in the manner provided for service of a summons and complaint by Rule 7004.” Fed. R. Bankr. P. Rule 9014. In this instance, neither the motion nor the notice of the opportunity to object to it were served upon the lienholders, but apparently upon attorneys who have not filed an appearance in the bankruptcy. That is not appropriate. In re Rae, 286 B.R. 675 (Bankr. N.D. Ind. 2002). See also, Matter of Teknek, LLC, 512 F.3d 342, 346 (7th Cir. 2007). Without proper service of both the motion and notice of opportunity to object upon the lienholders, the motion to avoid liens cannot be granted. See, Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc., 526 U.S. 344, 350, 119 S.Ct. 1322, 1326-27 (1999). It is therefore DENIED without prejudice to resubmission.

SO ORDERED.

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