

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION

IN THE MATTER OF: )  
 )  
PHYLLIS J. BARKLEY ) CASE NO. 08-11488  
 )  
 )  
Debtors )

**DECISION AND ORDER**

At Fort Wayne, Indiana, on November 25, 2008.

The motion to avoid a judicial lien in exempt property filed by the debtor on October 29, 2008, 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.

Not every judicial lien upon exempt property may be avoided. Lien avoidance pursuant to §522(f)(1) is available only where the judicial lien impairs a claimed exemption. The concept of impairment was reduced to a mathematical formula by the amendments to §522(f) promulgated by the Bankruptcy Reform Act of 1994. 11 U.S.C. §522(f)(2)(A); In re Thomsen, 181 B.R. 1013, 1015 (Bankr. M.D. Ga. 1995). When the amount due on account of the liens sought to be avoided, all other liens on the property and the amount of the debtor’s exemption “exceeds the value that the debtor’s interest in the property would have in the absence of any liens” the debtor’s exemption is impaired. 11 U.S.C. §522(f)(2)(A)(i) thru (iii). Thus, in order for the court to determine if a judgment lien impairs an exemption to which a debtor may be entitled, in addition to identifying the property subject to the judicial lien, the motion must provide information concerning the value of

the property, the amount due on account of all liens against it, the amount of the liens to be avoided, and the amount of the exemption claimed by the debtor. 11 U.S.C. §522(f)(2)(A); see also, Thomsen, 181 B.R. at 1015-16.

While the debtor's motion states that she is entitled to avoid the lien, the motion does not provide any information concerning the amount due on any liens secured by the property or the amount of the lien sought to be avoided. Without this information the court does not have sufficient facts before it to determine whether the liens in question impair a claimed exemption.<sup>1</sup> As such, the motion fails to state a cognizable claim for lien avoidance pursuant to §522(f)(1).

IT IS THEREFORE ORDERED that the motion to avoid a judicial lien filed by the debtor on October 29, 2008, is denied, without prejudice.

SO ORDERED.

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

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<sup>1</sup>The court notes that the debtor filed an amended schedule C on October 29, 2008. Yet, this case was closed on August 29, 2008. Once a case has been closed, a debtor may no longer amend its exemptions. In re Bartlett, 326 B.R. 436 (Bankr. N.D. Ind. 2005); In re Clear, 1992 WL 1359570 (Bankr. N.D. Ind. 1992).