

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN THE MATTER OF:)
)
ROBERT LEE MURPHY) CASE NO. 05-13635
)
Debtor)

DECISION AND ORDER

At Fort Wayne, Indiana, on November 21, 2005

The notice of motion and opportunity to object which debtor (hereinafter “Movant”) served in connection with his Second Motion to Avoid Judicial Lien does not comply with the requirements of N.D. Ind. L.B.R. B-2002-2 because:

- a. The notice does not “contain a brief summary of the ground for the motion or have a copy of the motion attached to it.” N.D. Ind. L.B.R. B-2002-2(c)(4). Although the notice states that a copy of the motion is attached to it, there is no attachment to the notice filed with the court.
- b. The stated deadline for filing objections, November 12, 2005, is only nineteen (19) days after the date of the notice and creditors are entitled to at least twenty (20) days notice of the opportunity to file objections. N.D. Ind. L.B.R. B-2002-2(b)(1).
- c. The certificate of service accompanying the notice does not indicate that the notice was served on the creditor whose lien is sought to be avoided. Furthermore, it appears that this lienholder, Harris Trust and Savings Bank, is a bank, in which case, service of process is governed by Bankruptcy Rule 7004(h). Subsection (h) requires that service “shall be made by certified mail addressed to an officer of the institution.” See, Fed. R. Bankr. P. Rule 7004(h)(1) thru (3).

Since creditors and parties in interest have not been given appropriate notice of the motion and the opportunity to object thereto, the court cannot grant it at this time. Movant shall prepare and serve an Amended Notice of Motion and Opportunity to Object which complies with N.D. Ind.

L.B.R. B-2002-2 and file proof thereto within fourteen (14) days of this date. See, N.D. Ind. L.B.R. B-9013-4(a). The failure to do so will result in the motion being denied without prejudice and without further notice.

SO ORDERED.

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