

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
LELA BELL GREGORY,) CASE NO. 05-62945 JPK
) Chapter 7
Debtor.)

ORDER FOR CONTINUED HEARING

On January 20, 2006, a hearing was held on the Court's motion with respect to three motions to avoid judicial liens filed by the debtor: one with respect to Mutual Hospital Services, Inc.; one with respect to The Hammond Clinic; and the third with respect to Discover Bank. The debtor appears by counsel Lori Gillis.

Attorney Gillis explains the origin of the addresses used to provide service of the motion and notice of the motion upon the respective creditors, stating that the addresses were obtained directly from the creditors themselves as the addresses to utilize for the purpose of serving the motion and notice. The Court is satisfied with the explanation, and finds that service of the motion and of the notice of motion are in accord with applicable law and rules.

The debtor filed an amended Schedule C on October 13, 2005, increasing the exemption claimed under I.C. 34-55-10-2(b)(1) for real property located at 4555 Delaware Street to \$15,000.00. This case was filed on June 2, 2005, and thus the amendments to the foregoing statute effective July 1, 2005 do not apply to this case, by operation of 11 U.S.C. § 522(b)(2)(A), which states that allowable exemptions under state law are those "applicable on the date of the filing of the petition". However, no creditor or party-in-interest has objected to the exemptions within the time limitation provided by Fed.R.Bankr.P. 4003(b), and thus pursuant to the decision of the United States Supreme Court in *Taylor v. Freeland & Kronz*, 112 S.Ct. 1644 (1992), the exemption claimed must stand.

However, upon review of the foregoing motion subsequent to the conducting of the

hearing, the Court noticed a curious fact. The real estate with respect to which the § 522(f) motions were filed is listed in Schedule A as having a value of \$40,000.00. Schedule D states a secured claim owed to Standard Bank & Trust in the amount of \$20,400.00. Thus, the combination of secured claims having priority over the judgment liens and the \$15,000.00 claimed exemption results in the sum of \$35,400.00, leaving \$4,600.00 of equity to which judicial liens may attach. Interestingly, Schedule C lists an asset with respect to which an exemption is claimed pursuant to I.C. 34-55-10-2(c)(2) in the amount of \$4,600.00, that asset being a "detached garage". This asset appears nowhere in the debtor's schedules. Schedule A values the real estate itself at \$40,000.00, and Schedule C states the value of property at 4555 Delaware Street as \$40,000.00. A separate exemption is claimed for the detached garage; unfortunately, it is not possible to claim a separate exemption for an asset which is not separately designated in either Schedule A or Schedule B. Thus, the claimed exemption of \$4,600.00 with respect to the "detached garage" does not diminish the equity in the real estate to which judicial liens may attach.

IT IS ORDERED that a hearing will be held on **February 24, 2006, at 10:00 A.M.** at which counsel for the debtor will address the anomalies noted above.

Dated at Hammond, Indiana on January 25, 2006.

/s/ J. Philip Klingeberger
J. Philip Klingeberger, Judge
United States Bankruptcy Court

Distribution:
Debtor, Attorney for Debtor
Trustee, US Trustee