

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ALASKA**

In re:
NICHOLAS JOSEPH VETTER,

Debtor.

Case No. F12-00203-DMD
Chapter 7

**Filed On
5/31/12**

MEMORANDUM ON MOTION TO AVOID JUDICIAL LIEN

Pending before the court is the debtor's motion to avoid the judicial lien of Seekins Ford-Lincoln-Mercury, Inc. This motion is a contested matter under Fed. R. Bankr. P. 9014. Service of such a motion is governed by Fed. R. Bankr. P. 7004.¹

Seekins Ford-Lincoln-Mercury, Inc., is a domestic corporation which must be served with notice of the debtor's motion pursuant to Rule 7004(b)(3). Subsection (b)(3) requires that this creditor be served by first class mail, addressed "to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process."² Here, the debtors have served attorney Ward Merdes with their motion. Mr. Merdes was, presumably, the attorney who represented Seekins Ford-Lincoln-Mercury, Inc., in the state court action which resulted in the judgment against the debtors. In this capacity, he is not an officer or agent authorized to received service on behalf of the creditor in this bankruptcy proceeding.³ Because Seekins Ford-Lincoln-Mercury, Inc., was not served in accordance with Rule 7004(b)(3), the debtors' motion will be denied, without prejudice, pending proper noticing. An order will be entered accordingly.

¹ Fed. R. Bankr. P. 9014(b).

² Fed. R. Bankr. P. 7004(b)(3). *See also In re Saunders*, 8 A.B.R. 113 (Bankr. D. Alaska 2004), *citing In re Villar*, 317 B.R. 88 (B.A.P. 9th Cir. 2004).

³ *See Saunders*, 8 A.B.R. 113.

DATED: May 31, 2012.

BY THE COURT

/s/ Donald MacDonald IV
DONALD MacDONALD IV
United States Bankruptcy Judge

Serve: V. Therrien, Esq.
L. Compton, Trustee
U. S. Trustee

05/31/12