

1 JUDGE HERB ROSS (Recalled)

2 UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF ALASKA
3 605 West 4th Avenue, Room 138, Anchorage, AK 99501-2253 — (Website: www.akb.uscourts.gov)
4 Clerk's Office: 907-271-2655 (1-800-859-8059 In-State) — Judge's Fax: 907-271-2692

5 **Filed On**
6 **1/10/12**

8 In re
9 COLLEEN CLOUTIER,
10 Debtor(s)

Case No. A07-00582-HAR
In Chapter 7

11 **MEMORANDUM DENYING MOTION TO**
12 **AVOID JUDICIAL LIEN, WITHOUT**
13 **PREJUDICE**

14 A motion pursuant to 11 USC § 522(f)(1) was filed to avoid the judgment liens of First
15 National Bank Alaska (Case No. 3AN-01-2163 SC for \$3,231.62 on about 06/14/01) and NCO
16 Portfolio Management and/or First USA Bank, N.A. (Case No. 3AN-04-03767 CI for \$8,589.78 on
17 about 08/12/04).¹ The two judgments total **\$11,821.40**, plus some accrued interest up to the date
18 of the petition on November 1, 2007. There have been no objections.

19 I have been informally advised that the debtor is deceased.

20 The motion alleges that the property was worth \$76,800, subject to a debt of \$50,452.14,
21 leaving an equity of **\$26,347.86**, well below the exemption amount in effect in 2007, which I
22 believe was \$64,800.² The real property was listed as being worth \$76,800 on Schedule A, Real
23 Property.

24
25 ¹ Docket No. 30.

26 ² AS 09.38.010 and 8 AAC 95.030(a). The amount of the Alaska homestead exemption is currently
27 \$70,200.

1 The problem is that several places elsewhere in the schedules, the real property is listed as
2 being worth **\$153,600**. It was listed at this higher amount on Schedule C, Property Claimed as
3 Exempt, and Schedule D, Creditors Holding Secured Claims. If the property was really worth
4 \$153,600 when the case was filed, the two judgment liens, with principal amounts totaling
5 \$11,821.40, did not impair debtor's Alaska homestead exemption. The calculation to show this is:

6 FMV of real property per Schedules C and D	\$153,600.00
7 Less: mortgage debt	(\$50,452.14)
8 Less: exemption (debtor actually claimed only \$51,573.93)	(\$64,800.00)
9 Remaining equity to cover two judgments	<i>\$38,347.86</i>

10 If debtor's estate can show the actual true value of the property on November 1, 2007 with
11 some probative evidence, it can renew its motion if this will qualify it to avoid the judgment liens.

12 DATED: January 10, 2012

13
14 /s/ Herb Ross
15 HERB ROSS
16 U.S. Bankruptcy Judge

17 Serve:

18 Mitch Joyner, Esq., for debtor
19 NCO Financial Systems, Inc., 507 Prudential Rd., Horsham, PA 19044
20 Ms. Joy Green-Armstrong, Gen'l Counsel, First National Bank Alaska, Legal Unit,
21 101 W. 36th Ave., Anchorage, AK 99503

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