

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

In re:

WILLIAM KENNETH FIELD, II, and
SHARIE DAWN FIELD,

Debtors.

Case No. A12-00154-DMD
Chapter 7

**Filed On
5/10/12**

MEMORANDUM ON MOTION TO AVOID JUDICIAL LIENS

Pending before the court is the debtors' motion to avoid seven judicial liens. 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 Due to service issues pertaining to the judicial lien creditors who are insured depository institutions, the debtors' motion will be granted, in part, and denied, in part.

The debtors seek to avoid the following judicial liens:

1. Discover Bank lien created by judgment entered in the District Court, State of Alaska, Case No. 3AN-11-07524 CI which judgment was recorded November 22, 2011, Doc. Number 2011-057705-0, Anchorage Recording District, State of Alaska.
2. CACH LLC lien created by judgment entered in the District Court, State of Alaska, Case No. 3AN-11-12020 CI which judgment was recorded February 8, 2012, Doc. Number 2012-006834-0, Anchorage Recording District, State of Alaska.
3. Citibank South Dakota NA lien created by judgment entered in the District Court, State of Alaska, Case No. 3AN-09-09416 CI which judgment was recorded December 2, 2009, Doc. Number 2009-076002-0, Anchorage Recording District, State of Alaska.
4. Capital One Bank USA NA lien created by judgment entered in the District Court, State of Alaska, Case No. 3AN-11-04772 CI which judgment was recorded May 27, 2011, Doc. Number 2011-024682-0, Anchorage Recording District, State of Alaska.

¹ Fed. R. Bankr. P. 9014(b).

5. FIA Card Services NA lien created by judgment entered in the District Court, State of Alaska, Case No. 3AN-10-10742 CI which judgment was recorded April 18, 2011, Doc. Number 2011-017830-0, Anchorage Recording District, State of Alaska.

6. WCI Financial Services Inc. lien created by judgment entered in the District Court, State of Alaska, Case No. 3AN-96-04897 CI which judgment was recorded August 22, 1996, Doc. Number 1996-006772-0, Kenai Recording District, State of Alaska.

7. Rentschler Agency lien created by judgment entered in the District Court, State of Alaska, Case No. 3AN-83-744 SC which judgment was recorded November 18, 1983, Doc. Number 1983-092083-0, Anchorage Recording District, State of Alaska.

The debtors' motion implicates two different subsections of Fed. R. Bankr. P. 7004. CACH LLC, WCI Financial Services, Inc., and Rentschler Agency are either domestic corporations or unincorporated associations, and must be served with notice of the debtors' motion pursuant to Rule 7004(b)(3). Subsection (b)(3) requires that these creditors 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 The debtors' motion was properly noticed as to these three creditors, who have not filed objections. The motion will be granted as to these creditors.

The remaining judicial lien creditors affected by the pending motion are Discover Bank, Citibank South Dakota NA, Capital One Bank USA NA, and FIA Card Services NA. Each of these creditors is "an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act)."³ Accordingly, they must be served with the debtors' motion in accordance with Rule 7004(h), which requires service "by certified

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* Fed. R. Bankr. P. 7004(h). The supporting documentation attached to the debtors' Certificate of Service (Docket No. 17) establishes this fact. Each of these entities is FDIC insured.

mail addressed to an officer of the institution.”⁴ Rule 7004(h) contains exceptions to this requirement, but none of them appear applicable here. The debtors did not serve these four creditors in accordance with Rule 7004(h). First, the notices were not sent by certified mail. Second, the notices were addressed to the attention of “Manager or General Agent,” rather than to the attention of an officer.⁵ As to these creditors, the debtors’ motion will be denied, without prejudice, pending proper noticing. An order will be entered accordingly.

DATED: May 10, 2012.

BY THE COURT

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

Serve: J. Holland, Esq.
K. Battley, Trustee
U. S. Trustee
CACH LLC, Collect America Commercial Svcs., Inc., Attn: Manager or Gen’l Agent,
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CACH LLC, Attn: Manager or Gen’l Agent, Bankruptcy Dept.,
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Rentschler Agency, Attn: Manager or Gen’l Agent, Bankruptcy Dept.,
440 Eagle St., Anchorage, AK 99501-2631

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⁴ Fed. R. Bankr. P. 7004(h).

⁵ See *In re Franchi*, 451 B.R. 604, 606 (Bankr. S.D. Fla. 2011); *Kennedy v. CitiBank South Dakota, NA (In re Kennedy)*, 403 B.R. 363, 366 (Bankr. D.S.C. 2009); *Hamlett v. Amsouth Bank (In re Hamlett)*, 322 F.3d 342 (4th Cir. 2003).