



IT IS ORDERED as set forth below:

Date: May 22, 2009

Paul W. Bonapfel
U.S. Bankruptcy Court Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE:	:	
	:	
KEVIN LANDRY and TERESE LANDRY,	:	Case No. 09-61843
	:	
Debtors.	:	Chapter 7
	:	
KEVIN LANDRY and TERESE LANDRY,	:	
	:	
Movants,	:	Contested Matters –
	:	Motions to Avoid Liens
vs.	:	Under § 522(f)
	:	
HOLDERS OF CLAIMS LISTED ON	:	
ATTACHED EXHIBIT “A” ,	:	
	:	
Respondents.	:	
	:	

**ORDER DENYING MOTIONS TO AVOID LIENS
WITHOUT PREJUDICE AND SETTING DEADLINE
FOR AMENDMENT TO SCHEDULE OF EXEMPT PROPERTY**

The Debtors in this Chapter 7 case do not have a lawyer. Proceeding *pro se*, they have

filed motions to avoid liens under 11 U.S.C. § 522(f) against the creditors listed on the attached Exhibit “A” with docket numbers as shown.

On May 19, 2009, the Court conducted a hearing on the response of McClure-Johnston Company [Docket No. 31] to the motion filed against “McClure Johnson” [Docket No. 17]. The claimant’s response was that its judgment lien did not impair any exempt property because a judgment lien is not perfected on personal property without a levy to attach it to specific property and that the debtor did not claim any real property as exempt. Although the Debtors stated at the hearing that they desire to retain their residence known as 390 Fitzgerald Place, Atlanta, Georgia, 30349,¹ they have not claimed it as exempt on Schedule C.²

Rule 1009(a) of the Federal Rules of Bankruptcy Procedure permits debtors to amend schedules and other papers as a matter of course at any time before the case is closed. Thus, the Debtors have a right to amend their Schedule C to claim their residence as exempt and, if they desire, to describe more specifically the personal property they desire to exempt.

In these circumstances, the Court determined at the hearing that it was appropriate to permit the Debtors to amend their schedules. The Court will permit the Debtors to amend Schedule C within 30 days from the date of entry of this Order. The time for any party in interest to object to the amended schedule of exemptions shall be 60 days from the date of entry of this Order, except that any holder of a lien may object to any claim of exemption in connection with the filing of a response to any renewed motion to avoid its lien.

¹The Debtors at the hearing estimated that the property is worth about \$140,000 and that the balance due on the security deed that encumbers it is about \$200,000.

²The Debtors stated they do not wish to exempt their other scheduled real estate, 1407 New Hope Road, Atlanta, Georgia.

In view of the forthcoming amendment of the exemptions, the Court determined that it was appropriate to deny the motion to avoid the lien of McClure-Johnston Company, without prejudice. In reviewing the Court's docket, the Court noted that the Debtors had also filed the other lien avoidance motions listed on Exhibit "A." The same situation exists in each of them: the Debtors want to avoid liens on property they have not yet claimed as exempt. To avoid unnecessary hearings or confusion with regard to the relief the Debtors seek, it is appropriate to deny all of the listed motions without prejudice because they do not take into account the Debtors' desire to exempt their residence.

The Court notes that hearings have been scheduled for June 2, 2009, on responses to two of the lien avoidance motions (A & D Horizons, Inc. [36, 37] and 84 Lumber Company, LP [40, 41, and 42]). In view of the denial of the lien avoidance motions, these hearings are cancelled and will not be held.

Based on the foregoing, it is hereby **ORDERED and ADJUDGED** as follows:

1. **Time to Amend Schedule C List of Exemptions.** The Debtors shall amend their Schedule C List of Exemptions within 30 days from the date of entry of this Order. Copies shall be mailed to the Trustee and to the Office of the United States Trustee.

2. **Time for Objections to List of Exemptions.** The time for objections to the Debtors' list of exemptions shall be 60 days from the date of entry of this Order, provided, however, that the holder of any lien may object to the Debtors' claim of exemption on any property subject to its lien at the time that it responds to any renewed motion to avoid lien that the Debtors file.

3. **Denial of Motions to Avoid Liens.** The Debtors' motions to avoid the lien of McClure-Johnston Company and of the other entities listed on Exhibit "A" are hereby **denied**,

without prejudice.³

4. **Cancellation of June 2 Hearing.** The hearings scheduled for June 2, 2009, with regard to the responses of A & D Horizons, Inc. [36, 37] and 84 Lumber Company, LP [40, 41, and 42] to the Debtors' motions to avoid lien are hereby **cancelled**.

[END OF ORDER]

³If the Debtors file new motions to avoid liens, each motion must state the proper legal name of the creditor. Each motion must be served as Rule 7004 of the Federal Rules of Bankruptcy Procedure requires. In addition, the Debtors must serve a copy of the motion on any attorney who has filed anything in this case or who appeared of record representing the creditor in obtaining the lien in another court.

LIST OF RESPONDENTS TO MOTIONS TO AVOID LIENS

Docket No.	Name of Respondent	Person Served
15	Structural Products	Structural Products P.O. Box 2824 4975 Buford Highway Norcross, GA 30091
16	Defoor Acoustical, Inc.	Defoor Acoustical, Inc. 940 S. River Industrial, SE Atlanta, GA 30315
17	McClure-Johnston Company (Motion names "McClure Johnson")	McClure-Johnston Company 201 Corey Avenue Braddock, PA 15104
18	Panda Cabinet and Granite	Panda Cabinet and Granite 6695-C Jimmy Carter Blvd. Norcross, GA 30071
19	Cristobal Pardon	Cristobal Pardon 499 Barnes Mill Road Marietta, GA 30062
20	Iron Horse Group, LLC	Iron Horse Group, LLC 306 Haven Way Villa Rica, GA 30180
21	KRS Group, LLC	KRS Group, LLC 306 Oak Haven Way Villa Rica, GA 30180
22	JHG Construction, LLC	JHG Construction, LLC 1220 Kristi Ridge Drive Lawrenceville, GA 30045
23	Filemon Garcia	Filemon Garcia PO Box 791 Jonesboro, GA 30237
24	Charles Harmon	Charles Harmon 2552 N. Clark Drive East Point, GA 30344

Docket No.	Name of Respondent	Person Served
25	Southeastern Econo Waste	Southeastern Econo Waste 3030 Stone Hogan Connector Unit E Atlanta, GA 30331
26	A & D Horizons, Inc.	A & D Horizons, Inc. 1681 Kellogg Circle Douglasville, GA 30134
27	Norman's Renovation's	Normans Renovations¹ Wynns Way Atlanta, GA 30331
28	Ognio Grading, Inc.	Ognio Grading, Inc. 706 King Road Suite A Riverdale, GA 30274
29	Luxury Fireplace Systems	Brian K. Beck, CEO Luxury Fireplace Systems 180 Riverbend Drive McDonough, GA 30252
30	84 Lumber Company, L.P.	84 Lumber Company, L.P. 6828 Bankhead Highway Douglasville, GA 30134

¹The motion lists no address for service. This address is from the list of creditors the Debtors filed.

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