

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

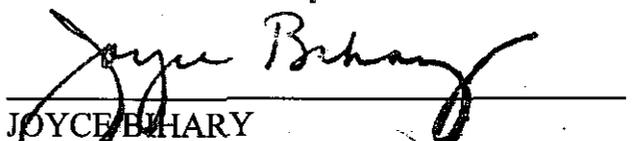
IN RE:	:	CASE NO. 09-78584-JB
	:	
STEPHANIE ANITA OWENS,	:	
	:	
Debtor.	:	
_____	:	CHAPTER 7
	:	
STEPHANIE ANITA OWENS,	:	
	:	
Movant,	:	CONTESTED MATTER
	:	
v.	:	
	:	
CAVALRY PORTFOLIO SERVICES, LLC,	:	
	:	
Respondent.	:	

ORDER

This case came before the Court on January 27, 2010 on debtor's motion to avoid a judicial lien under 11 U.S.C. § 522(f). In the motion, debtor claimed that the judicial lien of Cavalry Portfolio Services, LLC ("Cavalry") impaired debtor's exemptions. Cavalry filed a response claiming that debtor undervalued her exempt property, namely three vehicles. Cavalry contends that if debtor properly valued the vehicles, she would have non-exempt equity in the vehicles to which Cavalry's lien would attach and that the lien cannot be avoided as to non-exempt property. At the January 27, 2010 hearing on the motion, debtor's counsel made a different argument. Instead of contending that the judicial lien should be avoided, debtor contended that Cavalry did not have a judicial lien on the three automobiles. Debtor argued that the exclusive procedure to perfect a lien on a vehicle in Georgia is contained in O.C.G.A.

§ 40-3-53, and that a judicial lien is not effective as to a vehicle unless it is perfected using that procedure. Debtor cited *Fox v. Lakeview Publishing.com, Inc. (In re Fox)*, No. 07-20069 (Bankr. N.D.Ga September 29, 2009) (finding that judicial lien did not attach to motor vehicles) which relied on *Williamson v. Lucas (In re Williamson)*, 78 B.R. 372 (Bankr. M.D.Ga. 1987). Counsel for Cavalry admitted that Cavalry had not perfected its liens in the vehicles, but contended that a judicial lien attaches to vehicles at the time of judgment. Since debtor did not set forth her position in her filed motion, the Court will give the parties an opportunity to perfect the record. Debtor has until **February 26, 2010** to file an amended motion stating her position clearly, Cavalry has until **March 12, 2010** to file a response with a brief explaining its legal position and debtor's counsel has until **March 19, 2010** to file any reply.

IT IS SO ORDERED, this 16TH day of February, 2010.



JOYCE BHARY
UNITED STATES BANKRUPTCY JUDGE

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In re: Stephanie Anita Owens
Case No.: 09-78584-JB

CERTIFICATE OF MAILING

I hereby certify that the foregoing Order was mailed to the following:

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Nick Mahone
Relief Courtroom Deputy Clerk
for Chief Judge Joyce Bihary

Mailed: February 16, 2010