

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

Bky No. 03-47858

In re:

Kevin J. Nelson,

Debtor.

**NOTICE OF HEARING AND
MOTION OBJECTING TO
CLAIMED EXEMPTIONS**

TO: The Debtor and other entities specified in Local Rule 9013-3.

1. Randall L. Seaver, the duly appointed Chapter 7 trustee herein (“Trustee”) moves the Court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this motion at 10:30 a.m. on February 18, 2004, in Courtroom 7 West, U.S. Bankruptcy Court, 300 South Fourth Street, Minneapolis, MN 55415.

3. Any response to this motion must be filed and delivered not later than February 11, 2004 which is seven days before the time set for the hearing or filed and served by mail not later than February 6, 2004 which is ten days before the time set for the hearing. **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This proceeding is a core proceeding. This Chapter 7 case was commenced on November 7, 2003. The first meeting of creditors was originally scheduled for December 18, 2003. The case is now pending in this Court.

5. This motion arises under 11 U.S.C. §522, Bankruptcy Rule 4003 and Local Rule 4003-1(a). This motion is filed under Bankruptcy Rule 9014 and Local Rules 9013-1 and 9013-2.

6. Attached hereto as Exhibit A is a true and correct copy of Debtors' Schedule C. Movant objects to the Debtor's exemption claimed in that schedule as follows, for the following reasons:

(a) Objection to the Debtor's claimed exemption of a homestead as described in the attached Exhibit A is made because it is believed that the property exceeds ½ acre in size.

WHEREFORE, the Trustee requests that the Court deny the Debtor's claimed exemption of a homestead as it exceeds ½ acre in size.

FULLER, SEAVER & RAMETTE, P.A.

Dated: January 13, 2004

By: /e/ Randall L. Seaver
Randall L. Seaver 152882
12400 Portland Avenue South, Suite 132
Burnsville, MN 55337
(952) 890-0888

Attorneys for Randall L. Seaver, Trustee

VERIFICATION

I, Randall L. Seaver, the duly appointed Chapter 7 trustee of this Bankruptcy Estate, the moving party named in the foregoing notice of hearing and motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on January 13, 2004

/e/ Randall L. Seaver
Randall L. Seaver

Debtor(s)

SCHEDULE C - PROPERTY CLAIMED AS EXEMPT

Debtor elects the exemptions to which debtor is entitled under:

(Check one box)

- 11 U.S.C. § 522(b)(1): Exemptions provided in 11 U.S.C. § 522(d). NOTE: These exemptions are available only in certain states.
- 11 U.S.C. § 522(b)(2): Exemptions available under applicable nonbankruptcy federal laws, state or local law where the debtor's domicile has been located for 180 days immediately preceding the filing of the petition, or for a longer portion of the 180-day period than in any other place, and the debtor's interest as a tenant by the entirety or joint tenant to the extent the interest is exempt from process under applicable nonbankruptcy law.

DESCRIPTION OF PROPERTY	SPECIFY LAW PROVIDING EACH EXEMPTION	VALUE OF CLAIMED EXEMPTION	CURRENT MARKET VALUE OF PROPERTY WITHOUT DEDUCTING EXEMPTIONS
SCHEDULE A - REAL PROPERTY			
18105 23rd AVE N, Plymouth, MN Legal: Lot 9, Block 1, Imperial Hills 5th Addition, Hennepin County, MN	MSA §§ 510.01, 510.02	59,245.00	340,000.00
SCHEDULE B - PERSONAL PROPERTY			
misc hshld goods	MSA § 550.37 subd.4(b)	1,800.00	1,800.00
misc apparel	MSA § 550.37 subd. 4(a)	500.00	500.00
watch	MSA § 550.37 subd. 4(a)	25.00	25.00
1992 Chevrolet Silverado	MSA § 550.37 subd. 12a	1,500.00	1,500.00

**UNITED STATES BANKRUPTCY COURT
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In re:

Kevin J. Nelson,

UNSWORN CERTIFICATE OF SERVICE

Debtor.

I, Kari L. Fogarty, declare under penalty of perjury that on January 13, 2004, I mailed a copy of the following documents:

1. Notice of Hearing and Motion Objecting to Claimed Exemptions; and
2. Order (proposed)

by first class mail, postage prepaid to each entity named below at the address stated below for each entity:

Kevin J. Nelson
18105 23rd Avenue North
Plymouth, MN 55447-2121

Michael C. Mjoen
Michael C. Mjoen, P.A.
6458 City West Parkway, Suite 100
Eden Prairie, MN 55344

Office of the United States Trustee
1015 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415

Washington Mutual Home Loans
c/o McCalla, Raymer, et al
Bankruptcy Department
1544 Old Alabama Road
Roswell, GA 30076

Michelle R. Jester
Messerli & Kramer, P.A.
1800 Fifth Street Towers
150 South Fifth Street
Minneapolis, Mn 55402-4218

FULLER, SEAVER & RAMETTE, P.A.

Dated: January 13, 2004

By: /e/ Kari L. Fogarty
Kari L. Fogarty
Legal Secretary
12400 Portland Avenue South, Suite 132
Burnsville, MN 55337
(952) 890-0888

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

Bky No. 03-47858

In re:

Kevin J. Nelson,

ORDER

Debtor.

At Minneapolis, Minnesota this _____ day of _____, 2004.

The above matter came before the court on the objection of the Chapter 7 Trustee to exemptions. Appearances were as noted upon the record.

Based upon all the files, records and proceedings herein,

IT IS HEREBY ORDERED:

That the Trustee's objection is sustained and the Debtor's claimed exemption in a homestead is denied as it exceeds ½ acre in size.

BY THE COURT:

Nancy C. Dreher
U.S. Bankruptcy Judge