

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA  
FOURTH DIVISION

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In Re: Chapter 7  
Bky. Case No. 04-40228

Craig Allen Hiatt,  
Debtor.

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**NOTICE OF MOTION AND MOTION  
OBJECTING TO CLAIM OF CREDITOR**

TO: ATTN KIMBERLY DRAND, MINNESOTA CHILD SUPPORT, PAYMENT CENTER,  
PO BOX 64326, ST PAUL, MN 55164; AND OTHER PARTIES IN INTEREST:

1. Dorraine A. Larison, the Trustee in the above-captioned matter, makes the following objection to the claim filed by Minnesota Child Support, (the "Claimant") in the debtor's bankruptcy case.

2. The Court will hold a hearing on this motion at 9:30 a.m. on November 3, 2004, in Courtroom No. 8 West, United States Courthouse, 300 South Fourth Street, Minneapolis, Minnesota.

3. Any response to this motion must be filed and delivered on or before October 27, 2004, which is seven (7) days before the time set for the hearing, or filed and served by mail not later October 22, 2004, which is ten (10) 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, and Local Rule 1070-1. This proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(B).

This case was commenced by the filing of a petition under Chapter 7 on January 19, 2004. The case is now pending in this Court.

5. This motion arises under 11 U.S.C. §§ 502 and 704, Bankruptcy Rules 3001 and 3007 and Local Rule 3007-1. This motion is filed under Bankruptcy Rules 9013 and 9014 and Local Rules 9013. Movant requests relief with respect to the Claimant's claim filed in the debtor's case.

6. The Claimant filed a proof of claim on March 17, 2004, asserting a priority claim in the amount of \$13,278.57. A copy of the proof of claim is attached hereto as Exhibit "A" (Claim No. 4). The proof of claim indicates that the basis for the claim is child support.

7. On or about May 24, 2004, the trustee corresponded with the Claimant and indicated that she believed the Claimant did not have a basis to assert a priority claim because the Claimant was acting as the assignee of the claim for collection purposes. The Trustee noted in her letter that under Section 507 of the Bankruptcy Code, child support claims are priority claims unless they have been assigned to another entity, voluntarily, by operation of law, or otherwise. The trustee asked that Claimant either agree its claim was not a priority claim or provide information to the Trustee to support the Claimant's assertion of a priority claim. A copy of the Trustee's letter is attached hereto as Exhibit "B." The Trustee received a voice-mail response from the Claimant indicating that Claimant did not agree with the trustee's position and would not be signing the trustee's letter.

8. There does not appear to be any basis to conclude that the claim filed by the Claimant is a priority claim.

WHEREFORE, the Trustee respectfully requests that the Court disallow Claim No. 4 of Minnesota Child Support to the extent of its purported priority status and allow Claim No. 4 as an unsecured claim.

Dated this 1st day of October, 2004.

/e/ Dorraine A. Larison  
Dorraine A. Larison  
I.D. No. 203609  
Gray, Plant, Mooty, Mooty & Bennett, P.A.  
1010 West St. Germain  
Suite 600  
St. Cloud, MN 56301  
(320) 252-4414  
Attorneys for the Trustee

VERIFICATION. I, Dorraine A. Larison, Movant, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Dated: October 1, 2004

/e/ Dorraine A. Larison  
Dorraine A. Larison, Trustee

GP:1630453 v1

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA (MINNEAPOLIS)

Name of Debtor  
CRAIG ALLEN HIATT

Case Number  
04-40228 - RJK

Name of Creditor (The person or other entity to whom the debtor owes money or property):  
MN CHILD SUPPORT  
Name and Address where notices should be sent:

MN CHILD SUPPORT  
PAYMENT CENTER  
PO BOX 64326  
ST PAUL, MN 55164

- Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.
- Check box if you have never received any notices from the bankruptcy court in this case.
- Check box if the address differs from the address on the envelope sent to you by the court.



Telephone Number:

Account or other number by which creditor identifies debtor:

0014486198-01

Check here if  replaces this claim  amends a previously filed claim, dated \_\_\_\_\_

1. Basis for Claim

- Goods sold
- Services performed
- Money loaned
- Personal injury/wrongful death
- Taxes
- Other child support

- Retiree benefits as defined in 11 U.S.C. § 1114(a)
- Wages, salaries, and compensation (fill out below)  
Your SS #: \_\_\_\_\_  
Unpaid compensation for services performed from \_\_\_\_\_ to \_\_\_\_\_  
(date) (date)

2. Date debt was incurred:

11-1-02 to Present

3. If court judgment, date obtained:

4. Total Amount of Claim at Time Case Filed:

\$ 13,278.57

If all or part of your claim is secured or entitled to priority, also complete item 5 or 6 below.

Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.

5. Secured Claim.

Check this box if your claim is secured by collateral (including a right of setoff).

Brief Description of Collateral:

- Real Estate  Motor Vehicle
- Other \_\_\_\_\_

Value of Collateral: \$ \_\_\_\_\_

Amount of arrearage and other charges at time case filed included in secured claim, if any: \$ \_\_\_\_\_

6. Unsecured Priority Claim.

Check this box if you have an unsecured priority claim

Amount entitled to priority \$ \_\_\_\_\_

Specify the priority of the claim:

- Wages, salaries, or commissions (up to \$4,650)\* earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(3).
- Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(4).
- Up to \$ 2,100\* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6).
- Alimony, maintenance, or support owed to a spouse, former spouse, or child - 11 U.S.C. § 507(a)(7).
- Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8).
- Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(\_\_\_\_\_).

\*Amounts are subject to adjustment on 4/1/04 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.

7. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.

8. Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.

9. Date-Stamped Copy: To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.

SEND CLAIM TO:

U.S. BANKRUPTCY COURT  
301 U.S. COURTHOUSE  
300 SOUTH FOURTH STREET  
MINNEAPOLIS, MN 55415

Date: 3/16/04  
Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any):

Kimberly Grand child support officer

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

Exhibit "B"

**DORRAINE A. LARISON**  
TRUSTEE IN BANKRUPTCY  
1010 West St. Germain, Suite 600  
St. Cloud, MN 56301  
Telephone (320) 252-4414  
Facsimile (320) 252-4482

May 24, 2004

MINNESOTA CHILD SUPPORT  
ATTN KIMBERLY DRAND  
PO BOX 64326  
ST PAUL MN 55164

RE: Craig Allen Hiatt  
Bky. Case No. 04-40228

Dear Ms. Drand:

I have been appointed the Trustee in regard to the above- referenced bankruptcy. Enclosed is a copy of the notice of my appointment.

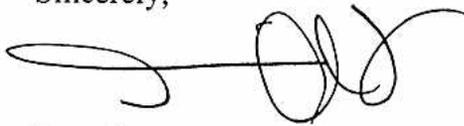
Recently I reviewed the claims submitted by creditors in regard to this matter. You have submitted a claim in the amount of \$13,278.57. This claim is marked as a priority claim. The claim was filed with the Court as Claim No. 4. I am enclosing a copy of the claim for your review.

The claim indicates that it relates to past due child support. It appears that the claim was assigned to collection to Minnesota Child Support because Minnesota Child Support has submitted the claim in its own name. Under Section 507 of the Bankruptcy Code, child support claims are priority claims unless they have been assigned to another entity, voluntarily, by operation of law, or otherwise. Therefore, it is my position that this is an unsecured versus a priority claim.

If you agree with my position relating to this matter, please sign the original of this letter and return it to me as soon as possible. If you disagree with my position, please provide me with information as to why you believe this is a priority claim.

Should you have any questions regarding this matter, please feel free to contact me or my paralegal, Nancy Lyke-Hilla.

Sincerely,



Dorraine A. Larison  
Trustee in Bankruptcy

Enclosures

MINNESOTA CHILD SUPPORT agrees with the Trustee that the claim it submitted in the Craig Allen Hiatt bankruptcy case (Bky. Case No. 04-40228) as Claim No. 4 is an unsecured claim instead of a priority claim.

MINNESOTA CHILD SUPPORT

By \_\_\_\_\_

Its \_\_\_\_\_

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

In Re:

Chapter 7  
Bky. Case No. 04-40228

Craig Allen Hiatt,

UNSWORN CERTIFICATE OF SERVICE

Debtor.

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I, Jean Eisenschenk, declare under penalty of perjury that on October 1, 2004, I mailed the following documents:

**NOTICE OF MOTION AND MOTION OBJECTING TO CLAIM OF CREDITOR AND PROPOSED ORDER**

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

UNITED STATES TRUSTEE  
1015 US COURTHOUSE  
300 SOUTH FOURTH STREET  
MINNEAPOLIS MN 55415

NATHAN P FUGLESTAD  
ATTORNEY AT LAW  
PO BOX 277  
NORTH BRANCH MN 55056

CRAIG ALLEN HIATT  
1512 277<sup>TH</sup> LANE  
ISANTI MN 55040

ATTN KIMBERLY DRAND  
MINNESOTA CHILD SUPPORT  
PAYMENT CENTER  
PO BOX 64326  
ST PAUL MN 55164

MIKE HATCH  
ATTORNEY GENERAL  
STATE CAPITOL  
75 REV DR MARTIN LUTHER KING JR BLVD  
ST PAUL MN 55155

Executed on: October 1, 2004

/e/ Jean Eisenschenk  
Jean Eisenschenk  
GRAY, PLANT, MOOTY,  
MOOTY & BENNETT, P.A.  
Suite 600  
1010 West St. Germain Street  
St. Cloud, MN 56301

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA  
FOURTH DIVISION

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In Re:

BKY. NO. 04-40228  
Chapter 7

Craig Allen Hiatt,

**ORDER**

Debtor.

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At Minneapolis, Minnesota, \_\_\_\_\_, 2004.

Upon the Objection to the claim of Minnesota Child Support, filed by the trustee, and upon all the files and records of the proceedings herein,

IT IS ORDERED:

1. The claim of Minnesota Child Support, filed in the debtor's bankruptcy case as Claim No. 4, is allowed as an unsecured claim.

\_\_\_\_\_  
Robert J. Kressel  
UNITED STATES BANKRUPTCY JUDGE