

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

Bky No. 04-43479

In re:

Joel David Edwards,

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 September 22, 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 September 15, 2004 which is seven days before the time set for the hearing or filed and served by mail not later than September 10, 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 June 21, 2004. The first meeting of creditors was originally scheduled for July 16, 2004. 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 Debtor's Schedule C.

7. Objection is made to the Debtor's claimed exemption of "possible claim and class action suit against former employer, Microsoft" to assure that the Debtor's claimed exemption entitles him only to \$8,259 in proceeds from that action, and to ensure that the claim itself and all claim proceeds in excess of that amount remain property of the bankruptcy estate.

WHEREFORE, the Trustee requests a Order of the Court holding that the Debtor's claimed exemption of \$8,259 in "possible claim and class action suit against former employer, Microsoft" entitles the Debtor to \$8,259 in proceeds from that claim, but the claim itself and all monies in excess of \$8,259 remain property of the bankruptcy estate.

Dated: August 13, 2004

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

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 August 13, 2004

/e/ Randall L. Seaver
Randall L. Seaver

In re Joel David Edwards

Case No. _____

Debtor

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 the 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 Exemption
Checking, Savings, or Other Financial Accounts, Certificates of Deposit			
US Bank, St. Paul, MN. Checking account.	11 U.S.C. § 522(d)(5)	300.00	300.00
Security Deposits with Utilities, Landlords, and Others			
Security deposit held by landlord.	11 U.S.C. § 522(d)(5)	665.00	665.00
Household Goods and Furnishings			
Misc. household good and furnishings, no one item exceeds \$475.00 in value.	11 U.S.C. § 522(d)(3)	1,000.00	1,000.00
Wearing Apparel			
Misc. wearing apparel, no one item exceeds \$475.00 in value.	11 U.S.C. § 522(d)(3)	500.00	500.00
Furs and Jewelry			
Citizen diver's watch.	11 U.S.C. § 522(d)(4)	100.00	100.00
Firearms and Sports, Photographic and Other Hobby Equipment			
Ham Radio.	11 U.S.C. § 522(d)(5)	200.00	200.00
Other Liquidated Debts Owning Debtor Including Tax Refund			
Possible 2003 State Renter's Refund.	11 U.S.C. § 522(d)(5)	800.00	800.00
Contingent and Non-contingent Interests in Estate of a Decedent			
Possible claim in class action suit against former employer, Microsoft.	11 U.S.C. § 522(d)(5)	8,259.00	8,259.00
Automobiles, Trucks, Trailers, and Other Vehicles			
1991 Toyota Tercel.	11 U.S.C. § 522(d)(2)	400.00	400.00
Machinery, Fixtures, Equipment and Supplies Used in Business			
Computer used in business.	11 U.S.C. § 522(d)(6)	50.00	50.00
Other Personal Property of Any Kind Not Already Listed			
40 registered Domain names for clients and self.	11 U.S.C. § 522(d)(5)	1.00	1.00

0 continuation sheets attached to Schedule of Property Claimed as Exempt

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**UNSWORN DECLARATION
FOR PROOF OF SERVICE**

Kari L. Fogarty, employed by Randall L. Seaver, attorney licensed to practice law in this Court, with office address of 12400 Portland Avenue South, Suite 132, Burnsville, MN 55337, declares that on August 13, 2004 I served the annexed Notice of Hearing and Motion Objecting to Claimed Exemption and proposed Order upon each of the entities named below by mailing each of them a copy thereof by enclosing same in an envelope with first class mail postage prepaid and depositing same in the post office at Minneapolis, Minnesota, addressed to each of them as follows:

Joel David Edwards
2310 Aldrich Avenue South
Minneapolis, MN 55405

Becky A. Moshier
Attorney at Law
2233 University Avenue West, Suite 420
St. Paul, MN 55114

Alice Whitten
AmeriCredit
P.O. Box 183853
Arlington, TX 76096

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

And I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: August 13, 2004

/e/ Kari L. Fogarty

Kari L. Fogarty

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

Bky No. 04-43479

In re:

Joel David Edwards,

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 of \$8,259 in "possible claim and class action suit against former employer, Microsoft" entitles the Debtor to \$8,259 in proceeds from that claim, but the claim itself and all monies in excess of \$8,259 remain property of the bankruptcy estate.

BY THE COURT:

Nancy C. Dreher
U.S. Bankruptcy Judge