

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

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In Re:

Case No.: 04-60675

Eric and Marcia Heath,

Chapter 7 Case

Debtors.

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**NOTICE OF MOTION AND MOTION TO AVOID LIEN**

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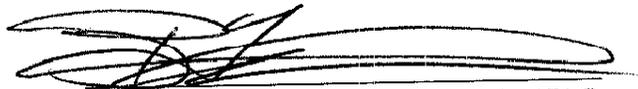
The Debtors, by their attorney, hereby move to avoid a lien and give notice of hearing. In support of this motion they aver:

1. The Court will hold a hearing on this motion at 1:00 p.m. on September 28, 2004 in U.S. Bankruptcy Court, 204 U.S. Courthouse, 118 South Mill Street, Fergus Falls, Minnesota.
2. Any response to this motion must be filed and served not later than September 17, 2004, at 1:00 p.m., which is seven days before the time set for the hearing (excluding Saturdays, Sundays, and legal holidays). UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.
3. Debtors commenced this case on the 4<sup>th</sup> day of June, 2004, by filing the above numbered voluntary petition for relief under Chapter 7 of Title 11, United States Code.
4. This Court has jurisdiction over this motion, filed pursuant to Title 11, United States Code Section 522(f) to avoid and cancel a judicial lien held by Thief River Falls Credit Bureau.
5. On the 17<sup>th</sup> day of May, 2004, Thief River Falls Credit Bureau obtained a judgment against Eric and Marcia Heath in the amount of \$4,333.52, which was a result of a debt for medical services. The said judicial lien is entered in record in District Court, Ninth Judicial District, State of Minnesota, file number 35-C1-04-000074, for \$4,333.52.

6. The lien is encumbering Debtors' homestead, located at Section 24, Twp 159, Range 46, NE 1/4 of the NE 1/4 beginning at NE corner of NE 1/4, then S on Section Line a distance of 850 ft to point of beginning, then W 250 ft; then S 140 ft; then E 250 ft; then N 140 ft to the point of beginning.
7. The existence of Thief River Falls Credit Bureau's lien on Debtors' property impairs exemptions to which the Debtors would be entitled under 11 U.S.C. § 522(d)(1).

Wherefore, Debtors pray for an order against Thief River Falls Credit Bureau for the cancellation and avoidance of the judicial lien on their property, and for such additional and alternative relief as may be just and proper.

Dated: 8/10/04



Bruce L. Madlom (ND Atty Lic.# 04716)  
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Fargo, ND 58106-9693  
(701) 235-0505  
ATTORNEY FOR DEBTORS

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

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In Re:

Case No.: 04-60675

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**ORDER AVOIDING LIEN**

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The Court, having read and considered the Debtors' Motion to Avoid Lien and being fully advised in the matter, now makes and files the following Order:

It is hereby ORDERED and DECREED that the judicial lien held by Thief River Falls Credit Bureau, incurred of record in District Court, Ninth Judicial District, State of Minnesota, file number 35-C1-04-000074; be and hereby is canceled.

It is further ORDERED that Thief River Falls Credit Bureau is directed forthwith to take all steps necessary and appropriate to release the said judicial lien and remove it from the local judgment index.

Dated this \_\_\_ day of \_\_\_\_\_, 2004

\_\_\_\_\_  
United States Bankruptcy Judge

**AFFIDAVIT OF SERVICE**

STATE OF NORTH DAKOTA )  
 ) SS.  
COUNTY OF CASS )

Mellissa Sandstrom, being first duly sworn on oath deposes and says that she is of legal age and not a party to the action herein nor interested in the action; and that she knew the person served to be the person named in the papers served and the person intended to be served; and that on the 10<sup>th</sup> day of August, 2004, at 5:00 p. m., she served the attached:

- 1. Notice of Motion and Motion to Avoid Lien
- 2. Proposed Order to Avoid Lien

upon: U.S. Trustee, District of MN  
1015 U.S. Courthouse  
300 South Fourth Street  
Minneapolis, MN 55415

Tamara Yon  
Bankruptcy Trustee  
P.O. Box 605  
Crookston, MN 56716

Thief River Falls Credit Bureau  
123 North Main  
Thief River Falls, MN 56701

Eric and Marcia Heath  
113 County Road 14 North  
Karlstad, MN 56732

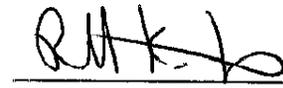
**Re: Eric and Marcia Heath**  
**Bankruptcy Case No. 04-60675**  
**Our File No. 04-4408**

in the following manner:

- ( ) by handing a true and correct copy to the attorney personally.
- ( ) by leaving a true and correct copy at the office of the attorney with a clerk or other individual in charge thereof.
- ( ) by leaving a true and correct copy at the office of the attorney in a conspicuous place therein.
- (X) by placing a true and correct copy thereof in an envelope so addressed and depositing the same, with postage prepaid, in the United States mail at Fargo, North Dakota.
- ( ) by facsimile transmission to the attorney at the facsimile number \_\_\_\_\_, at \_\_\_\_\_ .m.

  
\_\_\_\_\_  
Mellissa Sandstrom

Subscribed and sworn to before me this 10<sup>th</sup> day of August, 2004.

  
\_\_\_\_\_  
Ronald K. Hettich

