

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MINNESOTA**

In re:

LUVERNE D. AND KRISTINE H. MAIER,

**Bankruptcy No 04-33511
Chapter 7**

Debtors

**NOTICE OF MOTION AND MOTION
OBJECTING TO CLAIMED
EXEMPTION**

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

1. Michael S. Dietz, Trustee of the above bankruptcy estate moves the Court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this Motion on September 8, 2004, at 3:00 p.m., in Courtroom 228A, United States Courthouse, at 316 North Robert Street, in St. Paul, Minnesota.

3. Any response to this Motion must be filed and delivered not later than 3:00 p.m. on September 1, 2004, which is seven days before the hearing, or filed and served by mail not later than August 29, 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. The Petition commencing this Chapter 7 case was filed on June 14, 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, 9013-2, and 9013-5.

6. The Debtors have scheduled the following property, 1948 Buick Roadmaster valued at \$5,000, 1975 Z1900 Kawasaki motorcycle valued at \$500, 1979 F-150 pickup 4x4 valued at \$800, 1987 Mustang 50 GT valued at \$2,000, 1993 Grand Caravan valued at \$2000, 1997 Jeep Laredo Grand Cherokee valued at \$5,000, 1995 car trailer valued at \$800, 1961 VW Dune buggy valued at \$1,000, 15 foot boat highrider with 80 horsepower outboard and trailer valued at \$1000, Checking account at Citizens' Bank in Hayfield valued at \$300, Checking account at Citizens' Bank in Hayfield valued at \$800, and claimed all as exempt on Schedule C under 11 USC § 522(d)(5). Attached as Exhibit "A" is a true and correct copy of Schedule C filed in this case.

7. Movant objects to the above noted exemptions claimed in that schedule for the following reasons: The vehicles are not secured and all but the 1993 Dodge Caravan are titled solely in the name of Luverne Maier. The Trustee is without sufficient information to determine actual value of vehicles and it is possible the actual market value of these vehicles would exceed the exemption amount available to the Debtor.

WHEREFORE, the Trustee moves the Court for an Order denying the claimed exemption of the 1948 Buick Roadmaster (VIN#1495B000), 1975 Z1900 Kawasaki motorcycle (VIN#Z1E054571), 1979 F-150 pickup 4x4 (VIN#F148LFE7780), 1987 Mustang 50 GT (VIN#1FABP42E8HF218108), 1993 Grand Caravan (VIN#1B4GH54R7PX540053), 1997 Jeep Laredo Grand Cherokee, 1995 car trailer (VIN#DPSMN942669), 1961 VW Dune buggy, 15 foot

boat highrider with 80 horsepower outboard and trailer, Checking accounts at Citizens' Bank in Hayfield.

Dated: August 5, 2004

/e/ Michael S. Dietz

Michael S. Dietz
Registration No. 188517
DUNLAP & SEEGER, P.A.
Attorneys for Trustee
206 S. Broadway, Suite 505
Post Office Box 549
Rochester, Minnesota 55903
Telephone: (507) 288-9111

VERIFICATION

I, Michael S. Dietz, Trustee, 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 5, 2004

/e/ Michael S. Dietz

Michael S. Dietz, Trustee
206 S. Broadway, Suite 505
Post Office Box 549
Rochester, Minnesota 55903
Telephone: (507) 288-9111

In re Luverne Darcy Maier

Kristine Hope Maier

Case No. _____

Debtor _____

(If known)

SCHEDULE C - PROPERTY CLAIMED AS EXEMPT

Debtor elects the exemption 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, 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 EXEMPTIONS
15 foot boat highrider with 80hp outboard, and trailer	11 USC § 522(d)(5)	1,000.00	1,000.00
1948 Buick Roadmaster	11 USC § 522(d)(5) 11 USC § 522(d)(2)	2,050.00 2,950.00	5,000.00
1975 Z1900 Kawasaki motorcycle	11 USC § 522(d)(5)	500.00	500.00
1979 F-150 pickup 4x4 (rusty)	11 USC § 522(d)(5)	800.00	800.00
1987 Mustang 50 GT	11 USC § 522(d)(5)	2,000.00	2,000.00
1993 Grand Caravan	11 USC § 522(d)(5)	2,000.00	2,000.00
1997 Jeep Laredo Grand Cherokee	11 USC § 522(d)(2) 11 USC § 522(d)(5)	2,950.00 2,050.00	5,000.00
Car trailer	11 USC § 522(d)(5)	800.00	800.00
Checking account at Citizens' Bank-Hayfield	11 USC § 522(d)(5)	300.00	300.00
Checking account at Citizens' Bank-Hayfield	11 USC § 522(d)(5)	800.00	800.00
Defined benefit plan from Hormel Foods	11 USC § 522(d)(10)(E)	Unknown	Unknown
Dune buggy (1961 VW)	11 USC § 522(d)(5)	1,000.00	1,000.00
Furniture, appliances, pots, pans, dishes, silverware, linens and bedding.	11 USC § 522(d)(3)	5,000.00	5,000.00
Lot 8, Block 5, City of Sargeant, Mower County, Minnesota.	11 USC § 522(d)(1)	8,000.00	80,000.00
PERA	11 USC § 522(d)(10)(E)	Unknown	Unknown
Six year old Gateway computer	11 USC § 522(d)(3)	50.00	50.00

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Bankruptcy Case No. 04-33511

LUVERNE D. AND KRISTINE H. MAIER,

Debtors.

UNSWORN CERTIFICATE OF SERVICE

I, Emily D. Stenhoff, declare under penalty of perjury that on August 5, 2004, I mailed copies of the following:

Trustee's Notice of Motion and Motion Objecting to Claimed Exemption

by US Mail, postage pre-paid, to each entity named below at the address stated below:

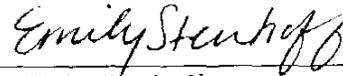
OFFICE OF THE US TRUSTEE
1015 UNITED STATES COURTHOUSE
300 SOUTH FOURTH STREET
MINNEAPOLIS MN 55415

WILLIAM BODENSTEINER
ATTORNEY AT LAW
309 S MAIN STREET
AUSTIN MN 55912

LUVERNE D. AND KRISTINE H. MAIER
111 MAIN STREET SW
SARGEANT MN 55973

Executed on August 5, 2004

Signed:



Emily D. Stenhoff
DUNLAP & SEEGER, P.A.
P O BOX 549
ROCHESTER MN 55903-0549
(507) 288-9111

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MINNESOTA

In re:

**LUVERNE D. AND KRISTINE H.
MAIER,**

Bky Case No. **04-33511**
Chapter 7

Debtor

**ORDER SUSTAINING TRUSTEE'S
OBJECTION TO DEBTORS' CLAIM
OF EXEMPTION**

AT ST. PAUL, MINNESOTA,

This Chapter 7 case came on before the Court on September 8, 2004, for a hearing on the Trustee's objection to the Debtor's claimed exemption of the following property:

1948 Buick Roadmaster (VIN#1495B000), 1975 Z1900 Kawasaki motorcycle (VIN#Z1E054571), 1979 F-150 pickup 4x4 (VIN#F148LFE7780), 1987 Mustang 50 GT (VIN#1FABP42E8HF218108), 1993 Grand Caravan (VIN#1B4GH54R7PX540053), 1997 Jeep Laredo Grand Cherokee, 1995 car trailer (VIN#DPSMN942669), 1961 VW Dune buggy, 15 foot boat highrider with 80 horsepower outboard and trailer, Checking accounts at Citizens' Bank in Hayfield.

Appearances, if any, were noted on the record. Upon the documents on file herein and the arguments of counsel:

IT IS HEREBY ORDERED AND DETERMINED:

1. The Trustee's objection is sustained.

The Debtor's interest in the 1948 Buick Roadmaster (VIN#1495B000), 1975 Z1900 Kawasaki motorcycle (VIN#Z1E054571), 1979 F-150 pickup 4x4 (VIN#F148LFE7780), 1987 Mustang 50 GT (VIN#1FABP42E8HF218108), 1993 Grand Caravan (VIN#1B4GH54R7PX540053), 1997 Jeep Laredo Grand Cherokee, 1995 car trailer (VIN#DPSMN942669), 1961 VW Dune buggy, 15 foot boat highrider with 80 horsepower outboard and trailer, Checking accounts at Citizens' Bank in Hayfield are not exempt and are property of the bankruptcy estate to be administered by the Trustee in due course.

Dated: September ,2004

BY THE COURT:

Dennis D. O'Brien
United States Bankruptcy Judge