

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Chapter 7
Bky. Case No. 04-35161

Dennis Wayne Dickmann and
Deborah Ann Dickmann,

NOTICE OF MOTION AND MOTION
OBJECTING TO EXEMPT PROPERTY

Debtors.

TO: THE COURT, UNITED STATES TRUSTEE, THE DEBTORS, AND THEIR
ATTORNEY:

1. Dorraine A. Larison, Trustee of the bankruptcy estate of the above-named Debtors, moves the court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this motion at 2:30 p.m. on November 29, 2004, in Courtroom No. 228B, at the 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 November 19, 2004, which is seven (7) days before the time set for the hearing, or filed and served by mail not later than November 16, 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, 11 U.S.C. § 522, Bankruptcy Rule 5005 and 9014, Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this Chapter 7 case was filed on September 2, 2004. The case is now pending in this Court.

5. This motion arises under 11 U.S.C. § 522, and Bankruptcy Rule 4003 and Local Rule 4003-1(a). This motion is filed under Bankruptcy Rule 9014 and Local Rules 9001-1 to

9001-6 and 9013-1 to 9013-5. Movant requests relief with respect to debtors' claims for exemption.

6. Debtors have claimed as exempt the following asset which the trustee objects to as follows: One-eighth interest in Outlot A of Royal Oaks Addition, County of Morrison, State of Minnesota, claimed exempt under Minn. Stat. Ann. §§550.01, 510.02.

7. The trustee objects to the debtors' claim of exemption on the following basis: The debtors testified that Outlot A is not contiguous with their homestead real estate. In order to claim the exemption in Outlot A, the real estate must be contiguous to their homestead property.

WHEREFORE, Applicant moves the court for an order sustaining trustee's objection to claimed exempt property and such other relief as may be just and equitable.

Dated this 27th 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 Trustee

VERIFICATION. I, Dorraine A. Larison, the 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 27, 2004

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

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Chapter 7
Bky. Case No. 04-35161

Dennis Wayne Dickmann and
Deborah Ann Dickmann,

UNSWORN CERTIFICATE OF SERVICE

Debtors.

I, Jean Eisenschenk, declare under penalty of perjury that on October 27, 2004, I mailed the following documents:

NOTICE OF MOTION AND MOTION OBJECTING TO EXEMPT PROPERTY 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

STEPHEN L HELLER
ATTORNEY AT LAW
606 25TH AVE S STE 110
ST CLOUD MN 56301

DENNIS WAYNE DICKMANN
5901 ROYAL OAKS ROAD
ROYALTON MN 56373

DEBORAH ANN DICKMANN
5901 ROYAL OAKS ROAD
ROYALTON MN 56373

Executed on: October 27, 2004

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

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Dennis Wayne Dickmann and
Deborah Ann Dickmann,

ORDER

Debtors.

At St. Paul, Minnesota, _____, _____.

Upon the Objection to Claimed Exempt Property filed by the Trustee and upon all the files and records of the proceedings herein,

IT IS ORDERED:

1. The debtors' real estate legally described as follows: One-eighth interest in Outlot A of Royal Oaks Addition, County of Morrison, State of Minnesota, is not exempt.

Gregory F. Kishel
UNITED STATES BANKRUPTCY
JUDGE