

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

*In re: Mary Beth Brooks
dba Studio in the Sticks*

CHAPTER 7
BKY CASE NO. 02-50165

Debtor.

Terri A. Georgen, Trustee,

ADV. No. 04-5006

Plaintiff,

v.

*Lazar Furniture,
Lazar Industries, Inc.,
and John Doe,*

Defendant(s).

NOTICE OF HEARING AND MOTION FOR DEFAULT JUDGMENT

TO: Entities specified in Local Rule 9013-3.

1. Terri A. Georgen-Running trustee (the "Trustee") of the bankruptcy estate of the above-named Debtor(s) moves the Court for the relief requested below and gives notice of hearing.

2. A hearing will be held on this motion by the Honorable Gregory F. Kishel, Courtroom No. 2, 515 West First St., Duluth, Minnesota on **September 8, 2004**, at **2:00 p.m.**, or as soon thereafter as counsel may be heard.

3. Any response to this motion must be delivered and filed not later than September 2, 2004, which is three (3) days before the time set for the hearing (excluding Saturdays, Sundays, and legal holidays), or filed and served by mail not later than August 27, 2004, which is seven (7) 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.

4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, FED. R. BANKR. P. 5005 and Local Rule 1070-1. This is a core proceeding within the meaning of 28 U.S.C. §157(b)(2)(F).

5. This motion arises under 11 U.S.C. §547, FED. R. BANKR. P. 7055 and Local Rule 7055-1. This motion is filed under FED. R. BANKR. P. 9014 and Local Rules 9001-1 to 9001-6 and 9013-1 to 9013-5.

6. Trustee (“Plaintiff”), hereby requests that the Court enter judgment by default against Lazar Furniture and Lazar Industries, Inc. (the “Defendant(s)”) on the following grounds::

7. The Plaintiff filed the above named complaint (“Complaint”) on February 25, 2004 under Fed. R. Bankr. P. 7001(4) to recover a preference payment by the Debtor(s) to the Defendant(s) within the meaning of 11 U.S.C. §547.

8. Upon information and belief, the Defendant(s) are residents of the state of California, located at 630 E. Slausen Ave., Los Angeles, CA 90011.

9. A Summons was issued on February 25, 2004, by the United States Bankruptcy Court for the District of Minnesota, directing the Defendant(s) to file an answer with the United States Bankruptcy Court within thirty (30) days pursuant to the Bankruptcy rules. *Exhibit A*. The Plaintiff mailed the Complaint and Summons to the Defendant(s) on February 25, 2004 via certified mail, return receipt requested. *Exhibit B*.

The certificate of service was docketed on February 25, 2004. *Id.* The Defendant(s) signed the return receipts. *Id.*

10. An answer to the Plaintiff 's Complaint was due on approximately March 28, 2004. Fed. R. Bankr. P. 7012(a).

11. As of the date of the Motion, the Defendant(s) have not filed an answer to the Plaintiff's Complaint. *See Affidavit of Default.*

12. The Plaintiff made the following allegation in her Complaint:

- a. The Debtor(s) commenced the present bankruptcy case on 02/26/02.
- b. The Trustee is the duly appointed, qualified and acting Chapter 7 Trustee of the bankruptcy estate.
- c. On the following date(s) – January 2, 2002 (within 90 days of the filing of the petition for relief), the Debtor(s) paid the sum of Three Thousand and NO/00 Dollars (\$3,000) to Defendant(s) on account of an antecedent debt.
- d. The Transfers from the Debtor(s) to the Defendant(s) were made while the Debtor(s) were insolvent.
- e. The Transfers will enable the Defendant(s) to recover more than they would receive as a creditor under Chapter 7 of Title 11 of the United States Code, if the Transfers had not been made and the Defendant(s) received payment of such debt to the extent provided by Title 11 of the United States Code.

f. As a result, the Transfers are avoidable pursuant to Section 547(b) of the United States Bankruptcy Code, with the Transfers preserved pursuant to 11 U.S.C. §551.

WHEREFORE, the Plaintiff requests that the Bankruptcy Court enter a default judgment avoiding the Transfers and ordering Defendant(s) to pay over to the Trustee the sum of Three Thousand and NO/00 (\$3,000), plus costs incurred.

Dated: August 20, 2004

***Georgen-Running Law Firm
A Professional Corporation***

/e/ Terri A. Georgen-Running
Terri A. Georgen-Running (#238338)
PO Box 16355
St. Paul, MN 55116
651-699-6980
651-292-1234 *facsimile*

**ATTORNEYS FOR THE
TRUSTEE/PLAINTIFF**

VERIFICATION. I, Terri A. Georgen-Running, state that I am the Plaintiff in the above-referenced action, that I have read the Application for Default Judgment, and declare under penalty of perjury that the contents thereof are true and correct according to the best of my knowledge, information and belief.

Dated: August 20, 2004

/e/ Terri A. Georgen-Running
Terri A. Georgen-Running,
Trustee

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

<p>In re: MARI BETH BROOKS TERRI A GEORGEN v. LAZAR FURNITURE LAZAR INDUSTRIES INC JOHN DOE</p> <p style="text-align: right;">Debtor Plaintiff Defendant(s)</p>	<p>Summons</p> <p>Adv 04-5006</p> <p>Bky 2-50165</p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------

To the Defendant(s) named above:

You are hereby summoned and required to serve upon the attorney for the plaintiff(s), whose name and address is subscribed to the annexed complaint, an answer under Bankruptcy Rule 7012 to the complaint which is herewith served upon you, within thirty (30) days after the date this summons was issued, and to forthwith file the answer with the clerk of this court. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

Witness my Official Signature
and the seal of said court at
Duluth in said District

/e/ Patrick G. De Wane
Clerk of Bankruptcy Court

at: Wed Feb 25 14:23:37 2004

United States Bankruptcy Court
416 U.S. Courthouse
515 West First Street
Duluth, Minnesota 55802



NOTE --The summons with complaint annexed is to be served within 10 days after the date issued under Bankruptcy Rule 7004(e). If the debtor is a defendant and represented by an attorney, the debtor and the attorney are each served separately under Rule 7004(b). Pursuant to Bankruptcy Rule 7004(b)(3), if the defendant is a corporation, partnership or other unincorporated association, a copy of the summons and complaint shall be served to the the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute, rule or court order and the statute so requires, by also mailing a copy to the defendant.

EXHIBIT
A

United States Bankruptcy Court
District of Minnesota



Notice of Electronic Filing ('NEF') for Case: 4-5006

Notice of internet electronic filing for document: Certificate of service (see special instructions)

Document Submitted by: Terri Georgen A236

Email Address: tgeorgen@georgenlaw.com

Date/Time: Wed Feb 25 14:36:46 2004

Judge: KISHEL

Chapter:

Debtor Name(s):

Docket entry 4-1 was made as follows:

Certificate of Service by Plaintiff TERRI A GEORGEN of [2-1] Summons by JOHN DOE, LAZAR INDUSTRIES INC, LAZAR FURNITURE, [1-1] Complaint NOS 454 Recover Money/Property .

View image file submitted with above document

Submit Another Document for this case

End Session/Home Page

View Docket

EXHIBIT B

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

*In re. Mary Beth Brooks
dba Studio in the Sticks*

CHAPTER 7
BKY CASE NO. 02-50165

Debtor.

Terri A. Georgen, Trustee,

ADV. No. 04-5006

Plaintiff,

v.

*Lazar Furniture,
Lazar Industries, Inc.
and John Doe,*

Defendant(s).

UNSWORN DECLARATION FOR PROOF OF SERVICE

I, Terri A. Georgen, declare that on the date indicated below, I served the following

(1) *Summons and Complaint*; and (2) *Unsworn Declaration for Proof of Service*.

Upon each of the entities named below, by mail (unless otherwise indicated below) by mailing to each of them a copy thereof by enclosing same in an envelope with certified first class mail, return receipt requested, postage prepaid, and depositing same in the post office at St. Paul, Minnesota, addressed to each of them as follows:

Lazar Furniture
ATTN: Managing Agent or Officer
630 E. Slausen Avenue
Los Angeles, CA 90011

Lazar Industries, Inc.
ATTN: Managing Agent or Officer
630 E. Slausen Avenue
Los Angeles, CA 90011

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

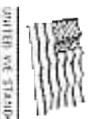
Dated: February 25, 2004 /e/Terri A. Georgen

Terri A. Georgen, Esc
P.O. Box 16355
St. Paul, MN 55116



Lazar Industries, Inc.
ATTN: Managing Agent or Officer
630 E Slauson Ave
Los Angeles CA 90011-5234

Terri A. Georgen, Esq
P.O. Box 16355
St. Paul, MN 55116



stamps.com \$4.420
FEB 25 2004
US POSTAGE
FIRST-CLASS MAIL
SAINT PAUL, MN 55107
062S0000905537
STAMPS.COM

stamps.com \$4.420
FEB 25 2004
US POSTAGE
FIRST-CLASS MAIL
SAINT PAUL, MN 55107
062S0000905537
STAMPS.COM

Lazar Furniture
ATTN: Managing Agent or Officer
630 E Slauson Ave
Los Angeles CA 90011-5234

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$ 4.42	

Sent To LARZAR FURNITURE
 Street, Apt. No., or PO Box No. 630 E. Stausson Ave.
 City, State, ZIP+4 LOS ANGELES CA 90011

PS Form 3800, June 2002 See Reverse for Instructions

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$ 4.42	

Sent To LAZAR INDUSTRIES
 Street, Apt. No., or PO Box No. 630 E. Stausson Ave.
 City, State, ZIP+4 LOS ANGELES, CA 90011

PS Form 3800, June 2002 See Reverse

SENDER: COMPLETE THIS SECTION

1. Article Addressed to:
LARZAR FURNITURE
1330 E. Stausson Ave.
ATTN: Managing Agent w/ Office
LOS ANGELES, CA 90011

2. Article Number (Transfer from service label)
7002 2410 0003 4658 6125

PS Form 3811, August 2001 Domestic Return Receipt 102505-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Richard Searcy Addressee

B. Received by (Printed Name) Date of Delivery

C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to:
LARZAR INDUSTRIES INC
630 E. Stausson Ave
ATTN: Managing Agent w/ Office
LOS ANGELES, CA 90011

2. Article Number (Transfer from service label)
7002 2410 0003 4658 6118

PS Form 3811, August 2001 Domestic Return Receipt 102505-02-M-1540

A. Signature Agent
 Richard Searcy Addressee

B. Received by (Printed Name) Date of Delivery

C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

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Debtor.

Terri A. Georgen, Trustee,

ADV. No. 04-5006

Plaintiff,

v.

Lazar Furniture,
Lazar Industries, Inc.,
and John Doe,

Defendant(s).

UNSWORN DECLARATION FOR PROOF OF SERVICE

I, Terri A. Georgen-Running, declare that on the date indicated below, I served the following:

- (1) Notice of Hearing and Motion for Default Judgment; (2) Affidavit of Default; (3) Affidavit on Merits and Amount Due; (4) Unsworn Declaration for Proof of Service; and (5) Findings of Fact, Conclusions of Law and Order for Judgment.

Upon each of the entities named below, by mailing to 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 St. Paul, Minnesota addressed to each of them as follows:

United States Trustee
1015 U.S. Courthouse
300 S. 4th St.
Minneapolis, MN 55415

Lazar Industries, Inc.
ATTN: Officer or Managing Agent
630 E. Slausen Ave.
Los Angeles, CA 90011

Lazar Furniture
ATTN: Officer or Managing Agent
630 E. Slausen Ave.
Los Angeles, CA 90011

James W. McGill, Esq.
4165 County 71 NW
Hackensack, MN 56452

Mary Beth Brooks
249 – 39th Avenue NW
Backus, MN 56435

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

Dated: August 20, 2004

/e/ Terri A. Georgen-Running

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

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Plaintiff,

v.

Lazar Furniture,
Lazar Industries, Inc.,
and John Doe,

Defendant(s).

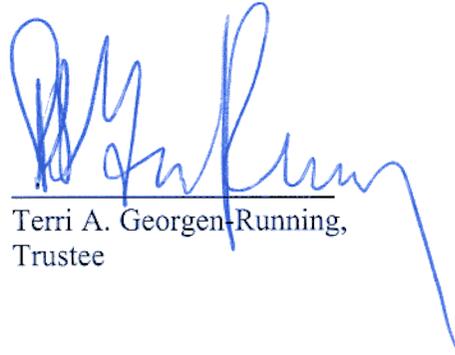
AFFIDAVIT OF DEFAULT

I, Terri A. Georgen-Running, Chapter 7 Trustee, being duly sworn and under oath, state that:

1. I am the duly appointed Chapter 7 Trustee for the above referenced bankruptcy case.
2. I am the attorney of record in the above-entitled adversary proceeding.
3. On February 25, 2004, I served the Summons and Complaint on the Defendant(s) by first class mail, return receipt requested. I filed the proof of service with the Court on February 25, 2004. Exhibit B.
4. More than 30 days since the date of the summons has lapsed and the Defendant has not filed or served an answer.

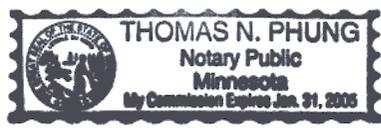
This concludes my Affidavit.

Dated: August 20, 2004



Terri A. Georgen-Running,
Trustee

¹¹
Subscribed and sworn to before me
this 20th day of August, 2004.


Notary Public

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

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dba Studio in the Sticks

CHAPTER 7
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Terri A. Georgen, Trustee,

ADV. No. 04-5006

Plaintiff,

v.

Lazar Furniture,
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Defendant(s).

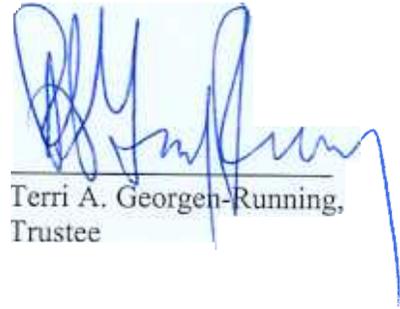
AFFIDAVIT OF IDENTIFICATION

I, Terri A. Georgen-Running, Trustee, being duly sworn and under oath, state that:

1. I am the duly appointed Chapter 7 Trustee in the above referenced bankruptcy case.
2. I am the attorney of record in the above-entitled adversary proceeding.
3. To the best of my knowledge, information, and belief, the name and address of the Defendant(s) in the above-entitled matter is. Lazar Industries, Inc., 630 E. Slausen Ave., Los Angeles, CA 90011 and Lazar Furniture, 630 E. Slausen Ave., Los Angeles, CA 90011. *Exhibit D.*
4. To the best of my knowledge information and belief, the Defendant(s) are not infants, not employed by a military organization, and not incompetent.

This concludes my Affidavit.

Dated: August 20, 2004

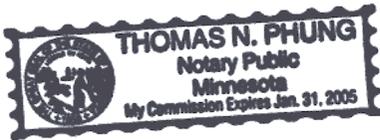


Terri A. Georgen-Running,
Trustee

Subscribed and sworn to before me
this 20th day of August, 2004.



Notary Public



UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re: Mary Beth Brooks
dba Studio in the Sticks

CHAPTER 7
BKY CASE NO. 02-50165

Debtor.

Terri A. Georgen, Trustee,

ADV. No. 04-5006

Plaintiff,

v.

Lazar Furniture,
Lazar Industries, Inc.,
and John Doe,

Defendant(s).

AFFIDAVIT ON MERITS AND AMOUNT DUE

I, Terri A. Georgen-Running, Trustee, being duly sworn under oath, state that:

1. I am the attorney of record in the above-entitled adversary proceeding.
2. A monetary judgment has been requested in this adversarial proceeding.
3. The Chapter 7 Trustee has a legal basis upon which to request such relief pursuant to the authority of 11 U.S.C. § 727 (d)(3).
4. Said relief is supported by the following facts:
 - a. The Defendants commenced the present Bankruptcy Case on 02/26/02.
 - b. A discharge was granted on 06/04/02.
 - g. On the following date(s) – January 2, 2002 (within 90 days of the filing of the petition for relief), the Debtor(s) paid the sum of Three

Thousand and NO/00 Dollars (\$3,000) to Defendant(s) on account of an antecedent debt.

- h. The Transfers from the Debtor(s) to the Defendant(s) were made while the Debtor(s) were insolvent.
- i. The Transfers will enable the Defendant(s) to recover more than they would receive as a creditor under Chapter 7 of Title 11 of the United States Code, if the Transfers had not been made and the Defendant(s) received payment of such debt to the extent provided by Title 11 of the United States Code.
- c. As a result, the Transfers are avoidable pursuant to Section 547(b) of the United States Bankruptcy Code, with the Transfers preserved pursuant to U.S.C. §551.

This concludes my Affidavit.

Dated: August 20, 2004

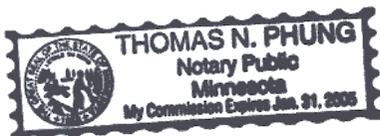


Terri A. Georgen-
Trustee

Subscribed and sworn to before me
this 20th day of August, 2004.



Notary Public



UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re: Mary Beth Brooks
dba Studio in the Sticks

CHAPTER 7
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Debtor.

Terri A. Georgen, Trustee,

ADV. No. 04-5006

Plaintiff,

v.

Lazar Furniture,
Lazar Industries, Inc.,
and John Doe,

Defendant(s).

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND ORDER FOR JUDGMENT**

At Duluth, Minnesota on this _____ day of _____, 2004, the Trustee's Application for Default Judgment, which was supported by an Affidavit of Default, an Affidavit of Identification and an Affidavit on the Merits as required by Local Bankruptcy Rule 7055-1 came before the undersigned.

Findings of Fact

1. The Debtor(s) Mary Beth Brooks commenced the present Bankruptcy Case (02-50165) on 02/26/02.
2. The Trustee is the duly appointed, qualified and acting Chapter 7 Trustee of the bankruptcy estate.

3. On the following date(s) – January 2, 2002 (within 90 days of the filing of the petition for relief), the Debtor(s) paid the sum of Three Thousand and NO/00 Dollars (\$3,000) to Defendant(s) on account of an antecedent debt.
4. The Transfers from the Debtor(s) to the Defendant(s) were made while the Debtor(s) were insolvent.
5. The Transfers will enable the Defendant(s) to recover more than they would receive as a creditor under Chapter 7 of Title 11 of the United States Code, if the Transfers had not been made and the Defendant(s) received payment of such debt to the extent provided by Title 11 of the United States Code..

Conclusions of Law

The Transfers are avoidable pursuant to Section 547(b) of the United States Bankruptcy Code, with the Transfers preserved pursuant to 11 U.S.C. §551.

Order for Judgment

IT IS HEREBY ORDERED:

1. The Transfers are voided pursuant to 11 U.S.C. §547; and
2. Defendant(s) are ordered to pay over to the Trustee the sum of Three Thousand and NO/00 (\$3,000), plus costs incurred.

LET JUDGMENT BE ENTERED ACCORDINGLY.

The Honorable Gregory F. Kishel
Chief United States Bankruptcy Judge