

# In the United States Bankruptcy Court

## for the Northern District of Iowa

KENNETH A. MOORE  
JOYCE E. MOORE

Bankruptcy No. L-90-00041-D

*Debtor(s).*

Chapter 7

### ORDER RE MOTION TO REOPEN ESTATE AND MOTION TO AVOID SECURITY INTEREST

On December 20, 1999, Debtors Kenneth and Joyce Moore filed a Motion to Reopen Estate and a Motion to Avoid Security Interest. Dubuque Lumber Co. ("Creditor") filed objections to both Motions.

Debtors filed their Chapter 7 petition on January 9, 1990. Discharge was entered April 12, 1990 and the no-asset case was closed on July 31, 1990. Creditor holds a small claims judgment against Debtors dated December 16, 1982 from Dubuque County, Iowa District Court. This judgment debt was not listed in Debtors' schedules and Creditor claims to have had no notice of Debtors' bankruptcy case. In 1993, Creditor transferred the judgment as a foreign judgment to Jo Daviess County, Illinois where Debtors own homestead real estate. Debtors seek to avoid the judgment lien under §522(f) and request their case be reopened so they can amend to list Dubuque Lumber Co. as a creditor.

Every prepetition debt is discharged under §727(b). Judd v. Wolfe, 78 F.3d 110, 114 (3d Cir. 1996). There is no exception for unlisted or unscheduled debts. Id.; see also In re Herzig, 238 B.R. 5, 9 (E.D.N.Y. 1998); In re Baskowitz, 194 B.R. 839, 843 (Bankr. E.D. Mo. 1996). Even though Creditor's judgment debt was not listed in Debtors' schedules, it was discharged in Debtors' Chapter 7 no-asset case and reopening the case to schedule the debt is unnecessary. See Judd, 78 F.3d at 115; In re McDaniel, 217 B.R. 348, 354 (Bankr. N.D. Ga. 1998).

Discharge voids any judgment to the extent such judgment is a determination of the personal liability of the debtor. In re Wrenn, 40 F.3d 1162, 1164 (11th Cir. 1994); 11 U.S.C. §524(a)(1). Discharge does not affect liability in rem, and prepetition liens remain enforceable after discharge. Wrenn, 40 F.3d at 1164. A judgment lien which has not attached to property prepetition does not survive a debtor's bankruptcy as a floating lien. In re Ogburn, 212 B.R. 984, 986 (Bankr. M.D. Ala. 1995). A discharged prepetition judgment cannot be the basis for a creditor obtaining a lien on property which was not subject to a lien prior to bankruptcy. Id.; 3 Lawrence P. King, Collier on Bankruptcy ¶524.02, at 524-18 (15th ed. 1995). A lien cannot attach after discharge of the underlying debt. In re Kitzinger, 1999 WL 977076, at \*2 (N.D. Ill. Oct. 22, 1999). If a creditor's judgment lien has not attached to a debtor's property prepetition and the judgment debt is discharged, postpetition there is nothing to secure and no basis for the lien. Ogburn, 212 B.R. at 987.

Dubuque Lumber Co.'s judgment arose in 1982, prior to Debtors filing their Chapter 7 petition in 1990. Debtors' discharge voided their personal liability on the judgment. Creditors' Iowa judgment

was void when they transferred it as a foreign judgment to Jo Daviess County, Illinois in 1993. Postpetition, the discharged judgment cannot be the basis for attachment of a lien on property which was not subject to the lien prior to bankruptcy.

No purpose would be served by reopening this case. The debt to Dubuque Lumber Co. for its 1982 judgment is discharged. The judgment cannot be the basis for a lien on property if the lien did not attach before January 9, 1990 when Debtors filed their Chapter 7 petition.

**WHEREFORE**, Debtors' Motion to Re-Open Estate to Include Omitted Creditor and Avoid Judgment Lien is DENIED.

**FURTHER**, Debtors' Motion to Avoid Nonpossessory, Nonpurchase-Money Security Interest is DENIED.

**FURTHER**, the debt underlying Dubuque Lumber Co.'s Iowa judgment is discharged. The judgment cannot be the basis of a lien if the lien had not attached before January 9, 1990.

**SO ORDERED** this 10th day of January, 2000.

Paul J. Kilburg  
Chief Bankruptcy Judge