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3 UNITED STATES BANKRUPTCY COURT
4 EASTERN DISTRICT OF CALIFORNIA
5 SACRAMENTO DIVISION
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8 In re:)
9 ROBERT CLAYTON,) Case No. 03-30408-B-7
10 Debtor(s).)
11)
12 WFS FINANCIAL, INC.,)
13 Plaintiff(s)) Adv. No. 03-2610-B
14 vs.)
15 ROBERT CLAYTON,) Docket Control No. BC-5
16 Defendant(s).) Date: March 20, 2007
17) Time: 9:30 a.m.

18 On or after the calendar set forth above, the court issued
19 the following ruling. The official record of the ruling is
appended to the minutes of the hearing.

20 Because the ruling constitutes a "reasoned explanation" of
21 the court's decision under the E-Government Act of 2002 (the
"Act"), a copy of the ruling is hereby posted on the court's
22 Internet site, www.caeb.uscourts.gov, in a text-searchable
23 format, as required by the Act. However, this posting does not
constitute the official record, which is always the ruling
appended to the minutes of the hearing.

24 **DISPOSITION AFTER ORAL ARGUMENT**

25 Neither the respondent within the time for opposition nor the
26 movant within the time for reply has filed a separate statement
27 identifying each disputed material factual issue relating to the
28 motion. Accordingly, both movant and respondent have consented to the

1 resolution of the motion and all disputed material factual issues
2 pursuant to FRCivP 43(e). LBR 9014-1(f)(1)(ii) and (iii).

3 The motion is denied without prejudice.

4 There are several substantial hurdles to this court deciding
5 debtor's motion. One is presently insurmountable. At present, the
6 court lacks subject matter jurisdiction to decide this matter. Debtor
7 previously filed a motion which sought various forms of relief
8 including that this court "void" creditor's lien. The court denied
9 that motion without prejudice and debtor appealed. The debtor's
10 attempt to distinguish between the prior attempt to "void" the lien
11 and the current attempt to "avoid" the lien is a distinction without
12 difference. The entire issue was presented to the Bankruptcy
13 Appellate Panel ("BAP"). While the BAP has issued a decision on that
14 matter, the court has not yet received the Mandate from the BAP.
15 Therefore, the court, at present, lacks subject matter jurisdiction
16 over this issue.

17 There are also several procedural issues. Debtor has filed
18 this motion in the incorrect case. It is not properly filed in the
19 adversary proceeding. Motions to avoid judicial liens must be filed
20 in the main bankruptcy case. Debtor has not done so. If this matter
21 is re-filed, the adversary case number should not appear anywhere in
22 the caption. Debtor's notice of hearing also violates LBR 9014-
23 1(d)(3) because it does not state whether, and if so when, where, and
24 on whom, written opposition to this motion is required. The motion
25 also violates LBR 9014-1(d)(6) because debtor failed to file a
26 declaration authenticating those exhibits which are not self
27 authenticating under Federal Rule of Evidence 902. It is also
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1 necessary for the declaration to address the value, unavoidable liens
2 and the exemption to which debtor was entitled as of the petition
3 date. Current values and amounts of unavoidable liens are irrelevant.

4 The court will issue a minute order.
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