Opinion Title: 11/29/2012 UNPUBLISHED In re Randall and Susan Krantz , 10-28557, Judge Thurman.

Body: The chapter 7 debtors brought a motion to avoid a creditor's judgment lien 19 months after their petition date, after the property to which the judgment lien was fixed had been transferred out of and back into the debtors' possession, and after the creditor had obtained unopposed relief from stay. The Court found that the debtors had standing to avoid the lien as § 522(f) serves to undo the "fixing" of a lien, and so a court looks to the time period the lien fixed to determine a debtor's interest in the property. The Court determined that the date of the filing of the § 522(f) motion is irrelevant to the standing analysis, and postpetition transfers have no bearing on the debtor's standing to avoid a judgment lien. The Court declined the creditor's request to abstain from ruling on the § 522(f) motion. The Court also declined to deny the Debtors' motion on the basis of laches. The Court found that the debtors lacked diligence in bringing their § 522(f) motion and that the creditor suffered some prejudice when its motion for relief from stay went unopposed and it pursued state court action. The Court determined that an appropriate equitable remedy would be to require the Debtors to compensate the creditor for reasonable attorneys fees and costs the creditor incurred in pursuing state court relief.

File: 563.pdf [1]

Judge: Judge William T. Thurman [2]

Date: Thursday, November 29, 2012

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