

**UNITED STATES BANKRUPTCY COURT**

**DISTRICT OF IDAHO**

**IN RE** )  
 )  
**JAMES S. CROOKS and** ) **Case No. 09-20755-TLM**  
**AMY C. CROOKS,** )  
 ) **Chapter 7**  
 )  
**Debtors.** )  
\_\_\_\_\_ )

**SUMMARY ORDER**

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On January 2, 2011, James and Amy Crooks (“Debtors”) filed a motion to avoid the lien of Capitol One, NA under § 522(f). *See* Doc. No. 27 (“Motion”).

Debtors filed a separate certificate of service, Doc. No. 28, which demonstrated service of their Motion by first class mail on:

CAPITOL ONE, NA  
1680 CAPITO ONE DR.  
MCCLEAN, VA 22102

CAPITOL ONE, NA  
CORPORATION SERVICE COMPANY  
REGISTERED AGENT  
12550 W. EXPLORER DR. STE 100  
BOISE, ID 83713

The Court denied Debtors’ Motion with a text order noting that Debtors’ service of Capitol One was inadequate under Federal Rule of Bankruptcy Procedure 7004(h) which is made applicable to Debtors’ Motion through Federal Rules of

Bankruptcy Procedure 4003(d) and 9014. *See* Doc. No. 29; *see also In re Christman*, 04.4 I.B.C.R. 165, 2004 WL 2757926 (Bankr. D. Idaho 2004); *In re Lancaster*, 03.1 I.B.C.R. 31, 2003 WL 109205 (Bankr. D. Idaho 2003).

On March 2, 2011, Debtors again filed a motion to avoid Capitol One's lien under § 522(f). *See* Doc. No. 31 ("Second Motion"). Debtors again filed a separate certificate of service, Doc. No. 32 which asserts Debtors served their Second Motion by first class mail addressed to:

CAPITOL ONE, NA  
1680 CAPITO ONE DR.  
MCCLEAN, VA 22102

CAPITOL ONE, NA  
CORPORATION SERVICE COMPANY  
REGISTERED AGENT  
12550 W. EXPLORER DR. STE 100  
BOISE, ID 83713

Doc. No. 32. Unlike Rule 7004(b)(3) which allows service by first class mail on either a corporate officer or an agent authorized to accept service, Rule 7004(h) requires, with limited exceptions, that service on an insured depository institution be made "by *certified* mail, *addressed to an officer of the institution.*" (emphasis added). Here, Debtors neither served Capitol One through certified mail, nor did they address their mail to an officer of the institution. Indeed, there appears to be no change whatsoever to Debtors' approach to service between their Motion and

their Second Motion.<sup>1</sup> Since Debtors' certificate of service continues to fail to demonstrate compliance with Rule 7004(h),

IT IS HEREBY ORDERED that Debtors' Second Motion is also DENIED.

DATED: March 17, 2011



A handwritten signature in black ink, appearing to read "Terry L. Myers".

TERRY L. MYERS  
CHIEF U. S. BANKRUPTCY JUDGE

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<sup>1</sup> Albert Einstein is commonly reputed to have said something about, "doing the same thing over and over again and expecting different results."