

5/11/79

IN THE UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF WISCONSIN

In the Matter of

IN BANKRUPTCY

LYNN ANN ANDERSON

No. 78-01291 Vol.

Bankrupt.

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND JUDGMENT

The Trustee in the above entitled matter having filed an application with the Court to determine the validity of an alleged secured claim of the Madison Telco Credit Union on a certain automobile; and said matter having come on for hearing before the Court on the 26th day of March, 1979; and the Trustee appearing in person and as his own attorney; and Madison Telco Credit Union appearing by its attorney, Ronald Paskin; and a witness having been duly sworn and testimony duly taken of Allen Roder, Loan Officer of said Credit Union; and counsel having orally stated their positions; and the Court being fully advised in the premises, FINDS:

1. That Lynn Ann Anderson filed a voluntary petition in bankruptcy on the 16th day of November, 1978.
2. That Lawrence J. Kaiser is the duly appointed, qualified and acting Trustee in said matter.
3. That on the 10th day of October, 1977, the bankrupt applied to the Madison Telco Credit Union for a loan to purchase a 1975 Oldsmobile Cutlass Supreme, Serial No. 3J57K5M356153.
4. That on the 7th day of November, 1977, the said Credit Union, after the telephone application for said loan, forwarded its check #24967 in the sum of \$4,000.00 to said bankrupt together with certain financing papers and a check in the sum of \$1.50 for filing the financing papers with the proper state regulatory agency.
5. That said bankrupt purchased said automobile and endorsed said check for the payment thereof.

6. That the said bankrupt did not file the Certificate of Title signed by the seller, nor was it ever delivered to the Credit Union, nor did the bankrupt return the financing papers to said Credit Union.

7. That at the time of the filing of said bankruptcy proceedings there was no lien on file in favor of said Credit Union nor had any Certificate of Title been issued to said bankrupt.

8. That said bankrupt made certain payments on said loan from time to time prior to the filing of bankruptcy.

9. That at no time did the Credit Union check to see if said title had been filed with a notation of its lien thereon, or as to the filing of any security agreement or notice of security agreement.

10. That Chapter 342 of the Wisconsin Statutes applies to the manner of perfecting a secured interest in a motor vehicle.

11. That said Credit Union failed to do anything to process its would-be claim for lien, and is guilty of laches and estopped from now asserting against the Trustee any lien claim against said vehicle.

12. That said Madison Telco Credit Union has failed to sustain its position of having a valid lien herein.

CONCLUSIONS OF LAW

That an Order and Judgment be entered determining that Madison Telco Credit Union has no lien whatsoever on the 1975 Oldsmobile Cutlass Supreme described herein.

ORDER AND JUDGMENT

NOW, THEREFORE, IT IS ORDERED AND ADJUDGED:

That said Madison Telco Credit Union has no lien on that certain 1975 Oldsmobile Cutlass Supreme, Serial No. 3J57K5M356153, and that the Trustee is entitled to possession thereof free and clear of any and all claims of said Credit Union.

Dated: May 11, 1979.

BY THE COURT:

Bankruptcy Judge