

## MEMORANDUM

Date: 5 August 2013

To: All counsel and parties appearing before Judges Pat E. Morgenstern-Clarren, Arthur I. Harris, and Jessica E. Price Smith

From: Judges Morgenstern-Clarren, Harris, and Price Smith

Re: Orders avoiding totally unsecured mortgage liens in Chapter 13 cases under the authority of *In re Lane*, 280 F.3d 663 (6th Cir. 2002), and orders avoiding judicial liens under § 522(f)

In response to a request made at the town hall meeting in May 2013, the three bankruptcy judges in Cleveland have agreed to uniform language for (1) orders stripping totally unsecured mortgage liens in Chapter 13 cases, and (2) orders avoiding judicial liens under 11 U.S.C. § 522(f). The language in the two accompanying form orders will be acceptable for all cases pending before the bankruptcy judges in Cleveland. Should parties seek entry of an order that deviates from the language in these two form orders, they should explain in their motion (in bold face print) why the deviation is justified.

We hope that this change will assist attorneys in drafting proposed orders that can be entered without revision, thus saving time for both the attorneys and the court. Thank you for your anticipated cooperation in using these forms where appropriate.

draft order stripping mortgage lien(s)

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF OHIO

In re: ) Case No. <00-00000>  
)  
[NAME OF DEBTOR(S)], ) Chapter 13  
)  
Debtor(s). ) Judge <\_\_\_\_\_>  
)  
) ORDER GRANTING MOTION  
) TO AVOID MORTGAGE LIEN(S)

This matter came before the Court on the Motion to Avoid Mortgage Lien(s) filed by the debtor(s), Docket #<\_\_>. Movant has alleged that good cause for granting the motion exists and that the mortgage lien holder(s), the Chapter 13 trustee, and all other necessary parties were served with the motion and with notice of the deadline to oppose the motion. No party filed a response or otherwise appeared in opposition to the motion, or all responses have been withdrawn or overruled. For these reasons, it is appropriate to grant the relief requested.

IT IS, THEREFORE, ORDERED that the motion is granted.

IT IS FURTHER ORDERED that the lien(s) of <name of secured creditor> recorded in <location>, on <date>, at <volume/page, if applicable>, and bearing instrument number <number, if applicable>, [provide similar information, if avoiding multiple mortgage liens] is/are avoided, subject to the debtor(s)

successfully completing the Chapter 13 plan and receiving a discharge under 11 U.S.C. § 1328.

IT IS FURTHER ORDERED that the filing of a certified copy of this order and a certified copy of the Chapter 13 discharge order with the appropriate state or county office, together with the payment of any fees due, shall act as a release and satisfaction of the mortgage lien(s) identified above.

###

draft order avoiding judicial lien(s)

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF OHIO

In re: ) Case No. <00-00000>  
)  
[NAME OF DEBTOR(S)], ) Chapter <\_\_>  
)  
Debtor(s). ) Judge <\_\_\_\_\_>  
)  
) ORDER GRANTING MOTION  
) TO AVOID JUDICIAL LIEN(S)  
) UNDER 11 U.S.C. § 522(f)

This matter came before the Court on the Motion to Avoid Judicial Lien(s) filed by the debtor(s), Docket #<\_\_>. Movant has alleged that good cause for granting the motion exists and that the judicial lien holder(s), the trustee, and all other necessary parties were served with the motion and with notice of the deadline to oppose the motion. No party filed a response or otherwise appeared in opposition to the motion, or all responses have been withdrawn or overruled. For these reasons, it is appropriate to grant the relief requested.

IT IS, THEREFORE, ORDERED that the motion is granted.

IT IS FURTHER ORDERED that the judicial lien(s) of <name of judicial lien holder>, recorded in <location>, on <date>, at <volume/page, if applicable>, and bearing instrument number <number, if applicable>, [provide similar information, if avoiding multiple judicial liens] is/are avoided under 11 U.S.C.

§ 522(f), subject to the debtor(s) receiving a discharge under 11 U.S.C. § 727 or § 1328.

IT IS FURTHER ORDERED that the filing of a certified copy of this order and a certified copy of the discharge order with the appropriate state or county office, together with the payment of any fees due, shall act as a release and satisfaction of the judicial lien(s) identified above.

###