

Procedure for Removing Wholly Unsecured Junior Mortgage Liens in the United States Bankruptcy Court, Middle District of Florida, Jacksonville Division

In the Jacksonville Division, the following procedures are available to Chapter 13 debtors who seek to remove wholly unsecured junior mortgage liens:

The Debtor may file:

- 1) An objection to claim. The Objection shall be served pursuant to Rule 7004 and will be handled pursuant to the Court's Negative Notice Procedure as outlined in Local Rule 2002-4. The Objection shall clearly state the debtor's intention to strip off the lien, and an affidavit of the debtor as well as supporting documentation, if any, must be attached.

Or

- 2) A motion to remove a wholly unsecured junior mortgage lien. The motion shall be entitled "Motion to Determine Secured Status of (state creditor's name) and to Strip Lien Effective Upon Discharge" and if a claim was filed shall refer to the claim number. The motion shall be served pursuant to Rule 7004 and will be handled pursuant to the Court's Negative Notice Procedure as outlined in Local Rule 2002-4. The motion must clearly state the proposed treatment to value the real property and strip off the lien. An affidavit of the debtor as well as supporting documentation, if any, must be attached. The debtor is ultimately responsible for providing the creditor with proper notice.

For either an objection to a claim or motion to remove a wholly unsecured junior lien, parties shall have thirty (30) days to object.

A debtor may also file an adversary proceeding. The filing of an adversary proceeding is only necessary in instances in which the debtor is seeking a determination as to the validity, priority, or extent of the underlying lien.