

Motion to Determine Secured Status/Value (and Strip Lien if Applicable)

Docketing Event

Bankruptcy > Motions/Applications/Objections > Motion to Determine Secured Status/Value (and Strip Lien if applicable)

Negative Notice: Yes (30 days)

Accompanying Orders: N/A

Code and Rule References:

[11 U.S.C. § 506](#)

[Fed. R. Bankr. P. 3002](#)

[Fed. R. Bankr. P. 3003](#)

[Fed. R. Bankr. P. 3012](#)

[Local Rule 3012-1](#)

Fee: N/A

Applicable Chapters: 11, 12, 13

Implemented: 2/9/2016

Last Revision: 9/7/2022 2:43:17 PM

Description

Motions to determine secured status are usually filed by the debtor but may be filed by other parties. Under § 506, a party may file a motion seeking to determine the amount of a creditor's secured claim based upon the value of the creditor's collateral. Generally, a claim is secured to the extent of the value of the collateral (after deducting the amount of senior secured claims), and the balance of the claim is an unsecured claim. Some Motions to Determine Secured Status include a request to "strip off" a junior lien. If the value of the collateral is less than the amount of a senior lien on the property, there is no equity in the collateral to support a junior lien, and lien may be "stripped off."

Chapter 11, 12, and 13 debtors may "strip off" junior liens if there is any equity over the amount of the senior liens, but under § 1322(b)(2) and § 1123(b)(5), Chapter 13 and Chapter 11 individual debtors are not permitted to "strip down" a junior lien on their principal residences to the value of the collateral.

Lien stripping is not permitted in Chapter 7 cases. *See Bank of America, N.A. v. Caulkett*, 135 S. Ct. 1995 (2015).

Filing Checklist

Review the motion to determine if it:

- ☐ Includes the name of the affected creditor in the title of the motion.
- ☐ Seeks to "strip off" a junior lien, includes the words "void" or "strip" in the title of the motion.
- ☐ Includes the correct Negative Notice legend on the first page of the motion.
 - ❖ **Note:** Response period is 30 days (plus an additional three days for service if any party was served by U.S. Mail).

- ☐ Is signed.
- ☐ The moving party's attorney's name and address matches the filing attorney's name and address in CM/ECF.
- ☐ Describes the collateral, including the address and legal description of real property and the VIN number for vehicles.
- ☐ Includes the name of the affected lien holder and a redacted loan number (except for claims filed by an HOA, the IRS, or for an individual for whom there is no loan or mortgage number).
 - ❖ **Note:** If the debtor seeks to determine the secured status of two or more creditors with respect to the same collateral, the debtor may join the creditors in a single motion.
- ☐ Includes recording information (date and instrument number) for mortgages or UCC-1 Financing Statement numbers for vehicles.
- ☐ If the motion seeks to strip a junior lien, lists the names and amounts of all senior lienholders.
- ☐ States the fair market value of the collateral.
- ☐ Includes a signed and dated proof of service.

Forms

[Motion to Determine Secured Status of Claim](#)

[Motion to Determine Secured Status of Claim and Void Junior Lien](#)

[Order Granting Debtor's Motion to Determine Secured Status of Claim and Void Junior Lien](#)

[Order Granting Motion to Determine Secured Status of Claim \(no stripping\)](#)