

Recording an 11 U.S.C. § 522(f) Order Avoiding a Judicial Lien in a County Clerk's Office

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As county clerks' offices work to improve the quality of their records, the information to be included in a 522(f) order has become more detailed. County clerks will not record a 522(f) order that does not contain all necessary information – a practice that creates issues for the Bankruptcy Court Clerk's Office, practitioners, and debtors.

Several county clerks have shared the details required in a 522(f) order. This includes the information required by Local Bankruptcy Rule 9013-6(a)(2), (6) and (8), plus a copy of the judgment subject of the motion. There may be additional information required by a particular county clerk. You should make your own inquiry in advance of your submission of a proposed order to the Bankruptcy Court.

Practice Tips

A chapter 7 case typically closes within two weeks of discharge. If you know that a 522(f) motion is necessary, immediately file a letter requesting the case be held open to a date certain by which the motion will be filed. It is not necessary to delay the issuance of a discharge when seeking to avoid a judicial lien.

If a case closes before you file a 522(f) motion, or, before you obtain an order that the county clerk deems acceptable for recording, it will be necessary for you to reopen the bankruptcy case pursuant to Local Bankruptcy Rule 5010-1.

In a chapter 13 case where a judgment lien is paid in full through a plan, request from the judicial lien holder a satisfaction of judgment, which will be held in escrow by the chapter 13 trustee. Doing so will reduce the phone calls you and the court receive from frustrated debtors concerning judgment liens not satisfied of record, even though full payment was made through the plan.²

¹ The assistance of Dawn Simmons, Law Clerk to the Hon. Margaret Cangilos-Ruiz is gratefully acknowledged.

² The Bankruptcy Clerk's office actively encourages debtors to contact their bankruptcy counsel to resolve open issues. The explanations can be highly technical and involve matters of law. The Bankruptcy Clerk's office and the limited, non-legal advice it may offer a caller is not a substitute for your counsel, which presumably is tailored to the specific facts and circumstances of your client's case.