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the United States Bankruptcy Court
Eastern District of Wisconsin

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PLEASE TAKE NOTICE: The United States Bankruptcy Court for the Eastern District of Wisconsin will be closed on Monday, September 3, 2012, in observance of Labor Day. The VCIS phone number for the Eastern District of Wisconsin is 414-297-3291. Please listen carefully as the menu options may change.

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Office Hours
8:30 am to 4:30 pm, M-F

Main Phone Number
414-297-3291

Case Information
866-222-8029

CM/ECF Help Desk
414-290-2700

PACER Registration

FEATURED ARTICLES AND ANNOUNCEMENTS

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Proposed Amendments Published for Public Comment

The Judicial Conference Advisory Committees on Appellate, Bankruptcy, Criminal, and Evidence Rules have proposed amendments to their respective rules and forms, and requested that the proposals be circulated to the bench, bar, and public for comment. The proposed amendments, Rules Committee reports explaining the proposed changes, and other information are posted on the Judiciary's website [HERE](#). The public comment period ends **February 15, 2013**.

Live Chat

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Judge **All** Keywords

Total: 336

Citizens Bank v. Debtors (In re Cramer) (August 2012) -- Judge Shapiro

Creditor obtained relief from stay during debtors' chapter 13 case and sold the collateral securing debtors' loan resulting in a deficiency balance of over \$15,000. Debtors subsequently completed their plan and were granted a discharge. Creditor then initiated an adversary proceeding seeking a determination that the deficiency balance was a nondischargeable debt under § 1328(c)(1). The court held that it was a long term debt, but that the debtors' plan did not provide for it under § 1322(b)(5) such that it would be a nondischargeable debt under § 1328(c)(1). Creditor never objected to the debtors' chapter 13 plan, nor did it timely file a proof of claim for the deficiency balance after sale. The court denied creditor's motion for summary judgment and dismissed the complaint.

Carl & Dawn Hurley, Case No. 11-23485, All Wheels Financial, Inc. v. Debtors, Adv. No. 12-2205 (August 2012) -- Judge McGarity

Creditor was denied summary judgment and sec. 523(a)(3)(A) cause of action against chapter 7 debtors was dismissed. Although creditor had not received notice of bankruptcy in time to file a timely proof of claim in asset case, it had knowledge of bankruptcy case in time to file a tardy proof of claim and fully participate in the distribution under sec. 726(a)(2)(C), but chose not to do so.

In re Tekavec (August 2012) (August 2012) -- Judge Kelley

Partially secured short term home equity line of credit could be crammed down under § 1322(c)(2), even though the initial term of the agreement was extendable and renewable at the option of the creditor.

Mohns, Inc. v. Debtors (In re Wilson) (July 2012) -- Judge Shapiro

Creditor objected to debtors' discharge under §§ 727(a)(2), (4), and (5) based primarily on debtors' conversion of cash into an exempt IRA, and on debtors' termination of a collateral assignment agreement resulting in a loan to an insider becoming unsecured, shortly before filing. Following a trial, the court ruled that such acts were done on the advice of counsel and without an actual intent to defraud, and granted the debtors a discharge.

336 total decisions posted through August 2012 sorted by decision date

You can search all 4 Judges or select a Judge by name

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Judge **All** Keywords **chapter 20** search
Total: 163

In re Tekavec (August 2012) (August 2012) -- Judge Kelley
Partially secured short term home equity line of credit could be crammed down under § 1322(c)(2), even though the initial term of the agreement was extendable and renewable at the option of the creditor.

12-25456, Diane Jackson (June 2012) -- Judge Pepper
Order imposing \$5,000 sanction on Attorney Emory H. Booker, III for violating the Bankruptcy Code and Rules through his provision of unbundled bankruptcy services.

11-2527, Williams v. City of Milwaukee City Clerk; 11-2561, Campbell v. City of Milwaukee; and, 11-2597, Gillespie v. City of Milwaukee (May 2012) -- Judge Pepper
In debtors' adversary proceeding to avoid the transfer of their real properties to the City of Milwaukee via tax lien foreclosure, the Court held that the City's "strict foreclosure" process under Wis. Stat. section 75.521, which did not involve any kind of sale, was not sufficient to establish the "reasonably equivalent value" element of a section 548 fraudulent conveyance action.

Moss v. Salle Mae, Inc. on behalf of USA Funding, 2012 Bankr. LEXIS 1693 (April 2012) -- Judge Kelley
Student loan creditor's policy conditioning debtor's new post-petition student loan on cure of default on pre-petition student loan did not violate automatic stay or anti-discrimination provisions of 11 U.S.C. § 525(c).

10-34534, Vianca Wright (April 2012) -- Judge Pepper
Court denied creditor's motion to compel the standing Chapter 13 trustee to pay the amounts listed in the creditor's supplemental notice to the proof of claim, which had been filed pursuant to the requirements of Fed. R. Bankr. P. 3002.1. The Court held that the Form B10S notice of post-petition fees, costs and expenses did not constitute a "supplemental" or "amended" proof of claim, and was

Search engine is rudimentary. You cannot put words in quotes to search by phrase. Note that if you search "chapter 20", you get 163 results - pulls up all results containing "chapter" or "20".

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Judge All Keywords lien strip search
Total: 7

11-2102, Villalobos v. BAC Home Loans Servicing, LP (March 2012) -- Judge Pepper
Bankruptcy court found no justification for imposing an equitable lien in favor of the creditor on the debtors' rental property, when the reason that the creditor did not have a lien on that property was because it had erroneously applied the loan proceeds to a different property. The district court adopted the findings and conclusions in their entirety.

Fair v. GMAC Mortgage, LLC, 10-2362 (July 2011) -- Judge Pepper
Debtor who had received a Chapter 7 discharge in a case commenced within the previous 8 years filed a Chapter 13. She then filed an adversary complaint, proposing to strip off the wholly unsecured, junior mortgage lien. When the defendant did not file an answer, the plaintiff/debtor filed a motion for default judgment. On October 26, 2010, the Court denied the motion for default judgment and dismissed the adversary complaint, holding that a debtor who was not eligible for a Chapter 13 discharge could not use the Chapter 13 case to strip off the wholly unsecured, junior mortgage lien. The debtor appealed, and on April 19, 2011, Judge Randa reversed the bankruptcy court's legal conclusion. In re Sandra Lee Fair, 10-C-1128. Judge Randa held that there was nothing in the Bankruptcy Code which tied modification of an unsecured lien to obtaining a Chapter 13 discharge. He noted, however, that bankruptcy courts had an obligation to determine whether debtors filed their Chapter 13 petitions in good faith, and that filing a Chapter 13 case "solely for the purpose of the lien avoidance" suggested manipulation of the Bankruptcy Code and constituted evidence of bad faith. He thus remanded the case to the bankruptcy court for a determination regarding whether the debtor filed her Chapter 13 case in good faith. On July 6, 2011, the bankruptcy court issued an oral ruling, finding that under the specific factual circumstances in this debtor's case, she had filed her Chapter 13 case in good faith. The Court found that she had filed the case for the purpose of paying the arrearage on her first mortgage and saving her home from foreclosure, and not just for the purpose of stripping off the wholly unsecured, junior mortgage lien.

In re May, 2010 Bankr. LEXIS 4046 (November 2010) -- Judge Kelley
After Hamilton v. Lanning, in computing projected disposable income on Form B22C, Chapter 13 debtor may not deduct mortgage payment on undersecured mortgage that has been stripped because it is virtually certain that debtor will not be making the mortgage payment after confirmation.

MacDonald, et al. v. HSBC Mortgage Services, Inc., 10-2287 (October 2010) -- Judge Pepper
"Minutes from October 25, 2010 hearing in an adversary case, in which the Court held that debtors who were not eligible for a Chapter 13 discharge because they'd received a Chapter 7 discharge within four years of filing the Chapter 13 petitions could not use the Chapter 13 proceeding to avoid wholly-unsecured junior mortgage liens."

Searching "lien strip" pulls up all decisions containing "lien" and "strip" but we do hit on Judge Pepper's Fair decision within the 7 results.

However, Judge Shapiro's Lindskog decision is not found using this query.

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Judge **All** Keywords **506(d)** search

Total: 3

11-2102, Villalobos v. BAC Home Loans Servicing, LP (March 2012) -- Judge Pepper
Bankruptcy court found no justification for imposing an equitable lien in favor of the creditor on the debtors' rental property, when the reason that the creditor did not have a lien on that property was because it had erroneously applied the loan proceeds to a different property. The district court adopted the findings and conclusions in their entirety.

Debtor v. M&I Bank FSB (In re Jeannie Lindskog) (April 2011) -- Judge Shapiro
Debtor filed a chapter 13 case in which she was ineligible to receive a discharge pursuant to § 1328(f), because the case was filed less than four years after she filed a chapter 7 case in which she received a discharge. Debtor commenced an adversary proceeding seeking to "strip off" her second mortgage because there was no equity for the lien to attach to. The creditor filed a motion to dismiss the adversary proceeding arguing that a discharge is a requirement for lien avoidance under § 506(d). An objection to confirmation of plan was filed on the same grounds. The court held that to allow a debtor in a no-discharge chapter 13 to avoid a junior lien would run afoul of § 1325(a)(5)(B)(i)(I)(aa) which provides that the holder of a secured claim shall retain such lien until the earlier of the payment of the underlying debt or discharge. The court further stated that permitting such action would be contrary to both the Congressional intent in enacting BAPCPA and the ruling of the U.S. Supreme Court in Dewsnup v. Timm. The court granted the motion to dismiss adversary proceeding and sustained the objection to confirmation of plan without prejudice to the right of the debtor to file an amended plan.

In re Larry M. Watts, Case No. 01-21368, Larry M. Watts v. J.D. Griffiths Co., Adv. No. 01-2583 (December 2001) -- Judge McGarity
Defendant was hired to tear down and replace debtor's garage. Debtor never paid for the work and the defendant obtained an unsecured construction lien. After the debtor filed a chapter 7 petition, he commenced an adversary proceeding to declare the lien void under sec. 506(d). On summary judgment, the debtor argued he was not seeking avoidance of the lien, but rather wanted the lien declared void as a matter of law. The court dismissed the adversary proceeding, finding under Dewsnup v. Timm, the lien passed through bankruptcy unaffected.

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Try different searches. Searching by code section 506(d) pulls up Judge Shapiro's decision, but not Judge Pepper's.