

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE:)	CASE NUMBER:
)	
JOHN DOE,)	XX-XXXX-RY D
)	
Debtor.)	CHAPTER 13
_____)	
JOHN DOE,)	
Movant.)	
)	
v.)	CONTESTED MATTER
)	
ABC MORTGAGE COMPANY,)	
Respondent.)	
_____)	

**MOTION TO DETERMINE SECURED STATUS OF ABC MORTGAGE COMPANY
AND TO STRIP LIEN EFFECTIVE UPON DISCHARGE**

COMES NOW John Doe (“Debtor”) by and through his undersigned counsel, and files this Motion to Determine Secured Status of ABC Mortgage Company and to Strip Lien pursuant to 11 U.S.C. § 506(d) and states as follows:

1. The Debtor filed a petition for relief under Chapter 13 of the Bankruptcy Code on **FILING DATE**. The Court has jurisdiction of this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding under 28 U.S.C. § 157(b).

2. The Debtor owns real property located at **STREET ADDRESS, CITY, COUNTY, STATE**, more particularly described as follows:

LEGAL DESCRIPTION

3. The Debtor's real property is encumbered by two liens:

(a) Lucky Mortgage, account number XXXX1234, holds the first priority security deed, recorded on DATE at Book XXXX, Pages XXXX, Instrument No. XXXX of the official records of COUNTY. Lucky Mortgage has filed Claim No. ___ in the amount of \$ DOLLAR AMOUNT [or the claim of Lucky is scheduled as _____].

(b) ABC Mortgage Company, account number XXXX1234, holds a second priority security deed, recorded on DATE at Book XXXX, Pages XXXX, Instrument No. XXXX of the official records of COUNTY. ABC Mortgage Company has filed Claim No. ___ in the amount of \$ DOLLAR AMOUNT [or the claim of ABC is scheduled as _____].

4. Based upon [the appraisal attached as Exhibit 1 or other valuation (specify)], the value of the Real Property is \$ DOLLAR AMOUNT.

5. Accordingly, ABC Mortgage Company's second lien is completely unsecured.

6. Pursuant to 11 U.S.C. § 506(a), ABC's claim is wholly unsecured and is subject to a determination that the lien securing ABC's claim is void upon entry of a discharge in this case. In re Tanner, 217 F.3d 1357 (11th Cir. 2000).

Wherefore, the Debtor respectfully requests Court to enter an order:

(a) granting the Motion; (b) determining the amount of the lien of LUCKY MORTGAGE exceeds the value of the Real Property; (c) determining that ABC Mortgage Company's claim may be treated as an unsecured claim; (d) voiding the mortgage lien of ABC Mortgage Company, effective upon entry of a Chapter 13 discharge; and (e) granting such other and further relief as the Court deems appropriate.

Respectfully Submitted,

NOTE ON SERVICE:

Certificate of Service must detail who was served, when they were served, and how they were served. Rules 9014/7004 apply. Note Rule 7004(h) if the Respondent is an Insured Depository Institution. You should also serve anyone who has filed a Proof of Claim on behalf of Respondent and any attorney who has appeared in the case for Respondent. This is in addition to, not in lieu of, service in compliance with Rules 9014/7004.