

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND**

In re: Laura White,
Debtor

BK No: 12-11578
Chapter 7

ORDER GRANTING MOTIONS TO AVOID JUDICIAL LIENS

***Re: Debtor's Motions to Avoid Judicial Liens of GE Money Bank, LeLand S. Blough,
Riverwalk Holdings Ltd., and Kent County Memorial Hospital
(this relates to Doc. ## 21, 22, 23, 24)***

The Debtor Laura White filed her voluntary petition under Chapter 7 of the Bankruptcy Code on May 4, 2012. She received her discharge on August 7, 2012, and the case was closed. On April 3, 2017, the Debtor moved to reopen her case (Doc. #9) in order to avoid four judicial liens held by GE Money Bank, LeLand S. Blough, Riverwalk Holdings Ltd., and Kent County Memorial Hospital. The Court granted the motion on April 24, 2017. The Debtor filed her first set of motions to avoid judicial liens on May 26, 2017 (Doc. ## 15, 16, 17, 18), but the Court denied them without prejudice for failure to serve the motions in accordance with Rhode Island Local Bankruptcy Rule 9013-3(b)(2)(A). After being re-filed and served in compliance with the Court's Order, the motions were again denied because the Debtor failed to correctly calculate the impairment in accordance with 11 U.S.C. § 522(f)(2)(B) and R.I. LBR 4003-2(a)(8), and for guidance cited to its decision in *In re Derocha*, 503 B.R. 553 (Bankr. D.R.I. 2014). The Debtor once again re-filed the motions to avoid judicial liens (collectively, the "Motions," Doc. ## 21, 22, 23, 24), but has still failed to perform the proper calculations in compliance with the requirements of 11 U.S.C. § 522(f)(2)(B).¹ Due to the Debtor's apparent confusion with this calculation when multiple liens are sought to be avoided, this Order has been issued to provide further clarity.

The language "all other liens on the property" under § 522(f)(2)(A)(ii) includes "mortgages and all judicial and statutory liens." See *In re Derocha*, 503 B.R. 553, 557 (Bankr. D.R.I. 2014). However, where there are pending motions to avoid particular liens, or a lien has already been avoided, such liens are excluded from the calculation. *Id.* at 557-58 ("[E]ach time the formula is applied after having been performed for *one* of multiple liens against the property, and assuming that lien can be avoided, then the amount of this lien and each such subsequently

¹ Unless otherwise indicated, the terms "Bankruptcy Code," "Chapter," "section" and "§" refer to Title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.*, as amended by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Pub L. No. 109-8, 119 Stat. 37 ("BAPCPA").

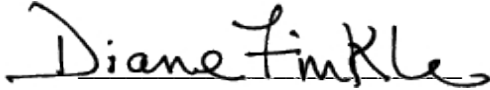
‘avoided’ lien is omitted from each subsequent calculation to be applied to other liens sought to be avoided.”).

For instance, avoiding one of three liens on a property will require including the two other liens in the § 522(b)(2)(A)(ii) portion of the formula in order to successfully avoid the first lien. If the debtor seeks to then avoid the second lien (having already sought to avoid the first lien, *whether pending or granted*), the formula would only include the third lien as the first “must be deemed already avoided for purposes of the analysis and excluded from the calculation” assuming the first is avoidable in its entirety. *Id.* at 558. *See In re Derocha*, 503 B.R. 553 (Bankr. D.R.I. 2014) and the template for motions to avoid judicial liens available on the Court’s website (see “Forms > Templates for Commonly Used Forms”). *See also* BK. No. 16-11370, (Doc. ## 19, 20) for an example of the proper application of the formula for avoiding multiple liens in separate motions.

Despite the lien avoidance calculation having been done incorrectly, the Court will nevertheless grant the Motions because the amounts of the liens are significantly less than the exemption impairment under the correct calculations, rendering them each of these liens fully avoidable.

Date: July 5, 2017

By the Court,

 07/05/2017
Diane Finkle
U.S. Bankruptcy Judge