

From: [Kachka, Vladislav](#)
To: [RulesCommittee Secretary](#)
Subject: Bankruptcy, Form 318
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Rebecca A. Womeldorf, Secretary
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE
Washington, D.C. 20544

To: The Advisory Committee on Bankruptcy Rules

For the reasons provided below, I suggest the following language should be added to Bankruptcy Form 318, under the "Explanation of Bankruptcy Discharge in a Chapter 7 Case" section:

"Any discharged unsecured judgments against the Debtor(s) listed in the petition are void and will not create a lien on property acquired post-petition."

1. In Pennsylvania, a civil judgment creates an automatic lien against real property that a defendant owns and that a defendant will acquire in the future. 42 Pa. Cons. Stat. Ann. § 4303.
2. Under Section 524(a)(1), a discharge voids judgments, but, in general, a lien "survives" bankruptcy even after a judgment is discharged.
3. In order for a lien to attach, both the real property and the underlying judgment must exist at the same time because a lien cannot exist in the absence of an underlying attachable "res."
4. Therefore, if a debtor does not have real property and liens during a bankruptcy, the discharged judgment will not cause a lien attach to real property he will acquire post-petition.
5. However, notwithstanding the discharge of unsecured debt, an abstract of judgment entered against a debtor continues to appear on a title report.
6. As a result, many underwriters will not certify that the property has clear title when a debtor attempts to obtain financing for a future real property purchase because the underwriters believe the judgment shown on the title report will create an automatic lien against the real property.
7. Therefore, an order from the Court specifying that the discharged judgment does not create a lien on property acquired post-petition is necessary.
8. Instead of the Debtor needing to explain to an underwriter the intricacies of Section 524's effect on unsecured judgments, it would be more effective for the Debtor to provide the underwriter with an order specifying that the subject judgment does not create a lien on real property acquired post-petition.

Thank you for consideration of this proposal.

Sincerely,

Vlad Kachka

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Freedman & Lorry, P.C.

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Pronouns: He,His,Him