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Judgment Liens

When one of your creditors sues you and wins, they obtain what is known as a "**Judgment**". This Judgment is reflected by a written Order signed by the Judge. If a creditor files a copy of the Judgment with the County Clerk where you own land, this becomes a lien on all of your real estate located in that County.

This is called a "Judgment Lien". A Judgment Lien is similar to a mortgage on your land.

Judgment Liens on Homesteads

Prior to 1997 Judgment liens did not affect a person's home or "**Homestead**". A 1997 law allows Judgment Liens to attach to Homesteads. This means the Judgment Lien acts like a **mortgage** on the Homestead.

As to **Homesteads alone**, creditors cannot force a sale of your Homestead to pay their Judgment Lien. However, a persistent creditor may wait until you (i) die, (ii) you attempt to sell your Homestead, or (iii) you attempt to mortgage the Homestead. Then their unpaid Judgment Lien must be paid or the creditor can effectively stop the sale or keep the potential lender from lending you money.

If you die, then the creditor may be able to force a sale of what was your Homestead.

Judgments in Bankruptcy

All of your debts are "**Discharged**" in bankruptcy with limited exceptions such as taxes, child support, school loans, and a few others. This applies to Judgments that have been rendered against you as well.

Simply, when you receive your Discharge in Bankruptcy you have no personal obligation to pay any discharged debt, including a Judgment. However, Judgment Liens which have attached to real property remain good for as long as five years.

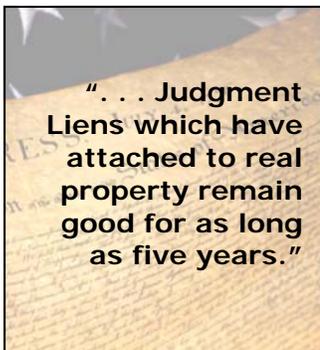
Said another way, while you have no obligation to pay the creditor that holds a Judgment Lien, the creditor is not obligated to provide a release of their Judgment Lien as a result of your bankruptcy. If you will **not** (i) sell the Homestead, (ii) need to borrow money against the Homestead, or (iii) die, a Judgment Lien is not a problem.

However, our experience is that most people want to sell or mortgage land during a five year period and the Judgment Lien will then become a problem.

Judgment Liens in Bankruptcy

During your bankruptcy we may file a "**Motion to Avoid Judgment Lien**" or simply a "**Motion**" as to your Homestead. This is normally a simple process.

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It requires filing the Motion – a document – with the Bankruptcy Court. The Motion must then be mailed to your creditors asserting that property is your Homestead and that the Judgment Lien should be released by the Bankruptcy Judge.

Motion to Void Judgment Lien

This Motion is generally not filed until at least thirty days *after* your first meeting of creditors to ensure that no one objects to your Homestead as exempt property. Once the Motion is filed we must provide twenty day's notice to all creditors to allow them to object to this Motion. If no objections are filed, the Judge will routinely grant the request to avoid the Judgment Lien.

This should be done so that you will have the freedom to do whatever you want with your Homestead as soon as the Judgment Lien is avoided. This will only work if the property involved is your Homestead. If it is commercial property or some other non Homestead property, it will not be successful.

Assuming there is no objection to the Motion and I am not required to travel to Oklahoma City, the legal fee for taking these steps on your behalf absent objection by the creditor is typically a couple of hundred dollars plus whatever costs are involved.

It is not essential that you do this. However, our experience is when we have not avoided the Judgment Lien, our clients inevitably ask us to take action later when it is difficult or impossible to help.

State's Oldest Law Firm

Near as we can tell Mitchell DeClerck's roots in Oklahoma can be traced back to shortly after noon on September 16, 1893, when Charles H. Parker came to Enid on the train during the Land Run of 1893. The Cherokee Strip Land Run began that day with more than 100,000 participants hoping to claim land.

We don't know exactly when Mr. Parker opened his law practice in Oklahoma but until someone who was there tells us otherwise, we think that shortly after noon on September 16, 1893, the original predecessor of Mitchell DeClerck first opened its doors.

Parker was later joined by the former Attorney General of Oklahoma Territory Percy C. Simons forming Parker & Simmons in 1906. Simons had also made the run into Oklahoma in 1893 but began his practice in Grant County on the Kansas-Oklahoma border.

Simons became the Attorney General of Oklahoma Territory in 1904 serving until 1906 when he came to Enid to join Parker.

Parker & Simmons grew in stature and was the only Enid firm listed in the prestigious Hubbell's Law Directory in 1918, the year of Parker's death. Mitchell DeClerck or its predecessors have been continuously listed in Hubbell's or its successor Martindale-Hubbell for 100 years. Parker was a Bankruptcy Trustee at least as early as 1918 so we've done bankruptcy for over a century.

Mitchell DeClerck is the oldest law firm in Enid, Oklahoma by nearly a century and the oldest law firm in the state of Oklahoma by nearly a decade. So, over parts of three centuries we've long done most everything involving Oklahoma law.

Therefore, if you need an Oklahoma Lawyer to help you solve a problem, in our 124 plus years representing Oklahomans beginning with Charles Parker in 1893 you can be assured that:

We've been there and done that.

Caveat:
 This brochure is designed to give general advice only. Specific Questions should be directed to your Lawyer.