

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

In re:

Case No. 9:12-bk-12143-FMD  
Chapter 7

Derrick Edward Fincannon,

Debtor.

Derrick Edward Fincannon,

Plaintiff,

v. Adv. No. 9:12-ap-910-FMD

Partners for Payment Relief  
DE III, LLC, *et al.*,

Defendants.

**ORDER DENYING  
MOTION FOR SUMMARY JUDGMENT**

THIS PROCEEDING came on for consideration, without a hearing, of the Motion for Summary Judgment filed by Defendant, Partners for Payment Relief DE III, LLC (Doc. No. 41) (the "Motion"). Defendant argues that the Eleventh Circuit's unpublished decision in *In re McNeal*, 477 Fed.Appx. 562 (11th Cir. 2012), is not binding upon the Court and that, for the reasons set forth in the Motion, a Chapter 7 debtor may not strip a wholly unsecured junior lien. However, as this Court has previously announced, absent a ruling from the Eleventh Circuit to the contrary, the Court will follow *McNeal* and permit a Chapter 7 debtor to strip a wholly unsecured junior lien.

Accordingly, it is

**ORDERED** that the Motion is **DENIED**.

**DONE** and **ORDERED** in Chambers at  
Tampa, Florida, on June 6, 2013.

/s/  
Caryl E. Delano  
United States Bankruptcy Judge

Attorney Joseph Trunkett is directed to serve a copy of this Order on all interested parties and to file a proof of service with the Court within three (3) days.