

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION**

<b>IN RE:</b>	*	<b>CHAPTER 13 CASE NO.</b>
	*	
<b>JOSEPH MARIANO, ERICA MARIANO,</b>	*	<b>11-04978-JAF</b>
	*	
<b>DEBTORS.</b>	*	
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	*	
<b>JOSEPH MARIANO, ERICA MARIANO,</b>	*	<b>ADVERSARY</b>
	*	
<b>PLAINTIFFS,</b>	*	<b>PROCEEDING NO.</b>
	*	
<b>VS.</b>	*	<b>11-AP-01010-JAF</b>
	*	
<b>WELLS FARGO BANK, N.A.,</b>	*	
	*	
<b>DEFENDANT.</b>	*	

**JUDGMENT**

The above-styled adversary proceeding having come before the Court, upon the pleadings and affidavits filed therein, and pursuant to Federal Rule of Bankruptcy Procedure 7012, it is

ADJUDGED:

1. The Court finds that the Plaintiff's homestead property has no equity to secure the second mortgage. The property is encumbered by a valid first mortgage, held by Wells Fargo Bank, N.A., in the amount of \$163,387.92 at the time of filing the petition. The Defendant holds a second mortgage that is wholly unsecured.

2. Claim No. 3-1 filed by Wells Fargo Bank, N.A. shall be treated as an unsecured claim in the Chapter 13 case.

RECORDED IN THE US BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION  
J.B. VOL. 54, NO. 7493

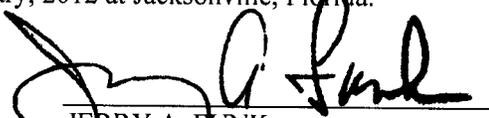
3. The real property (the "Real Property") that is subject of the proceeding is located at 4207 Hanging Moss Drive, Orange Park, FL 32073-7642, and more particular described as follows:

**LOT 1, SAVANNAH GLEN, UNIT TWO, ACCORDING TO PLAT THEREOF  
RECORDED IN PLAT BOOK 31, PAGE 72 THROUGH 77, OF THE PUBLIC RECORDS  
OF CLAY COUNTY, FLORIDA.**

4. The mortgage held by Wells Fargo Bank, N.A. recorded on June 13, 2006, at Book 2739, Page 2145-2147, Instrument No. 2006040403 of the official records of Clay County, Florida, shall be deemed void and shall be extinguished automatically, without further court order, upon entry of the Debtor's discharge in this Chapter 13 case; provided, however, that the Court reserves jurisdiction to consider, if appropriate, the avoidance of Wells Fargo Bank, N.A.'s lien prior to the entry of the Debtor's discharge.

5. Further, if this case is converted to a case under Chapter 7, or if this Chapter 13 case is dismissed, the mortgage will no longer be considered void and shall be resorted as a secured debt.

Dated this 17 day of February, 2012 at Jacksonville, Florida.

  
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JERRY A. FUNK  
United States Bankruptcy Judge

Copies to:  
King & Dolaghan, P.A., Attorney for Plaintiff  
Wells Fargo Bank, N.A., Defendant  
Douglas W. Neway, Trustee  
U.S. Trustee