

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

In re:

Case No. 8:05-bk-04352-CPM  
Chapter 13

JUANITA SUSAN HAYES,

Debtor.

**ORDER SUSTAINING REMAINDER OF  
DEBTOR'S OBJECTION TO CLAIM NO. 2 OF J.  
STANFORD LIFSEY, P.A.**

THIS CASE came on for a final evidentiary hearing on February 6, 2006, on the Debtor's Objection to Proof of Claim of Creditor, J. Stanford Lifsey, P.A., which filed Claim No. 2. By order entered March 8, 2006 (Doc. no. 55), the Court disposed of one ground of the objection, that the Debtor does not owe J. Stanford Lifsey, P.A. ("Creditor") anything for attorneys fees for services rendered in connection with her dissolution of marriage action. In that order, the Court allowed the claim in the amount of \$12,212.48 ("Allowed Claim"), overruled the Debtor's objection on that ground, and deferred ruling on the second ground of the objection, that Claim No. 2 is not secured as asserted. The Court finds that Creditor asserted a charging lien in the dissolution of marriage action before this case was filed but that no *res* to which the lien could attach was existent on the date this case commenced or even as late as the date of the last confirmation hearing in this case, July 12, 2006. For the reasons stated orally in open court on July 12, 2006, that shall constitute the decision of the Court, it is

ORDERED that the portion of the objection relating to the characterization of Claim No. 2 as secured is sustained, for purposes of the Chapter 13 Plan, and Creditor's claim shall be treated as an unsecured claim under the plan. However, because a "charging lien survives bankruptcy if the fund to which it would attach has not come into existence prior to or in the course of the bankruptcy..." *In re Hagen*, 922 F.2d 742, 745 n.4 (11th Cir. 1991), satisfaction of the charging lien may be sought whenever, if ever, a *res* arises in the future -- subject, of course, to Creditor's obtaining relief from the automatic stay if the stay has not been terminated by operation of law by that time. The Court will consider granting stay relief to Creditor upon motion and notice and hearing. In the event a *res* to which the lien can attach does arise, Creditor must credit to the Allowed Claim all funds received from the

Chapter 13 Trustee pursuant to his administration of the Chapter 13 Plan.

DONE and ORDERED in Tampa, Florida on  
July 18, 2006.

BY THE COURT

/s/ Catherine Peek McEwen  
Catherine Peek McEwen  
United States Bankruptcy Judge

Copies to:  
Debtor  
Debtor's counsel  
Creditor, J. Stanford Lifsey, P.A.  
Chapter 13 Trustee