

In re Ehlers at al.
10-11923-BKC-LMI

A Chapter 13 Debtor who is ineligible to receive a Chapter 13 discharge may not strip off the lien of a wholly unsecured mortgage in a Chapter 13 plan. The Debtor was ineligible to receive a Chapter 13 discharge because she had obtained a Chapter 7 discharge within four years of filing her Chapter 13 petition. The Court held that the junior creditor had an allowed secured claim, even though it had no value, because the creditor's mortgage lien survived the Debtor's Chapter 7 discharge. In arriving at this decision, the Court concluded that the junior lien may not be modified using 11 U.S.C. §506 because section 506 does not provide the mechanism for lien stripping; it must be used together with the appropriate code section available under the chapter governing the case filed. In this Chapter 13 case, section 1325 provides the mechanism for lien stripping and the junior lien may not be stripped off under 11 U.S.C. §1325 because the Debtor is ineligible to receive a discharge.