INTERMEDIATE COURT OF APPEALS OF WEST VIRGINIA

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DONNA J. ARMSTEAD AND ANTHONY ARMSTEAD,

Defendants Below, Petitioners,

v.

MANNINGTON HOME CENTER, INC.,

Plaintiff Below, Respondent.

CASE NO. 26-ICA-14
(Monongalia Co. Civil Action No.
CC-31-2003-C-89)

PETITIONER'S BRIEF

Appeal Arising from Order Entered on
December 23, 2025, in Civil Action
No. CC-31-2003-C-89 in the Circuit Court of
Monongalia County, West Virginia

SUBMITTED BY:

Benjamin B. Ware (WVSB #10008)
David A. Dobson (WVSB#12092)
GOODWIN & GOODWIN, LLP
300 Summers Street, Ste. 1500
Charleston, WV 25301
Phone: (304) 346-7000
Fax: (304) 344-9692
Email: bbw@goodwingoodwin.com
Email: dadobson@goodwingoodwin.com

Counsel for Defendants Below & Petitioners

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3. The Circuit Court erred by disregarding binding precedent establishing that an order determining the validity or priority of a claim constitutes a final order.

STATEMENT OF THE CASE

A. Pertinent Background

This appeal arises from a final Order entered by the Circuit Court of Monongalia County ("Circuit Court") on December 23, 2025. The Order denied Petitioners Donna J. Armstead and Anthony Armstead's Motion for Summary Judgment, which was predicated upon the doctrines of res judicata and collateral estoppel. Appx. 0351-0363. In so doing, the Circuit Court resurrected a judgment lien that multiple federal judges had already determined was null and void. The Circuit Court further directed the court-appointed Special Commissioner to promptly conduct the judicial sale of the Petitioners' real property, comprising approximately 30.90 acres on Dug Hill Road in Morgantown, West Virginia, in order to satisfy the outstanding null and void judgment lien. *Id*. By denying Petitioner's Motion, the Circuit Court blatantly ignored case law recently decided by this Court, and rejected multiple Federal Court Orders that already decided the very issue at stake: the judgment lien expired as a matter of law and has been adjudicated null and void. [1]

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[1] At the time the Order was entered, there was one issue remaining between the parties: Whether res judicata and/or collateral estoppel precluded the enforcement of the at-issue judgment lien by the execution of the judicial sale. There were no other live issues or causes of action pending in this case at the time, and there were no trial or other events scheduled (as there was no scheduling order in place). Accordingly, the Circuit Court's Order terminated the litigation between the parties, leaving nothing to be done except to enforce by execution what has been determined.

The underlying judgment lien dates back to December 16, 2008, when the Circuit Court entered judgment in favor of Respondent Mannington Home Center, Inc. against Donna Jean Armstead and Anthony Armstead in the amount of $41,669.28, plus interest and costs. Appx. 0023. An abstract of judgment was recorded on December 19, 2008, in the Office of the Clerk of the County Commission of Monongalia County, West Virginia. *Id.* Critically, however, no abstract of execution was recorded with the Clerk of the Monongalia County Clerk's Office prior to the ten (10) year mandatory deadline of December 19, 2018.[2] After expiration of the December 19, 2008 judgment lien, Respondent filed two (2) abstract of executions on April 1, 2019 and April 12, 2019. Appx. 0106-0107. Both executions were recorded more than ten (10) years after the December 19, 2008 judgment.

B. Federal Bankruptcy History

The validity of Respondent's judgment lien has been thoroughly decided in previous bankruptcy proceedings. Petitioners filed a Chapter 13 bankruptcy case in July 2019 in the United States Bankruptcy Court for the Northern District of West Virginia (Case no. 1:19-bk-00615). During the pendency of the Chapter 13 case, an adversary proceeding (No. 1:19-ap-49) was opened to determine the extent, validity, and priority of the Respondent's judgment lien. Appx. 0108. In the adversary proceeding, Petitioners argued that although Respondent originally recorded the judgment lien in December 2008, Respondent failed to record abstracts of execution showing the 2017 levy activity until April 2019—in other words, *after* the December 19, 2008, deadline to do

[2] W.Va. Code §38-3-7, states that "[n]o judgment shall be a lien as against a purchaser of real estate for valuable consideration without notice . . . unless within such ten years an execution shall have issued on such judgment and such execution or a copy thereof be filed in the office of such clerk."

so. Petitioners argued that, under West Virginia law, this delay meant the lien was no longer legally valid and could not be enforced. *Id.* The Court agreed.

Specifically, Judge Patrick M. Flatley of the United States Bankruptcy Court for the Northern District of West Virginia agreed with the Petitioners and ruled in March 2020 that "Mannington's judgment lien recorded December 19, 2008, be and hereby is null and void to the extent not already voided by expiration or the operation of law." Appx.0109. Later, in May 2020, the Court, this time with Judge Frank W. Volk writing the decision, amended its ruling and removed any language in Judge Flatley's Order suggesting the Respondent's lien might still be enforceable. Notably, Judge Volk found that Respondent's unsecured claim was "not now the subject of a valid judgment" and was "barred by the statute of limitations." Appx. 0111.

The underlying 2019 bankruptcy case (1:19-bk-00615) was ultimately dismissed without resolution, but in November 2021 the Petitioners commenced another bankruptcy case (1:19-bk-00615) in the United States Bankruptcy Court for the Northern District of West Virginia. In that case, a second adversary proceeding (1:22-ap-4) was filed seeking a declaratory judgment that Respondent's judgment lien still was of no legal effect. Appx. 0149.

In July 2022, Chief Judge B. McKay Mignault agreed with the earlier rulings from Judges Flatley and Volk in granting summary judgment on behalf of the Petitioners. Appx. 0114-0115. Chief Judge Mignault expressly held that Respondent's purported judgment lien recorded December 19, 2008 "shall be and hereby is NULL and VOID." *Id.* Judge Mignault later issued a memorandum opinion in August 2022 elaborating on the Court's reasoning. Appx. 0117-0123. Although Respondents initially exercised their right to appeal the ruling, they subsequently chose to voluntarily withdraw that appeal. As a result, the appeal was dismissed with prejudice, thereby rendering the decision final and binding. Appx. 0125-0126.

Thereafter, the Petitioners were denied a discharge in the pending bankruptcy proceeding (1:21-bk-00623), but the validity of Respondent's December 19, 2008, judgment lien bore no impact on that issue. In fact, Judge Mignault noted in an August 26, 2024, order in affirming the prior denial of discharge that the "Adversary Proceeding against [Respondent] has been closed since September 27, 2022," and further noted these "issues have long been resolved, and the Armsteads' Chapter 7 case is on the verge of closure. Appx. 0070. The Court's orders relating to the denial of the Debtors' discharge and *the status of [Respondent's] claim speak for themselves*." (emphasis and brackets added). *Id.*

To summarize: three different federal judges reviewed this issue, each concluding that the subject judgment lien had expired and was unenforceable. In each of the prior rulings, the validity and effectiveness of Respondent's December 19, 2008, lien was fully addressed and decided. The rulings were final, making it clear that all collection efforts related to the judgment lien must end. Importantly, Respondent chose not to appeal, affirmatively waiving any argument that the prior judgment lien was still effective. Respondent was also a party to each of the prior proceedings and had a full and fair opportunity to be heard. Respondent's prior arguments regarding the validity of its lien in relation to the ten (10) year period for execution under West Virginia law have all been rejected.

C. Circuit Court Proceedings

During the pendency of the underlying bankruptcy cases, civil court proceedings continued intermittently. After a March 2019 hearing, the Circuit Court granted Respondent's motion to enforce its lien upon real property and also appointed a special commissioner in order to proceed with a sale of the subject 30.90-acre Dug Hill Road property. Appx. 0014-0021. In April 2021, the Circuit Court entered an order granting enforcement of the lien upon real property, and a Special Commissioner was appointed for purposes of effectuating the judicial sale. *Id.*

After retaining legal counsel in the Circuit Court proceedings, Petitioners promptly filed a Motion for Summary Judgment, contending that further enforcement actions are precluded by the doctrines of res judicata and collateral estoppel, as the validity of the judgment lien had previously been litigated and determined in the federal bankruptcy proceedings. Appx. 0173-0179. In its December 23, 2025, Order, the Circuit Court denied the motion. Appx. 0351-0363. Although the Circuit Court recognized there was no genuine dispute of material fact relevant to the motion, it found that Petitioners were not entitled to judgment as a matter of law. *Id.* The Court summarized its reasoning as follows:

> Res Judicata and Collateral Estoppel on the basis of Orders from the Bankruptcy Court for the Northern District of West Virginia in cases 1:19-bk-615/1:19-ap-49 and 1:21-bk- 623/1:22-ap-4 do not present an obstacle to Mannington's efforts to proceed with execution under the provisions of West Virginia Code §38-3-18(a); the cause of action identified for resolution in the subsequent proceeding is NOT identical and the issue previously decided is NOT identical to the one presented in the action in question.

Appx. 0362.

The Circuit Court determined that since the prior federal bankruptcy judges analyzed the validity of the Respondent's judgment lien in the context of West Virginia Code §38-3-7 and 11 U.S.C. 544(a)(3) and not under the provisions of West Virginia Code §38-3-18(a), the Respondents judgment lien is still effective for collection efforts. *Id.*

However, as explained herein, the Circuit Court committed clear error by failing to recognize that each of the aforementioned Federal Bankruptcy Orders directly and specifically addresses the validity of Respondent's judgment lien and the effectiveness to be used as a mechanism for continued collection against Petitioners. Under clear legal principles of res judicata and collateral estoppel, the Circuit Court is prohibited from entertaining arguments that Respondent should have (and in fact already did) raise in the bankruptcy proceedings years ago. The Circuit Court is further prohibited from substituting its own reasoning to overcome the bankruptcy judges' rulings.

Petitioners have duly appealed the Circuit Court's Order. They assert that the Circuit Court's decision is predicated on clear error concerning the preclusive effect of the previous federal bankruptcy adjudications. Accordingly, Petitioners respectfully request that this Court reverse the December 23, 2025, Order and remand the matter with instructions to grant summary judgment in their favor and to dismiss Respondent's enforcement action with prejudice.

SUMMARY OF THE ARGUMENT

The Circuit Court's Order dated December 23, 2025, should be reversed on the grounds that it misapplied the applicable res judicata standard and improperly created exceptions to prior definitive rulings issued by the earlier bankruptcy courts. This misapplication of the law is at direct odds with established West Virginia precedent that holds res judicata bars, not only matters actually litigated, but every other matter which the parties might have litigated as incident thereto and coming within the legitimate purview of the subject-matter of the action. Syl. pt. 1, in part, *Sayre's Adm'r v. Harpold*, 33 W. Va. 553, 11 S.E. 16 (1890).

Every element of res judicata is present in this matter: (1) there was a final adjudication on the merits in the prior adversarial proceedings; (2) in the prior proceedings, the Petitioners and Respondent were parties; and (3) the validity of Respondent's December 19, 2008 lien not only comes within the legitimate purview of the subject-matter of the action, but it is *identical* to the issue resolved in the prior proceedings. Syllabus Point 4, *Blake v. Charleston Area Med. Ctr., Inc.*, 201 W.Va. 469, 498 S.E.2d 41 (1997). Therefore, because of res judicata, the underlying Circuit

Court proceedings to execute on Petitioners' property utilizing the null and void judgment lien is prohibited under black letter West Virginia law.

Similarly, collateral estoppel (also known as "issue preclusion") further prevents the relitigation of an issue previously decided when the party against whom the doctrine is asserted had a "full and fair opportunity to litigate that issue in the earlier case." *Allen v. McCurry*, 449 U.S. 90, 94-95, 101 S. Ct. 411, 66 L. Ed. 2d 308 (1980). West Virginia law dictates that collateral estoppel applies when the following four criteria are met: (1) the issue previously decided is identical to the one presented in the current action; (2) there has been a final adjudication on the merits in the prior proceeding; (3) the party against whom the doctrine is invoked was a party or in privity with a party to the prior proceeding; and (4) the party against whom the doctrine is invoked had a full and fair opportunity to litigate the issue in the prior proceeding. *Holloman v. Nationwide Mutual Insurance Company*, 217 W.Va. 269, 617 S.E.2d 816 (2005).

The elements of collateral estoppel are clearly present in this matter. Once again, the issue previously decided by federal judges Flatley, Volk, and Mignault is identical to the one presented in the underlying case: the validity of Respondent's December 19, 2008, lien. There was a final adjudication on the merits in the prior adversary proceedings, and Respondent was a party to those proceedings. Respondent further had a full and fair opportunity to litigate the effectiveness of its lien in those prior proceedings.

Finally, this Court's holding in *Kapitus Servicing, Inc. v. Timberline Four Seasons Utilities, Inc.*, 249 W.Va. 70, 8943 S.E. 2d 547 (2023) confirms that bankruptcy orders determining the validity or priority of a claim are final orders with preclusive effect, directly contradicting the Circuit Court's refusal to give effect to the bankruptcy orders. The Respondent's withdrawal of its appeal followed by dismissal with prejudice further cements finality and strengthens the preclusive effect of the bankruptcy court's determination that the lien is null and void.

STATEMENT REGARDING ORAL ARGUMENT AND DECISION

This case is suitable for oral argument under W. Va. R. App. P. 19(a), which states oral argument is suitable in a case involving an assignment of error in the application of settled law. Here, the Petitioners appeal the Circuit Court's application of the doctrines of res judicata and collateral estoppel. The legal standards for claim and issue preclusion, and for the expiration and enforcement of judgment liens, are well-established in both West Virginia and federal law. Therefore, Petitioners respectfully defer to the Court's determination as to whether oral argument would aid in the decisional process and will proceed as the Court deems appropriate.

ARGUMENT

I. Applicable Standard of Review.

The Circuit Court denied the Petitioners' Rule 56 Motion for Summary Judgment based on the legal doctrines of res judicata and collateral estoppel after concluding that there was no genuine issue of material fact. When such rulings are appealed, the appropriate standard of review is de novo. Syl. Pt. 1, *Painter v. Peavy*, 192 W. Va. 189, 190, 451 S.E.2d 755, 756 (1994) ("A circuit court's entry of summary judgment is reviewed de novo.")

II. The Circuit Court Incorrectly Applied the Res Judicata Standard.

The Circuit Court made a fundamental error in its application of res judicata by concluding that the current proceedings to execute on Respondent's judgement lien do not constitute an "identical" cause of action. Specifically, the Circuit Court wrongly determined that the federal bankruptcy court decisions ruling the judgment lien invalid were not identical to the instant action because the analyses contained in those previous federal court decisions discussed W. Va. Code § 38-3-7 but not W.Va. Code §38-3-18:

> The Bankruptcy Court's treatment and analyses of the Armsteads' challenges to the status of Mannington's claims in cases 1:19-bk-615/1:19-ap-49 and 1:21-bk-623/1:22-ap-4 proceeded in the realm of West Virginia Code §38-3-7 and 11 U.S.C. 544(a)(3). The Bankruptcy Court's treatment of the issue and analysis were fully reliant on the operation and application of West Virginia Code §38-3-7 and 11 U.S.C. 544(a)(3) and in particular the recognition of the Chapter 7 Trustee's de facto status as a "bonafide purchaser" in the context of West Virginia Code §38-3-7.

Appx. 0362.

This conclusion by the Circuit Court completely ignores established West Virginia law and attempts to substitute the reasoning utilized by the prior bankruptcy judges with the Court's own rationale. Importantly, West Virginia law does not require the issues in the subsequent cause of action to be "identical" to the prior cause of action. The relevant standard is whether the claims or issues in the later action could have been resolved in the earlier litigation:

> An adjudication by a court having jurisdiction of the subject-matter and the parties is final and conclusive, not only as to the matters actually determined, ***but as to every other matter which the parties might have litigated as incident thereto and coming within the legitimate purview of the subject-matter of the action***. It is not essential that the matter should have been formally put in issue in a former suit, but it is sufficient that the status of the suit was such that the parties might have had the matter disposed of on its merits. ***An erroneous ruling of the court will not prevent the matter from being res judicata***.

Syl. Pt. 1, *Sayre's Adm'r v. Harpold*, 33 W. Va. 553, 11 S.E. 16 (1890). (emphasis added) (original italics omitted).

Therefore, any claim or defense regarding the Respondent's right to execute on the judgment lien against Petitioners' real property was either raised or could have been fully litigated during the bankruptcy litigation. As noted above, the Supreme Court of Appeals of West Virginia explicitly found that res judicata can halt the prosecution of a current case if three (3) elements are satisfied:

> First, there must have been a final adjudication on the merits in the prior action by a court having jurisdiction of the proceedings. Second, the two actions must involve either the same parties or persons in privity with those same parties. Third, the cause

> of action identified for resolution in the subsequent proceeding either must be identical to the cause of action determined in the prior action or must be such that it could have been resolved, had it been presented, in the prior action.

Blake, 201 W.Va. at 469*,* 498 S.E.2d at 41 (1997).

All elements of res judicata are clearly satisfied in this matter. There was a final adjudication on the merits in the earlier adversarial proceedings, over which the United States Bankruptcy Courts possessed proper jurisdiction. Second, both Petitioners and Respondent were parties to the prior proceedings. Third, the validity of Respondent's December 19, 2008 lien was identical to the matter previously adjudicated—even though West Virginia law requires a much lower standard (being "such that it could have been resolved, had it been presented, in the prior action.").

The bankruptcy proceedings included thorough consideration of all arguments about the lien's expiration, nullification, and effect under both federal bankruptcy and state law. The Circuit Court's attempts to sidestep the binding effect of the bankruptcy court's decisions by asserting the analyses therein discussed only West Virginia Code § 38-3-7 (bona fide purchaser doctrine), while the current enforcement action cites West Virginia Code § 38-3-18 (execution on judgments) is legally unfounded and does not defeat res judicata. The core issue—whether Respondent's judgment lien remains valid and enforceable—was fully litigated and conclusively resolved in the bankruptcy proceedings. Citing different statutory provisions does not change the essential fact that both actions hinge on the same question of the lien's validity.[3]

Assuming just for the sake of argument and without conceding the same, even if the federal bankruptcy judges should have examined the lien under a different statute (which is not conceded, as their orders were correct in all respects), this issue regarding the applicability of W. Va. Code

[3] It should be noted that the issue of whether the Petitioners were bona fide purchasers was extensively briefed and argued between the parties in both prior adversarial bankruptcy proceedings.

§§ 38-3-7 and 38-3-18 could have been litigated in those prior bankruptcy proceedings. Respondent was free to raise this issue at any time, and in fact did in the underlying bankruptcy cases. **The West Virginia Supreme Court of Appeals has repeatedly emphasized that res judicata applies to matters that could have been litigated**: "[I]it is well-established that res judicata applies not only to matters actually litigated, but to matters which could have been litigated." *Bison Ints., LLC v. Antero Res. Corp.*, 244 W. Va. 391, 398, 854 S.E.2d 211, 218 (2020).

Indeed, there is zero dispute on this black letter, foundational principal of West Virginia law. *State v. Miller*, 194 W.Va. 3, 459 S.E.2d 114 (1995) ("Res judicata generally applies when there is a final judgment on the merits which precludes the parties or their privies from relitigating the issues that were decided or the issues that could have been decided in the earlier action.") (emphasis added); *Blake v. Charleston Area Med. Ctr., Inc.*, 201 W. Va. 469, 477, 498 S.E.2d 41, 49 (1997)("[R]es judicata may operate to bar a subsequent proceeding even if the precise cause of action involved was not actually litigated in the former proceeding so long as the claim could have been raised and determined."); *Lloyd's, Inc. v. Lloyd*, 225 W. Va. 377, 383, 693 S.E.2d 451, 457 (2010) (finding res judicata barred subsequent action although "not identical to the cause of action determined in the previous civil action[]" because the claim could have been resolved in previous action); *Dan Ryan Builders, Inc. v. Crystal Ridge Dev., Inc.*, 239 W. Va. 549, 561, 803 S.E.2d 519, 531 (2017) ("West Virginia's law of res judicata prohibits not only the re-litigation of claims that were actually asserted in the prior action, but also precludes 'every other matter which the parties might have litigated as incident thereto[.]'").

These precedents confirm that the bankruptcy court's final judgments on the lien's validity must be given preclusive effect, and the Circuit Court's effort to analyze that precise, identical issue (the only difference being that a different statute was cited), is improper and strictly prohibited under West Virginia law. Importantly, as noted above, even an erroneous ruling (the bankruptcy court rulings discussed herein are correct in all respects) from the prior bankruptcy courts would not have prevented this matter from being barred by res judicata.

In sum, the Circuit Court erred by not correctly applying the res judicata standard. Because all claims and defenses concerning the validity and enforceability of the Respondent's judgment lien were, or could have been, litigated in the prior bankruptcy proceedings, res judicata bars their re-litigation in this case. This error necessitates reversal of the Circuit Court's denial of summary judgment and entry of judgment in favor of Petitioners.

III. Collateral Estopped Bars Re-litigation of the Lien's Validity.

The doctrine of collateral estoppel prevents parties from relitigating issues that have already been decided in prior proceedings, provided four well-established elements are satisfied:

> (1) the issue previously decided is identical to the one presented in the current action; (2) there has been a final adjudication on the merits in the prior proceeding; (3) the party against whom the doctrine is invoked was a party or in privity with a party to the prior proceeding; and (4) the party against whom the doctrine is invoked had a full and fair opportunity to litigate the issue in the prior proceeding.

Holloman, 217 W.Va. at 269, 617 S.E.2d at 816 (2005).

The elements of collateral estoppel are clearly present in this matter. Once again, the issue previously decided by the Judges Flatley, Volk, and Mignault is identical to the issue presented in the current action – the validity of Respondent's December 19, 2008, lien. There was a final adjudication on the merits in the prior adversary proceedings, and Respondent was a party to those proceedings. Respondent further had a full and fair opportunity to litigate the effectiveness of their lien in those prior proceedings. In fact, Respondent moved for summary judgment on this very issue and lost. It then affirmatively withdrew its appeal, thereby finalizing the decision that: "*Mannington never timely acted to extend the effectiveness of its judgment lien. Therefore, the lien* *expired on December 19, 2018."* Appx. 0123. Collateral estoppel therefore clearly applies to the current proceedings.

The Circuit Court attempted once again to reinterpret the situation, claiming that earlier bankruptcy decisions failed to cite its choice of statute in their respective analyses, W. Va. Code § 38-3-18. Nevertheless, collateral estoppel prohibits a later court from second-guessing whether the previous decision was correct. Instead, collateral estoppel promotes finality of actions by precluding parties from arguing about issues in a new case that have already been discussed and decided in an earlier one, even if the legal claims in the two cases are not identical. *See Stillwell v. City of. Wheeling*, 210 W. Va. 599, 558 S.E.2d 598 (2001).

Simply put - the issue before the Circuit Court of whether Respondent can enforce the judgment lien through a judicial sale is the same as what was decided by the bankruptcy courts. Both cases are based on the same set of facts and legal matters concerning the validity and enforceability of the judgment lien. In fact, the Circuit Court's current order authorizing a sale depends on the very lien the bankruptcy court already declared null and void.

Especially noteworthy is the fact that Respondent had a full and fair opportunity to litigate the validity of the judgment lien, as well as the applicability of § 38-3-7 and § 38-3-18 in each of the prior bankruptcy proceedings. The record reflects that the bankruptcy proceedings involved extensive briefing, dispositive motions (including summary judgment) and detailed orders accompanied by written opinions. The bankruptcy courts thoroughly considered all arguments and evidence, ensuring that Respondent's right to be heard was fully protected. This simply leaves no room for controversy: (1) All of Respondent's arguments have been disposed of by prior binding, judicial orders; (2) Respondent had the opportunity to present the same evidence and make the same arguments at all the prior proceedings; and (3) Respondent had the right to seek an appeal and affirmatively chose not to.

In sum, all four elements of collateral estoppel are clearly satisfied. The central issue of whether Respondent's judgment lien remains valid and enforceable was actually litigated and firmly resolved in the bankruptcy proceedings. The Circuit Court's refusal to give preclusive effect to those determinations, and its insistence on relitigating settled questions, undermines the fundamental policies of finality, judicial economy, and the avoidance of piecemeal litigation that both res judicata and collateral estoppel are designed to protect. Accordingly, the Circuit Court's contrary legal conclusion must be reversed.

IV. The Bankruptcy Orders Are Final, Preclusive Orders.

This Court's decision in *Kapitus Servicing, Inc. v. Timberline Four Seasons Utils., Inc.*, 249 W. Va. 70, 894 S.E.2d 547 (2023), makes it clear that when a court decides the validity or priority of a claim, that decision is a final order: "[a]n order determining the validity or priority of a claim is a final order" *Id*. at 76, citing *Beneke Co., Inc. v. Economy Lodging Systems, Inc.* (*In re Economy Lodging Systems., Inc.*), 234 B.R. 691, 693 (6th Cir. BAP 1999).

In *Kapitus*, this Court emphasized that a bankruptcy court's memorandum opinion and subsequent final judgment regarding the validity of the agreement between the parties, was a final and enforceable order. The Court further noted that the bankruptcy court's determination of the validity of Kapitus' claim was not appealed, and the principles of res judicata precluded any further challenge to that determination.

This Court's holdings and analysis in *Kapitus* is directly applicable to this matter: the bankruptcy court's orders determined the legitimacy of Respondent's judgment lien, declaring it "null and void." Respondent elected not to appeal these decisions, thereby establishing that the prior bankruptcy orders constitute final and conclusive judgments resolving the issue of the lien's validity. These facts mean the bankruptcy court's decision is not open to further debate and the lien is adjudicated null and void. As established in *Kapitus*, these bankruptcy court determinations are final orders. They must be recognized as binding in any subsequent litigation involving the same parties and the same lien. Ignoring their preclusive effect undermines the integrity of the judicial process and this Court's express rulings.

The Circuit Court's refusal to treat these bankruptcy orders as preclusive based on its argument that the cases are "not identical" or involve different statutes is directly at odds with *Kapitus*. The bankruptcy court's rulings about the validity of the lien are final and should prevent any further litigation on the same issue. As found in the earlier bankruptcy proceedings, Respondent recorded a judgment lien against Petitioners on December 19, 2008. However, Respondent failed to record an Abstract of Execution until April 19, 2019: a date more than 10 years after the issuance and recording of the original judgment in 2008. Because of this lapse, the lien was rendered null and void.

Most compelling, Respondent initially appealed the July 29, 2022 bankruptcy order, but then withdrew its appeal. The district court dismissed the appeal with prejudice, confirming that the July 29, 2022 ruling is not tentative or subject to change. This procedural history proves the bankruptcy court's determination is final and binding, leaving no room to question the null and void status of the lien.

These federal court orders resolved the exact issue now before the circuit court. Respondent's voluntary dismissal of its appeal, and the resulting order dismissing the appeal with prejudice, further cements the finality of the bankruptcy court's decision. Because Respondent had every opportunity to argue its case in bankruptcy proceedings, any attempt to relitigate the validity or enforceability of the judgment lien is barred by res judicata and collateral estoppel. The matter has been fully and fairly litigated, and the bankruptcy court's rulings must be respected as the last word on the lien's validity.

CONCLUSION

For the foregoing reasons, the Circuit Court's refusal to give preclusive effect to the bankruptcy court's final orders was clear legal error. The doctrine of res judicata and collateral estoppel bars any further litigation over the validity of Respondent's judgment lien, as this issue was fully and finally resolved by multiple federal judges, and Respondent's own voluntary dismissal of its appeal forecloses any claim that the orders were anything but conclusive. Allowing the Circuit Court's decision to stand not only undermines the integrity of the judicial process but also threatens to destabilize the finality of bankruptcy adjudications across West Virginia. Accordingly, Petitioners respectfully request that this Honorable Court reverse the Circuit Court's decision and remand the matter with instructions to grant summary judgment in Petitioner's favor and to dismiss Respondent's enforcement action with prejudice.

/s/ Benjamin B. Ware
Benjamin B. Ware (WVSB #10008)
David A. Dobson (WVSB#12092)
GOODWIN & GOODWIN, LLP
300 Summers Street, Ste. 1500
Charleston, WV 25301
Phone: (304) 346-7000
Fax: (304) 344-9692
Email: bbw@goodwingoodwin.com
Email: dadobson@goodwingoodwin.com

Counsel for Defendants Below & Petitioners

CERTIFICATE OF SERVICE

The undersigned, counsel for the Petitioners, Donna J. Armstead and Anthony Armstead, does hereby certify that on the 23rd day of March, 2026, the foregoing "Petitioner's Brief" was filed electronically with the Court via West Virginia's File & ServeXpress which will provide an electronic copy upon counsel of record.

*/s/ Benjamin B. Ware*________________
Benjamin B. Ware (WVSB #10008)