



## Opinion 561

Published on District of Utah (<https://www.utb.uscourts.gov>)

---

**Opinion Title:** 11/13/2012 UNPUBLISHED In Re Stott v. U.S. Bank, 12-2315, Judge Marker.

**Body:** Chapter 13 Debtors commenced adversary proceeding to immediately and permanently void U.S. Bank's wholly underwater junior mortgage lien on their primary residence based on both § 1322(b)(2) of the Bankruptcy Code and slander of title under Utah state law, without regard to either full payment of U.S. Bank's claim or completion of the chapter 13 case. As for the slander of title theory, the Debtors argued that no valid lien exists under Utah law when such lien is unsupported by any present economic value. Based on the trial court and Tenth Circuit decisions in In re Woolsey and a slander of title analysis under Utah law, the Court held that wholly underwater junior mortgage liens may ultimately be removed from the property but only after full payment or completion of the chapter 13 case in accordance with § 1325(a)(5)(B) of the Bankruptcy Code.

**File:**  [561.pdf](#) [1]

**Judge:** [Judge Joel T. Marker](#) [2]

**Date:** Tuesday, November 13, 2012

**Source URL:** <https://www.utb.uscourts.gov/opinions/opinion-561#comment-0>

### Links

[1] <https://www.utb.uscourts.gov/sites/default/files/opinions/561.pdf>

[2] <https://www.utb.uscourts.gov/content/judge-joel-t-marker>