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Section 506 of the Bankruptcy Code addresses the extent to which a creditor's claim based on a lien on the debtor's property is secured. Section 506(a) provides in relevant part that a creditor's claim is a "secured claim to the extent of the value of such creditor's interest in the estate's interest in such property"—in other words, a secured claim for an amount equal to the present value of the collateral—and is an "unsecured claim" for the remainder. Section 506(d) provides in relevant part that, "[t]o the extent that a lien secures a claim against the debtor that is not an allowed secured claim, such lien is void."

Today, the Supreme Court granted certiorari in and consolidated *Bank of America, N.A. v. Caulkett*, No. 13-1421, and *Bank of America, N.A. v. Toledo-Cardona*, No. 14-163, to resolve a circuit split over whether a Chapter 7 debtor with multiple mortgages on a property may void, or "strip off," a junior mortgage lien in its entirety under section 506(d) when the value of the senior mortgage lien alone exceeds the current value of the property—that is, when the junior lien is entirely underwater and thus unsecured. In *Dewsnup v. Timm*, 502 U.S. 410 (1992), the Supreme Court held that a Chapter 7 debtor may not "strip down" a partially underwater lien to the present value of the collateral, but the Court did not address whether a wholly unsecured lien is void under section 506(d). That outstanding issue has split the circuits. The Eleventh Circuit has held, as it did in the granted cases, that Chapter 7 debtors may strip off a wholly underwater junior mortgage lien; the Fourth, Sixth, and Seventh Circuits have held, by contrast, that Chapter 7 debtors may not void such liens.

The Supreme Court's resolution of the lien-stripping issue will be of significant interest to the business community because it is of central importance to the administration of Chapter 7 bankruptcies, and to the treatment of home mortgages in particular.

Absent extensions, amicus briefs in support of the petitioner will be due on January 9, 2015, and amicus briefs in support of the respondents will be due on February 9, 2015. Any questions about this case should be directed to Donald Falk (+1 650 331 2030) in our Palo Alto office.