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United States Bankruptcy Court, N.D. California,
 Oakland Division.

In re Heriberto RAMIREZ, Sr. and Rosa Maria
 Ramirez, Debtors.

No. 10-43388.

March 16, 2011.

Michael J. Primus, Law Offices of Michael J.
 Primus, Hercules, CA, for Debtors.

**(Amended) ORDER DENYING MOTION TO
 AVOID JUDICIAL LIEN**

EDWARD D. JELLEN, Bankruptcy Judge.

*1 This matter is before the Court upon the Debtors' motion pursuant to 11 U.S.C. § 522(f)(1) and (2) (herein the "*Motion*") to avoid a \$7,447.45 judicial lien recorded by Citibank (South Dakota) N.A., (herein the "Citibank judicial lien") on the Debtors' residence located at 2560 Henry Avenue in Pinole, California (herein the "Property"). The Citibank judicial lien is alleged to impair "exemptions to which the debtor(s) would be entitled." The *Motion* is deficient as follows.

Pursuant to § 522(f), avoidance of a judicial lien is limited and may be employed only to the extent the lien impairs the debtor's exemption. Section 522(f) "was not intended to free the debtor's property of judicial liens altogether, rather it was intended to preserve the debtor's exemption." *Hanger v. Bank of America* (*In re Hanger*), 217 B.R. 592, 594 (9th Cir. BAP1997), *affirmed* 196 F.3d 1292 (9th Cir.1999). There are four basic requirements for avoidance of a lien on exemption impairment grounds: **1)** there must be an exemption to which debtor would have been entitled; **2)** the property must be listed on debtor's schedules and claimed as exempt; **3)** the lien must impair that exemption; and **4)** the lien must be either a non-possessory, non-purchase-money security interest in property spe-

cified by § 522(f)(1)(B), or a judicial lien. *Goswami v. MTC Distributing* (*In re Goswami*), 304 B.R. 386, 390-391 (9th Cir. BAP2003); *In re Mohring*, 142 B.R. 389, 392-393 (Bankr.E.D.Cal.1992), *aff'd* 153 B.R. 601 (9th Cir. BAP1993), *aff'd* 24 F.3d 247 (9th Cir.1994); *Morgan v. FDIC* (*In re Morgan*), 149 B.R. 147, 151 (9th Cir. BAP1993).^{FN1} Here, the Debtors' bankruptcy Schedule C does not claim an exemption in the Property subject to the Citibank judicial lien. As such, requirements 2 and 3, above, have not been satisfied.

FN1. See, *In re Church*, 2009 WL 3754399 at * 1-2 (Bankr.D.Mass.2009) discussing the "weight of authority" holding that "where a debtor has not claimed an exemption in the property subject to a judicial lien, there is nothing for § 522(f) to protect ." See also, *In re Nielsen*, 197 B.R. 665, 672 (9th Cir. BAP1996) (lien not impairing exemption cannot be avoided pursuant to § 522(h) as a preference).

Accordingly, the *Motion* is hereby denied, without prejudice.

IT IS SO ORDERED.

Bkrcty.N.D.Cal.,2011.

In re Ramirez

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