

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF KANSAS**

<b>IN RE:</b>	)	
	)	
<b>MICAH J. TUCKER,</b>	)	<b>Case No. 00-12119</b>
<b>LAURA D. TUCKER,</b>	)	<b>Chapter 7</b>
	)	
<b>Debtors.</b>	)	
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	)	
<b>J. MICHAEL MORRIS, Trustee,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Adversary No. 00-5231</b>
	)	
<b>BANK OF AMERICA, N.A.,</b>	)	
<b>MICAH J. TUCKER,</b>	)	
<b>and LAURA D. TUCKER,</b>	)	
	)	
<b>Defendants.</b>	)	
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**JUDGMENT ON DECISION**

The matter comes before the Court on the Chapter 7 Trustee’s Complaint To (1) Avoid And Recover Preferential Transfer; (2) Determine Rights; And (3) Recover Post-Petition Payments. The trustee seeks to avoid as preferential Bank of America’s late-perfected security interest in the debtors’ 1989 Oak Creek Mobile Home, and recover post-petition payments the debtors’ made to Bank of America on the mobile home. The Chapter 7 trustee and Bank of America have submitted the matter on stipulations and briefs.

For reasons stated in the Memorandum and Opinion, judgment as follows is hereby entered. The Court finds that Bank of America perfected security interest in the 1989 Oak Creek Mobile Home is the result of a preferential transfer, and as such, its lien may be avoided by the

Chapter 7 trustee pursuant to 11 U.S.C. § 547(b) and the lien preserved for the benefit of the estate pursuant to 11 U.S.C. § 551. The Court also concludes that under the rule of Morris v. Vulcan Chemical Credit Union (In re Rubia), 257 B.R. 324 (10<sup>th</sup> Cir. B.A.P. 2001), the trustee may not recover from Bank of America the post-petition payments voluntarily made by the Tuckers to Bank of America and the trustee's complaint, to that extent, is denied. Finally, the trustee's prayer for costs in the amount of \$150.00 is granted.

IT IS SO ORDERED.

Dated this 29<sup>th</sup> day of November, 2001.

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ROBERT E. NUGENT, BANKRUPTCY JUDGE  
UNITED STATES BANKRUPTCY COURT  
DISTRICT OF KANSAS

## CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the **Judgment on Decision** was deposited in the United States mail, postage prepaid on this 29<sup>th</sup> day of November, 2001, to the following:

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