

NOT FOR PUBLICATION

**UNITED STATES BANKRUPTCY APPELLATE PANEL  
FOR THE FIRST CIRCUIT**

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**BAP No. MW 97-081**

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**IN RE: JAMES W. HALEY and EILEEN M. HALEY  
Debtors.**

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**JAMES W. HALEY and EILEEN M. HALEY,**

**Appellants,**

**v.**

**MARK TRAHAN,**

**Appellee.**

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**Appeal from the United States Bankruptcy Court  
for the District of Massachusetts  
(Hon. Henry J. Boroff, U.S. Bankruptcy Judge)**

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**Before**

**Goodman, Haines and Carlo, U.S. Bankruptcy Judges**

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**Jeffrey A. Schreiber, Esq., and James S. LaMontagne, Esq., Schreiber & Associates, for the  
Appellants.**

**Walter Chambers, Esq., for the Appellee.**

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**September 9, 1998**

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**Per Curiam.**

Debtors James W. Haley and Eileen M. Haley appeal the bankruptcy court's September 2, 1997, order denying their motion to avoid judicial liens.

The bankruptcy court denied the Haleys' motion on the authority of its earlier-published decision, In re Fracasso, 210 B.R. 221 (Bankr. D. Mass. 1997).

We have disposed of all issues critical to this appeal (favorably to appellants) in Bruin Portfolio, LLC v. Leicht (In re Leicht), BAP No. MW 97-067, 1998 WL 424174 (B.A.P. 1st Cir. July 7, 1998). In In re Leicht we declined to adopt In re Fracasso's holding and, instead, held that the Massachusetts homestead exemption's exception for debts contracted for prior to a homestead declaration's recordation does not operate in bankruptcy. See In re Leicht, 1998 WL 424174, at \*9-10. We went on to hold that judicial liens securing such debts are avoidable via § 522(f). See id. at 10. In re Fracasso itself has been reversed. See Fracasso v. Reder (In re Fracasso), 222 B.R. 400 (B.A.P. 1st Cir. 1998).

We need say no more.

The bankruptcy court's order denying the debtors' lien avoidance motion is **REVERSED**.