

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
_____ DIVISION**

IN RE: _____)
 _____)
 XXXXX XXXX XXXXXXXX,) CASE NO. XX-XXXXX
 _____)
 Debtor.)
 _____)

MOTION TO AVOID JUDICIAL LIEN OF _____

The above captioned debtor (“Debtor”) moves for an order pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014 avoiding the judicial lien held by _____ (“Respondent”) and in support of this motion states:

1. The Debtor filed a voluntary petition under Chapter ___ of the Bankruptcy Code on _____ (“Petition Date”).

2. Respondent holds a judicial lien which impairs an exemption that has been claimed by the Debtor in the following property: _____ (“Property”).

3. The total value of the Property as of the Petition Date is \$_____, which value is based upon _____ (*describe basis for valuation such as appraisal, assessed tax value, etc. and state date of any such appraisal, tax value, etc.*).

4. Respondent’s judicial lien (“Respondent’s Judicial Lien”) is in the amount of \$_____, including attorney’s fees, costs and interest of \$_____ as of the Petition Date, and is based upon a judgment or transcript of judgment that was recorded in the office of the Clerk of Superior Court of _____ County on _____ in Judgment Book _____, Page _____. A copy of such judgment or transcript of judgment is attached hereto as **Exhibit A**.

5. In addition to Respondent’s Judicial Lien, the Property is subject to the following senior liens listed in the order of their priority:

Holder/Owner of Lien	Date of Recordation	Recording Information	Amount of Lien as of Petition Date

The total amount of senior liens on the Property listed in the above table is \$_____.

6. The Debtor claims an exemption in the Property, or is in conjunction herewith submitting an amended exemption list on Form 91C pursuant to Federal Rule of Bankruptcy Procedure 1009(a) that claims an exemption in the Property, in the amount of \$ _____ pursuant to _____ (*basis for exemption e.g., N.C.G.S. § 1C-1601(a) (1-9)*).

7. The value of the Debtor's ownership interest in the Property if there were no liens on the Property is \$ _____ as of the Petition Date.

8. Respondent's Judicial Lien impairs the Debtor's exemption in the Property following the formula set forth in 11 U.S.C. § 522(f)(2):

A	Amount of Respondent's Judicial Lien (Amount from Paragraph 4)		\$
B	Total amount of all other liens on the Property (Total from Paragraph 5)	+	\$
C	Amount of Debtor's exemption if there were no liens on the Property (Amount from Paragraph 6)	+	\$
D	Value of the Debtor's interest in the Property if there were no liens on the Property (Amount from Paragraph 7)	-	\$
E	Extent of impairment of Debtor's exemption in the Property (Impairment Amount = A+B+C-D)		\$

8. (USE THIS PARAGRAPH IF THE AMOUNT ON LINE E IS EQUAL TO OR GREATER THAN THE AMOUNT ON LINE A) The total aggregate of all liens on the Property and the value of Debtor's exemption exceeds the value of Debtor's interest in the Property by an amount equal to or greater than the amount of Respondent's Judicial Lien. Respondent's Judicial Lien fully impairs Debtor's exemption, therefore, Respondent's Judicial Lien may be completely avoided pursuant to 11 U.S.C. § 522(f)(1).

OR

8. (USE THIS PARAGRAPH IF THE AMOUNT ON LINE E IS GREATER THAN \$0 BUT LESS THAN THE AMOUNT ON LINE A) The total aggregate of all liens on the Property and the value of Debtor's exemption exceeds the value of Debtor's interest in the Property. However, the extent of the impairment of Debtor's exemption in the Property is less than the amount of Respondent's Judicial Lien. Pursuant to 11 U.S.C. § 522(f)(1), Respondent's Judicial Lien may only be avoided to the extent of \$ _____ (*Amount from Line E*), and the remaining balance of Respondent's Judicial Lien should continue in effect.

WHEREFORE, the Debtor respectfully requests the Court enter an order avoiding Respondent's Judicial Lien to the extent sought in this motion, and granting such other and further relief as is fair and equitable.

This the ____ day of _____, _____.

Attorney for Debtor

PLEASE NOTE THAT SERVICE MUST BE MADE ON RESPONDENT PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 7004.