

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

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

ORDER AVOIDING JUDICIAL LIEN OF _____

This matter comes before the Court on a motion to avoid a judicial lien held by _____ (“Respondent”) pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014. Having considered the motion and other matters of record in this case, the Court finds and concludes:

1. All parties in interest have received due notice of the motion and no party has timely objected to the relief requested in the motion.
2. Respondent holds a judicial lien which impairs an exemption that has been claimed by the Debtor in the following property: _____ (“Property”).
3. The Property is encumbered by the following liens in order of priority:
 - a. (*Deed of trust/judicial lien*) held by _____, which secures indebtedness with an unpaid balance of \$_____ as of the petition date;
 - b. (*Deed of trust/judicial lien*) held by _____, which secured indebtedness with an unpaid balance of \$_____ as of the petition date;
 - c. (*Deed of trust/judicial lien*) held by _____ in the amount of \$_____ as of the petition date; and a

d. Judicial lien held by Respondent (“Respondent’s Judicial Lien”) pursuant to 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 _____ in the amount of \$_____, including attorney’s fees, costs and interest of \$_____ as of the petition date.

4. The Debtor claimed an exemption in the Property of \$_____ pursuant to _____ (*basis for exemption e.g., N.C.G.S. § 1C-1601(a) (1-9)*).

5. The total value of the Property as of the petition date was \$_____ and the value of the Debtor’s interest in the Property as of the petition date was \$_____.

6. The total aggregate of all liens on the Property and the value of the 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

6. 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 but the extent of the impairment of Debtor’s exemption 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 in Form Motion*), and the remaining balance of Respondent’s Judicial Lien continues in effect.

Therefore, it is

[In Chapter 7 cases only]

ORDERED that Respondent’s Judicial Lien be and hereby is AVOIDED AND CANCELLED as to the Property, and Respondent’s Judicial Lien shall have no further force or effect as to the Property; and, it is further

ORDERED that the Register of Deeds for the County of _____, North Carolina, is authorized to record in the office of said Register of Deeds a copy of this Order upon being presented with a certified copy thereof.

OR

ORDERED that Respondent’s Judicial Lien is hereby AVOIDED IN PART to the extent that \$_____ of Respondent’s Judicial Lien shall have no further force and effect against the

Property, with the balance of Respondent's Judicial Lien remaining as a lien against the Property to the extent enforceable under state law; and, it is further

ORDERED that the Register of Deeds for the County of _____, North Carolina, is authorized to record in the office of said Register of Deeds a copy of this Order upon being presented with a certified copy thereof.

[In Chapter 13 cases only]

ORDERED that Respondent's Judicial Lien be and hereby is AVOIDED as to the Property, and Respondent's Judicial Lien shall have no further force or effect as to the Property; it is further

ORDERED that this Order is to be of no force and effect outside of this Chapter 13 bankruptcy proceeding unless, and until, the Debtor obtains a discharge in this case following the completion of all payments under the Debtor's Chapter 13 plan. A copy of the Order of Discharge is to accompany any recordation of this Order; and, it is further

ORDERED that the Register of Deeds for the County of _____, North Carolina, is authorized to record in the office of said Register of Deeds a copy of this Order and the Order of Discharge upon being presented with certified copies thereof.

OR

ORDERED that Respondent's Judicial Lien is hereby AVOIDED IN PART to the extent that \$_____ of Respondent's Judicial Lien shall have no further force and effect against the Property, with the balance of Respondent's Judicial Lien remaining as a lien against the Property to the extent enforceable under state law; it is further

ORDERED that this Order is to be of no force and effect outside of this Chapter 13 bankruptcy proceeding unless, and until, the Debtor obtains a discharge in this case following the completion of all payments under the Debtor's Chapter 13 plan. A copy of the Order of Discharge is to accompany any recordation of this Order; and, it is further

ORDERED that the Register of Deeds for the County of _____, North Carolina, is authorized to record in the office of said Register of Deeds a copy of this Order and the Order of Discharge upon being presented with certified copies thereof.

END OF DOCUMENT