

**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 __
)

DEBTOR’S MOTION TO AVOID SECURITY INTEREST OF _____

The Debtor moves for an order pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014 to avoid the nonpossessory, nonpurchase-money security interest held by _____ (“Respondent”) and in support of this motion states:

1. The Debtor filed a voluntary petition under Chapter ___ of the Bankruptcy Code on _____.
2. Respondent holds, or may hold, a nonpossessory, nonpurchase-money security interest in the following property (the “Property”) of the Debtor, in which the Debtor has claimed an exemption under N.C. Gen. Stat. § 1(c)-1601(a)(4), (5), or (7):
 - () household furnishings, household goods, wearing apparel, appliances, books, animals, crops, musical instruments, or jewelry that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor;
 - () implements, professional books, or tools, of the trade of the debtor or the trade of a dependent of the debtor; or
 - () professionally prescribed health aids for the debtor or a dependent of the debtor.
3. The amount of the Respondent’s nonpossessory, nonpurchase-money security interest as of the date of the petition is \$ _____.
4. The Property is/is not subject to other liens. (List any additional liens in order of priority and state the holder/owner, amount of the lien, and the date of recordation for each additional lien. If unknown, state that “It is unknown if the Property is subject to other liens.”).
5. (If the fair market value of the Property is greater than the amount of the exemption, state the Property’s fair market value. If the fair market value of the Property as of the date of the filing of the petition is less than the total amount of the exemption that the Debtor is entitled to under N.C. Gen. Stat. § 1C-1601(a)(4), (5), or (7), in the absence of any liens against the Property, insert language so stating).
6. The Debtor states that the Respondent’s security interest impairs the Debtor’s exemption following the formula set forth in 11 U.S.C. § 522(f)(2):

Aggregate amount of security interest/liens	\$
Plus value of exemption	\$ _____
	\$
Minus value of Debtor's interest in property in the absence of any liens:	\$ _____
Extent of impairment claimed	

7. Because the total aggregate of the security interest/liens and the value of the exemption is \$ _____, which exceeds the value of Debtor's interest in the property by \$ _____, and because that sum equals or exceeds the amount of the security interest of \$ _____ sought to be avoided, the Respondent's security interest may be completely avoided pursuant to 11 U.S.C. § 522(f)(1).

OR

8. Because the total aggregate of the security interest/liens and the value of the exemption is \$ _____, which exceeds the value of Debtor's interest by \$ _____, which is less than the amount of the Respondent's security interest of \$ _____, such security interest may be avoided pursuant to 11 U.S.C. § 522(f)(1) to the extent of only \$ _____, and the rest of such interest remains in effect.

WHEREFORE, the Debtor respectfully requests the Court for an order that:

- A. Avoids the security interest held by _____ to the extent sought in this motion, and
- B. Grants such other and further relief as is fair and equitable.

This the ____ day of _____, _____.

Attorney for Debtor