

**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 under 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 that impairs an exemption to which the Debtor would have been entitled under 11 U.S.C. § 522(b) with respect to the following property:

 _____ (“Property”).

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

4. As of the Petition Date, Respondent’s judicial lien (“Respondent’s Judicial Lien”) totaled \$_____, including attorney’s fees, costs, and interest of \$_____. Respondent’s Judicial Lien is based upon a judgment or transcript of judgment that was recorded in the office of the Clerk of Superior Court of _____ County on _____ and is identified as _____ (identify judgment by Book/Page or other identifying reference) _____. 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 liens, listed in order of priority:

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

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

(NOTE: If you are filing multiple motions to avoid judicial lien with respect to the Property, any judicial liens which are junior to the lien being avoided in the current motion should NOT be included in the above chart or included in the total amount of liens).

6. Under _____ (basis for exemption- e.g., 11 U.S.C. § 522(b) and N.C.G.S. § 1C-1601(a) (1-9)), the Debtor would be entitled to claim an exemption of \$_____ in the Property if there were no liens on the Property.

7. As of the Petition Date, the value that the Debtor's interest in the Property would have had in the absence of any liens on the Property was \$_____.

8. Following the formula set forth in 11 U.S.C. § 522(f)(2), Respondent's Judicial Lien impairs an exemption to which the Debtor would have been entitled under 11 U.S.C. § 522(b):

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 exemption Debtor would be entitled to claim if there were no liens on the Property (Amount from Paragraph 6)	+	\$
D	Value that the Debtor's interest in the Property would have had in the absence of any liens on the Property (Amount from Paragraph 7)	-	\$
E	Extent of impairment (Impairment Amount = A+B+C-D)		\$

9. (USE THIS PARAGRAPH IF THE AMOUNT ON LINE E IS EQUAL TO OR GREATER THAN THE AMOUNT ON LINE A)

The sum of Respondent's Judicial Lien, all other liens on the Property, and the amount of the exemption that the Debtor would be entitled to claim if there were no liens on the Property exceeds the value that the Debtor's interest in the Property would have had in the absence of any liens by an amount equal to or greater than the amount of Respondent's Judicial Lien. Therefore, Respondent's Judicial Lien fully impairs the exemption and may be completely avoided under 11 U.S.C. § 522(f)(1).

OR

9. (USE THIS PARAGRAPH IF THE AMOUNT ON LINE E IS GREATER THAN \$0 BUT LESS THAN THE AMOUNT ON LINE A) The sum of Respondent's Judicial Lien, all other liens on the Property, and the amount of the exemption that the Debtor would be entitled to claim if there were no liens on the Property exceeds the value that the Debtor's interest in the Property would have had in the absence of any liens, but the extent of impairment is less than the amount of Respondent's Judicial Lien. Under 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 continues 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.