

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

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

MOTION TO AVOID SECURITY INTEREST 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 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 _____ ("Petition Date").

2. Respondent holds, or may hold, a nonpossessory, nonpurchase-money security interest that impairs an exemption to which the Debtor would have been entitled under 11 U.S.C. § 522(b) and N.C. Gen. Stat. § 1(c)-1601(a)(4), (5), or (7) with respect to the following property ("Property"):

- () 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. As of the Petition Date, Respondent's nonpossessory, nonpurchase-money security interest totaled \$_____.

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, "It is unknown if the Property is subject to other liens.").

5. (If the value that the Debtor's interest in the Property would have had in the absence of any liens (as of the Petition Date) was greater than the amount of the exemption that the Debtor would be entitled to claim if there were no security interests/liens on the Property, state the value that the Debtor's interest in the Property would have had in the absence of any liens. If the value that the Debtor's interest in the Property would have had in the absence of any liens (as of the Petition Date) was less than the total amount of the exemption that the Debtor would be entitled to claim if there were no security interests/liens on the Property, insert language so stating).

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

Total amount of security interest/liens: \$_____
Plus amount of exemption the Debtor would be entitled
to claim if there were no security interests/ liens on the Property: \$_____

Minus value that the Debtor's interest in the Property
would have had in absence of any security interests/liens: \$_____
Extent of impairment claimed: \$_____

7. Because the sum of the security interest/liens and the value of the exemption that the Debtor would be entitled to claim if there were no security interests/liens on the Property is \$_____, which exceeds the value that the Debtor's interest in the Property would have had in the absence of any liens 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

7. Because the sum of the security interest/liens and the value of the exemption that the Debtor would be entitled to claim if there were no security interests/liens on the Property is \$_____, which exceeds the value that the Debtor's interest in the Property would have had in the absence of any liens 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 avoiding the security interest held by _____ 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.