

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW HAMPSHIRE

In re:

\_\_\_\_\_  
Debtor

Bk. No. \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_  
Chapter \_\_\_\_\_

\_\_\_\_\_  
Movant

v.

\_\_\_\_\_  
Respondent

**MOTION TO AVOID LIEN PURSUANT TO 11 U.S.C. § 522(f)(2)**

NOW COMES \_\_\_\_\_ (“Debtor” and “Movant”) by and through his attorney, \_\_\_\_\_, pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014 to request that this court enter an order avoiding the \_\_\_\_\_ held by \_\_\_\_\_ (“Respondent”). In support of this motion, the Debtor states:

1. This court has jurisdiction in this matter pursuant to 28 U.S.C. § 1334(a). This matter is a core proceeding as provided by 28 U.S.C. § 157(b)(2)(K).
2. The Debtor filed a voluntary petition under chapter \_\_\_\_\_ of the Bankruptcy Code on \_\_\_\_\_.
3. The property is subject to the following mortgages, judicial liens and/or nonpossessory, nonpurchase-money security interests:
  - a. \_\_\_\_\_ obtained by \_\_\_\_\_ on \_\_\_\_\_
  - b. \_\_\_\_\_ obtained by \_\_\_\_\_ on \_\_\_\_\_
  - c. \_\_\_\_\_ obtained by \_\_\_\_\_ on \_\_\_\_\_
  - d. \_\_\_\_\_ obtained by \_\_\_\_\_ on \_\_\_\_\_
4. The Debtor is entitled to an exemption in the property in the amount of \$ \_\_\_\_\_ pursuant to \_\_\_\_\_ (e.g., N.H. RSA 480:1, N.H. RSA 511:2(III)).
5. The Debtor’s property has a fair market value of \$ \_\_\_\_\_.
6. Section 522(f)(2)(A) of the Bankruptcy Code provides that “a lien shall be considered to impair an exemption to the extent that the sum of: (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor’s interest in the property would have in the absence of any liens.” Section 522(f)(2)(B) provides that “[i]n the case of a property subject to more than 1 lien, a lien that has been avoided shall not be considered in making the calculation under subparagraph (A) with respect to other liens.”

7. Following the formula set forth in 11 U.S.C. § 522(f)(2) for determining whether a lien impairs an exemption, the Debtor:
- a. Adds the lien being tested for avoidance \_\_\_\_\_, all other liens \_\_\_\_\_ and the maximum exemption allowable in the absence of liens \_\_\_\_\_ to get a sum of \_\_\_\_\_.
  - b. From the sum above, \_\_\_\_\_, subtracts the value of the property in the absence of liens \_\_\_\_\_ and finds that the extent of the impairment \_\_\_\_\_.
8. Since the extent of the impairment of the exemption, \_\_\_\_\_, exceeds the entire value of the Respondent's lien, \_\_\_\_\_, the entire lien is avoidable. **Or** Since the extent of impairment, \_\_\_\_\_ is less than the entire value of the lien, \_\_\_\_\_, the Respondent's lien can be avoided only to the extent of the impairment the exemption, \_\_\_\_\_, and the rest remains as a lien in the amount of \_\_\_\_\_.

WHEREFORE, the Debtor respectfully requests that this court enter an order which:

- A. Avoids the \_\_\_\_\_ held by \_\_\_\_\_.
- B. Grants such other relief as is fair and equitable.

Respectfully submitted,

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Tel. No.