In re: Case Number:

Name of Debtor(s), Chapter:

 Debtor(s).

**Pursuant to local rule 9007-1, this motion will be taken under advisement by the court and may be granted unless a party in interest files a response within 21 days of the date of service. Responses must be served upon the moving party in the manner directed by local rule 1001-2, and filed with the clerk electronically or by U.S. mail addressed as follows: Clerk, U.S. Bankruptcy Court, One Church Street, Montgomery, AL 36104.**

SECTION 522(f) MOTION TO AVOID JUDICIAL LIEN OR NONPOSSESSORY, NONPURCHASE MONEY SECURITY INTEREST AND DETERMINE SECURED STATUS

OF \*\*\*\*\****NAME OF CREDITOR***\*\*\*\*\*

*Check one box.*

 **Total Avoidance.** Debtor(s) seeks to totally avoid the judicial lien or nonpossessory, nonpurchase money ("Non-PPM") security interest (the "Lien") securing the debt listed by the debtor(s) (the "Debt") because the Lien securing the creditor’s debt impairs the Debtor(s)' available exemption(s) and to the extent the impairment equals or exceeds the amount of the Lien. Upon entry of an order granting this Motion, the Lien will be avoided in its entirety, and, unless otherwise ordered, the Debt and the claim filed by the creditor, if any, to the extent allowed, will be treated as wholly unsecured. *See* 11 U.S.C. § 522(f) and Rule 4003(d), Fed. R. Bankr. P. *(This section should be used if, after deducting the amount(s) of Debtor(s)' available exemption(s) and of any mortgage lien(s) or other unavoided lien(s) and security interest(s) that encumber the subject property, Debtor(s) have no equity in the property.*



|  |  |
| --- | --- |
| **Name of Creditor** |  |
| **Amount of Lien** |  |
| **Proof of Claim Number** (if claim filed) |  |
| **Amount of Debt** |  |
| **Property Description** (For a judicial lien, "the real and personal property of the judgment debtor situated in the county/counties where the judgment lien is recorded" may be a sufficient property description. For a Non-PPM security interest, specifically describe the items pledged as collateral for the debt.) |  |
| **Lien Identification**(For a judicial lien, provide the recording information for the instrument that gave rise to the judicial lien, including the date of the recording, the book and page numbers or instrument number, and the county/counties of the recording office(s). For a Non-PPM security interest, list the date of the security agreement, the UCC filing number, or other identifying information.) |  |

 **Partial Avoidance**. Debtor(s) seeks to partially avoid the judicial lien or nonpossessory, nonpurchase money ("Non-PPM") security interest (the "Lien") securing the debt listed (the "Debt") because it impairs Debtor(s)' available exemption(s) and the extent of the impairment is less than the amount of the Lien. Upon entry of an order granting this Motion, the Lien will be avoided to the extent that it impairs such exemption(s), and, unless otherwise ordered, the Debt and Creditor’s Claim, to the extent allowed, will be treated as a partially secured debt in the amount listed. *See* 11 U.S.C. § 522(f) and Rule 4003(d), Fed. R. Bankr. P.

1. On [date], [Creditor] obtained a security interest in certain [personal property/real property]. The loan or lien is a [judicial lien/non-purchase money security interest in the following property of the debtor:

[*For a judicial lien, "the real and personal property of the judgment debtor situated in the county/counties where the judgment lien is recorded" may be a sufficient property description. For a Non-PPM security interest, specifically describe the items pledged as collateral for the debt.*]

1. The loan documents contain the following language to create a security interest in the collateral:

[*For a judicial lien, provide the recording information for the instrument that gave rise to the judicial lien, including the date of the recording, the book and page numbers or instrument number, and the county/counties of the recording office(s). For a Non-PPM security interest, list the date of the security agreement, the UCC filing number, or other identifying information.*]

1. 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 –
2. the lien;
3. all other liens on the property; and
4. 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.”

1. The value of Creditor’s lien, all other liens, and Debtor(s)’ exemptions are as follows:
	1. The Creditor’s lien in the amount of $**aaa**;
	2. the amount of all other liens on Debtor(s)’ property totaling $**bbb**;
	3. and the amount of the exemption that the Debtor(s) could claim if there were no liens on the property are $ccc.
2. The. sum of a, b, and c above equal a total amount of $**ddd**.
3. The total of $**ddd** minus the value of Debtor(s)’ interest in property, as listed on Schedules A/B, is $**eee**.
4. The total amount of Debtor(s)’ exemption that is impaired of $ccc exceeds the value that is the Debtor(s)’ interest in the property as listed on Schedules A/B of $**eee**.
5. Accordingly, the unsecured portion of the creditor’s debt is avoided except for $**fff**. The creditor’s debt is thereby secured in the amount of $**yyy**.

RESPECTFULLY SUBMITTED this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Signature of Debtor(s)’ Attorney

 [Name]

 [Address]

 [Telephone]

 [Email]

**CERTIFICATE OF SERVICE**

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, do hereby certify that I have served a copy of the foregoing **MOTION TO AVOID LIEN** on the parties listed below by either electronic mail, certified mail or placing same in the United States Mail, postage prepaid and properly addressed, this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_

**by CM/ECF:**

\_\_\_\_\_\_\_\_\_\_\_\_\_, Chapter \_\_\_\_\_\_ Trustee

Danielle K. Greco, Bankruptcy Administrator

**by First Class Mail, postage prepaid:**

**Other:**

|  |  |
| --- | --- |
| Dated: |       |

|  |
| --- |
| /s/      |

Attorney for debtor(s)

Address

File on CM/ECF under “Rule 9007 Motions/Notices”