

Information & Instructions: Motion And Order To Avoid Non Purchase Money Lien

**PREVIEW**

1. Use this form to avoid a purchase money lien in a situation where a creditor has a lien on exempt property and the debtor wants to avoid the lien.

**Form: Motion And Order To Avoid Non Purchase Money Lien**

[Name of attorney in charge]

[Address]

[Telephone and facsimile numbers.]

[Federal identification no.]

Attorneys for [the Movant's name]

**PLEASE DO NOT COPY**

UNITED STATES BANKRUPTCY COURT

**FOR THE [NAME] DISTRICT OF TEXAS [NAME] DIVISION**

**In Re**

**[Debtor's Name]**

**Case No.** \_\_\_\_\_

**Chapter** \_\_\_\_\_

**[Plaintiff's Name]**

**v.**

**[Defendant's Name]**

**Adv. Proc. No.** \_\_\_\_\_

**THIS DOCUMENT**

**MOTION TO AVOID NON PURCHASE MONEY LIEN**

**ON EXEMPT PROPERTY [11 U.S.C. §522 (f)]**

[Names] ("Debtors"), and files this their Motion to Avoid Non Purchase Money Lien on Exempt Property [11 U.S.C. §522(f)], and in support thereof would respectfully show unto this Court the following:

**IF YOU WANT A HEARING, YOU MUST REQUEST ONE IN WRITING AND**

**YOU MUST RESPOND SPECIFICALLY TO EACH PARAGRAPH OF THIS**

**PLEADING. YOU MUST FILE YOUR RESPONSE WITH THE CLERK OF THE**

**BANKRUPTCY COURT WITHIN TWENTY (20) DAYS FROM THE DATE YOU**

**WERE SERVED AND GIVE A COPY TO THE PERSON WHO SENT YOU THE**

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NOTICE; OTHERWISE, THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND GRANT THE RELIEF.

**PREVIEW**

IF A PARTY REQUESTS EMERGENCY CONSIDERATION, THE COURT MAY ACT EXPEDITIOUSLY ON THE MATTER. IF THE COURT ALLOWS A SHORTER RESPONSE TIME THAN TWENTY DAYS, YOU MUST RESPOND WITHIN THAT TIME. IF THE COURT SETS AN EMERGENCY HEARING BEFORE THE RESPONSE TIME WILL EXPIRE, ONLY ATTENDANCE AT THE HEARING IS NECESSARY TO PRESERVE YOUR RIGHTS. IF AN EMERGENCY HEARING IS NOT SET, YOU MUST RESPOND BEFORE THE RESPONSE TIME EXPIRES.

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1. On or about \_\_\_\_\_, the Debtors' executed a Security Agreement with [Name] in connection with a loan in the original principal amount of \$\_\_\_\_\_.
2. As collateral for the debt, the Debtors' pledged their [Name of collateral] located at [address] ("the Collateral").
3. On or about [Date] the Debtors' filed Bankruptcy pursuant to Chapter 7 of Title 11 of the United States Code.
4. Said money lent was not used to purchase the Collateral.
5. The Collateral was purchased prior to the date of the loan.
6. The creditor's claim is purportedly secured by a UCC 1 for \_\_\_\_\_ on the Debtor's [property], which is attached to the Debtor's homestead.
7. Pursuant to Texas common law, material which is affixed to the real property may not be secured by a deed of trust.

**THIS DOCUMENT**

**THANK YOU**

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PRAYER  
**PREVIEW**

Debtors request that this Court enter an order releasing the encumbrance on the Collateral and that this Court order that said claim be treated as an unsecured transaction pursuant to 11 U.S.C. Section 522(f).

Respectfully submitted,

[Law firm or attorney's  
name]

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By: \_\_\_\_\_

[Name of attorney]  
Attorney for [Name]  
[Address]  
[Telephone & facsimile  
numbers]  
Federal I. D. no.[Number]

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, a true and correct copy of the above and foregoing [Title of the pleading] has been served by first class mail, postage prepaid, upon the entities listed on Exhibit "A" attached hereto and by reference made a part hereof for all purposes.

\_\_\_\_\_  
Attorney in charge

**SERVICE LIST:**

[List the names and addresses of the debtor, debtor's attorney, U. S. Trustee, and creditors listed in the bankruptcy petition as well as any party who has also filed a Notice of appearance which requests copies of filings.]

Listing of the 20 largest unsecured creditors for a notice of legal representation in a bankruptcy and request for notice of hearings, pleadings and filings in the case

**EXHIBIT "A"**

[Name of 20 Largest Unsecured Creditors]

[list]

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[Name]  
[Address]  
[Claim]

Amount of Claim: \$[Amount].

# PREVIEW

## UNITED STATES BANKRUPTCY COURT

FOR THE [NAME] DISTRICT OF TEXAS [NAME] DIVISION

In Re  
[Debtor's Name]

Case No. \_\_\_\_\_

Chapter \_\_\_\_\_

[Plaintiff's Name]

v.  
[Defendant's Name]

# PLEASE DO NOT COPY

Adv. Proc. No. \_\_\_\_\_

### ORDER LIEN AVOIDANCE, 11 U.S.C. SECTION 522(f)

On \_\_\_\_\_, came on to be heard, [Name] ("Debtors") Motion to Avoid Non Purchase Money Lien on Exempt Property [11 U.S.C. Section 522(f)], and after careful consideration of the facts and the arguments of counsel, this Court finds that there are sufficient grounds to avoid the encumbrance in favor of [Creditor's name].

IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED that the lien which arises out of that certain Security Agreement executed on \_\_\_\_\_, securing that certain loan in the original principal amount of \$\_\_\_\_\_ in favor of [Creditor's name and address], executed by [Debtor's name] is heretofore released and forever discharged against the real property located at [Property address].

Signed on \_\_\_\_\_ **THANK YOU**

\_\_\_\_\_  
U.S. BANKRUPTCY JUDGE

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