UNITED STATES BANKRUPTCY COURT

DISTRICT OF SOUTH CAROLINA

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| IN RE:          DEBTOR(S) | CASE NO:  CHAPTER:    MOTION TO AVOID JUDICIAL LIEN (11 U.S.C. § 522(F)(1)(A)) EQUITY ANALYSIS/ CO-OWNED PROPERTY[[1]](#footnote-1) |

TO THE TRUSTEE (if one is appointed) AND JUDGMENT LIEN CREDITOR LISTED BELOW:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Name of creditor and description of property securing lien | Total Equity (Value of debtor's property less senior/ unavoidable liens)[[2]](#footnote-2) | Debtor's Equity (Total equity multiplied by debtor's proportional interest in property)[[3]](#footnote-3) | Applicable Exemption and Code Section | Non-exempt Equity (Debtor's equity less exemption)[[4]](#footnote-4) | Estimated judicial lien | Judicial lien not avoided | Judicial lien avoided[[5]](#footnote-5) |
|  |  |  |  |  |  |  |  |

The debtor hereby moves, in accordance with 11 U.S.C. § 522(f)(1)(A), to avoid the judicial lien of the creditor(s) named above in the amount listed above on the grounds that the judicial lien impairs the exemptions to which the debtor would otherwise be entitled under 11 U.S.C. § 522(b) and Chapter 41 of Title 15, Code of Laws of South Carolina, 1976 (as amended).  The undersigned certifies the following:

(a) The judicial lien referenced above represents a judgment which has been recorded in a county in which the debtor owns real estate or in which there is a levy/attachment on personal property; and

(b) The property on which the judicial lien is sought to be avoided is owned by the debtor and the debtor is entitled to an exemption therein.

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| Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  | Signature of Attorney/Pro Se Debtor |
|  | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  | Typed Printed Name |
|  | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Address/Telephone/Facsimile/E-mail \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ District Court I.D. Number |
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1. This form is for use in chapter 7 and chapter 11 cases when the Court’s equity analysis for co-owned property is applicable pursuant to In re Ware, 274 B.R. 206 (Bankr. D.S.C. 2001). [↑](#footnote-ref-1)
2. Deduct any senior judicial liens for which the debtor and co-owner(s) are jointly liable here. Senior judicial liens encumbering debtor’s interest only should be deducted from debtor’s non-exempt equity. [↑](#footnote-ref-2)
3. For example, for property owned in equal shares by two individuals, multiply by ½. [↑](#footnote-ref-3)
4. Deduct any senior judicial liens encumbering debtor’s interest only here. SeeWare, 274 B.R. at 209 (stating that under the debtor’s equity analysis, judicial liens according to their priority remain to the extent of available non-exempt equity and the remainder of judicial liens are avoided). [↑](#footnote-ref-4)
5. The judicial lien is avoided to the extent that the estimated judicial lien exceeds the available non-exempt equity. [↑](#footnote-ref-5)