

Attorney or Party Name, Address, Telephone & FAX Numbers, State Bar Number & Email Address           <input type="checkbox"/> Debtor appearing without attorney <input type="checkbox"/> Attorney for:	FOR COURT USE ONLY
<b>UNITED STATES BANKRUPTCY COURT</b> <b>CENTRAL DISTRICT OF CALIFORNIA - _____ DIVISION</b>	
In re:	CASE NUMBER: CHAPTER:
Debtor(s).	<div style="text-align: center; border: 1px solid black; padding: 10px; margin: 5px;"> <b>DEBTOR'S NOTICE OF MOTION AND MOTION TO AVOID LIEN UNDER 11 U.S.C. § 522(f) AND, IF APPLICABLE, FOR TURNOVER OF PROPERTY (PERSONAL PROPERTY)</b> </div> <div style="text-align: center; margin-top: 10px;">         [No hearing required unless requested under LBR 9013-1(o)]       </div>
<b>Creditor Name:</b>	

**TO THE CREDITOR, CREDITOR'S ATTORNEY AND OTHER INTERESTED PARTIES:**

1. **NOTICE IS GIVEN** that Debtor moves this court for an order, pursuant to LBR 9013-1(o) upon notice of opportunity to request a hearing (*i.e.*, without a hearing unless requested), (1) avoiding a lien on the personal property (Personal Property) described herein on the grounds set forth below and (2) directing turnover of the Personal Property to Debtor, if applicable.
  
2. **Deadline for Opposition Papers:**  
 Pursuant to LBR 9013-1(o), any party opposing Debtor's motion may file and serve a written opposition and request a hearing on this motion. If you fail to file a written response within 14 days of the date of service of this notice, plus 3 additional days if you were served by mail or pursuant to Federal Rules of Civil Procedure 5(b)(2)(D) or (F), the court may treat such failure as a waiver of your right to oppose this motion and may grant the requested relief.
  
3. **Type of case:**

a. <input type="checkbox"/> A voluntary petition under Chapter	<input type="checkbox"/> 7	<input type="checkbox"/> 11	<input type="checkbox"/> 12	<input type="checkbox"/> 13	was filed on: _____
b. <input type="checkbox"/> An involuntary petition under Chapter	<input type="checkbox"/> 7	<input type="checkbox"/> 11	was filed on: _____		
<input type="checkbox"/> An order for relief under Chapter	<input type="checkbox"/> 7	<input type="checkbox"/> 11	was entered on: _____		

*"Bankruptcy Code" and "11 U.S.C." refer to the United States Bankruptcy Code, Title 11 of the United States Code.  
 "FRBP" refers to the Federal Rules of Bankruptcy Procedure. "LBR" and "LBRs" refer to the Local Bankruptcy Rule(s) of this court.*

- c. ☐ An order of conversion to Chapter ☐ 7 ☐ 11 ☐ 12 ☐ 13 was filed on: \_\_\_\_\_
- d. ☐ Other: \_\_\_\_\_

4. **Procedural Status:**

- a. ☐ Name of Trustee appointed (*if any*): \_\_\_\_\_
- b. ☐ Name of Attorney for Trustee (*if any*): \_\_\_\_\_

5. Debtor claims an exemption in the subject Personal Property under:

- a. ☐ California Code of Civil Procedure § \_\_\_\_\_ exemption amount claimed on schedules:  
\$ \_\_\_\_\_
- b. ☐ California Code of Civil Procedure § \_\_\_\_\_ exemption amount claimed on schedules:  
\$ \_\_\_\_\_
- c. ☐ Other statute (*specify*): \_\_\_\_\_
- d. ☐ Other statute (*specify*): \_\_\_\_\_

6. Debtor's entitlement to an exemption is impaired by:

- a. ☐ A judicial lien, other than a judicial lien that secures a debt of a kind that is specified in 11 U.S.C. § 523(a)(5) (domestic support obligations).
- b. ☐ A nonpossessory, nonpurchase-money security interest, the details of which are as follows:
- (1) On (*specify date*): \_\_\_\_\_ Debtor obtained a loan from Creditor in the principal amount of (*specify amount*): \$ \_\_\_\_\_
- (2) As security for said loan, Debtor gave Creditor a security interest in the Personal Property in Debtor's possession.
- (3) The loan was neither obtained nor used for the purpose of buying the Personal Property.
- (4) The current balance due on the loan is (*specify amount*): \$ \_\_\_\_\_
- (5) The Personal Property is one or more of the types of personal property listed in 11 U.S.C. § 522(f)(1)(B)(i), (ii), and (iii) (household furnishings, tools of the trade of the debtor, prescribed health aids for the debtor, household goods as defined in 11 U.S.C. § 522(f)(4), etc.).

7. On Schedule C to Debtor's bankruptcy petition, Debtor claimed an exemption in this Personal Property.

8. Debtor alleges that the fair market value of each individual item of the Personal Property claimed exempt is set forth in a declaration attached hereto. (*Attach Debtor's declaration to this motion*)

9. Debtor attaches the following documents in support of the motion (*as appropriate*):

- a. ☐ Schedule C listing all exemptions claimed by Debtor
- b. ☐ Loan agreement
- c. ☐ Security agreement
- d. ☐ Declaration of fair market value
- e. ☐ Other (*specify*): \_\_\_\_\_
- f. ☐ Other (*specify*): \_\_\_\_\_
- g. ☐ Other (*specify*): \_\_\_\_\_

Total number of attached pages of supporting documentation: \_\_\_\_\_

10. Debtor declares under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration was executed on (*date*) \_\_\_\_\_ [28 U.S.C. § 1746(1) and (2)].

Debtor requests that this court issue an order avoiding the subject lien and, if so provided in the proposed order, directing turnover of the Personal Property by Creditor pursuant to 11 U.S.C. §§ 542 or 543 in the form of the **Attachment** to this motion.

Executed on (date): \_\_\_\_\_

\_\_\_\_\_  
*Signature of Debtor*

\_\_\_\_\_  
*Printed name of Debtor*

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

\_\_\_\_\_  
*Signature of Attorney for Debtor*

\_\_\_\_\_  
*Printed name of Attorney for Debtor*

**ATTACHMENT TO MOTION/ORDER**  
**(11 U.S.C. § 522(f): AVOIDANCE OF NON-POSSESSORY, NONPURCHASE-MONEY**  
**LIENS, OR JUDICIAL LIENS, ON PERSONAL PROPERTY)**

This court makes the following findings of fact and conclusions of law:

1. **Creditor Lienholder/Service:** \_\_\_\_\_.

2. **Subject Lien:** Date of recordation (if applicable) of lien: \_\_\_\_\_; Recording information (if applicable): \_\_\_\_\_.

3. **Collateral description:** \_\_\_\_\_. ☐ See attached page.

**4. Secured Claim Amount**

a. Value of Collateral: ..... \$ \_\_\_\_\_

b. Amounts of Senior Liens (reducing equity in the property to which the Subject Lien can attach):

(1) First lien: ..... (\$ \_\_\_\_\_)

(2) Second lien: ..... (\$ \_\_\_\_\_)

(3) Third lien: ..... (\$ \_\_\_\_\_)

(4) Additional senior liens (*attach list*): ..... (\$ \_\_\_\_\_)

c. Amount of Debtor's exemption(s): ..... (\$ \_\_\_\_\_)

d. Subtotal: ..... (\$ \_\_\_\_\_)

e. Secured Claim Amount (negative results should be listed as -\$0-): \$ \_\_\_\_\_

Unless otherwise ordered, any allowed claim in excess of this Secured Claim Amount is to be treated as a nonpriority unsecured claim and is to be paid pro rata with all other nonpriority unsecured claims (in Chapter 13 cases, Class 5A. of the Plan).

5. **Lien avoidance:** Debtor's Request to avoid the lien is granted as follows.

- a. ☐ The Subject Lien is a nonpossessory non-purchase money security interest in one or more of the types of personal property listed in 11 U.S.C. § 522(f)(1)(B)(i), (ii), or (iii), and the fixing of that lien impairs the Debtor's exemption(s).
- b. ☐ The Subject Lien is a judicial lien, other than a judicial lien that secures a debt of a kind that is specified in 11 U.S.C. § 523(a)(5) (domestic support obligations), and the fixing of that lien impairs the Debtor's exemption(s).
- c. The Subject Lien is void and unenforceable except to the extent of the Secured Claim Amount, if any, listed in paragraph 4.e. above.

**6. Other provisions:**

- a. ☐ Turnover of the Collateral by Creditor is required under 11 U.S.C. §§ 542 or 543.
- b. ☐ The court further orders as follows (*specify*):

☐ See attached page(s) for more liens/provisions.

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

A true and correct copy of the foregoing document entitled: **DEBTOR'S NOTICE OF MOTION AND MOTION TO AVOID LIEN UNDER 11 U.S.C. § 522(f) (PERSONAL PROPERTY) AND, IF APPLICABLE, FOR TURNOVER OF PROPERTY** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On *(date)* \_\_\_\_\_, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☐ Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On *(date)* \_\_\_\_\_, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** *(state method for each person or entity served)*: Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on *(date)* \_\_\_\_\_, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Printed Name*

\_\_\_\_\_  
*Signature*

**SERVED BY UNITED STATES MAIL, CERTIFIED MAIL OR OVERNIGHT MAIL** (indicate method for each person or entity served):

(Attached page to Proof of Service of Document-please include any additional or alternative addresses and attach additional pages if needed)

(Certified Mail required for service on a national bank.)

1st lienholder ( <i>name and address</i> )	Address from: <input type="checkbox"/> Proof of claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other ( <i>specify</i> ):	Delivery Method <input type="checkbox"/> United States mail <input type="checkbox"/> Certified mail – Tracking # _____ <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____
1st lienholder ( <i>name</i> ) and Agent for Service of Process ( <i>name and address</i> )	Address from: <input type="checkbox"/> Proof of claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other ( <i>specify</i> ):	Delivery Method <input type="checkbox"/> United States mail <input type="checkbox"/> Certified mail – Tracking # _____ <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____ _____
1st lienholder ( <i>name</i> ) and Servicing Agent ( <i>name and address</i> )	Address from: <input type="checkbox"/> Proof of claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other ( <i>specify</i> ):	Delivery Method <input type="checkbox"/> United States mail <input type="checkbox"/> Certified mail – Tracking # _____ <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____ _____

2nd lienholder ( <i>name and address</i> )	Address from: <input type="checkbox"/> Proof of claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other ( <i>specify</i> ):	Delivery Method <input type="checkbox"/> United States mail <input type="checkbox"/> Certified mail – Tracking # _____ <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____ _____
2nd lienholder ( <i>name</i> ) and Agent for Service of Process ( <i>name and address</i> )	Address from: <input type="checkbox"/> Proof of claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other ( <i>specify</i> ):	Delivery Method <input type="checkbox"/> United States mail <input type="checkbox"/> Certified mail – Tracking # _____ <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____ _____
2nd lienholder ( <i>name</i> ) and Servicing Agent ( <i>name and address</i> )	Address from: <input type="checkbox"/> Proof of claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other ( <i>specify</i> ):	Delivery Method <input type="checkbox"/> United States mail <input type="checkbox"/> Certified mail – Tracking # _____ <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____ _____

3rd lienholder (name and address)	Address from: <input type="checkbox"/> Proof of claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other ( <i>specify</i> ):	Delivery Method <input type="checkbox"/> United States mail <input type="checkbox"/> Certified mail – Tracking # _____ <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____
3rd lienholder (name) and Agent for Service of Process (name and address)	Address from: <input type="checkbox"/> Proof of claim <input type="checkbox"/> FDIC website	Delivery Method <input type="checkbox"/> United States mail <input type="checkbox"/> Certified mail – Tracking # _____ <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____
3rd lienholder (name) and Servicing Agent (name and address)	Address from: <input type="checkbox"/> Proof of claim <input type="checkbox"/> FDIC website	Delivery Method <input type="checkbox"/> United States mail <input type="checkbox"/> Certified mail – Tracking # _____ <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____

Alternative/additional address ( <i>name and address</i> )	Address from: <input type="checkbox"/> Proof of claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other ( <i>specify</i> ):	Delivery Method <input type="checkbox"/> United States mail <input type="checkbox"/> Certified mail – Tracking # _____ <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____
Alternative/additional address ( <i>name and address</i> )	Address from: <input type="checkbox"/> Proof of claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other ( <i>specify</i> ):	Delivery Method <input type="checkbox"/> United States mail <input type="checkbox"/> Certified mail – Tracking # _____ <input type="checkbox"/> Overnight mail – Tracking # _____ Carrier Name: _____