

Attorney or Party Name, Address, Telephone & FAX Numbers, and California State Bar Number  <u>Name of attorney or pro se debtor</u> <u>Bar no. (if applicable)</u> <u>Address (line 1)</u> <u>Address (line 2)</u>  Tel: <u>Telephone no.</u> Fax: <u>Fax no. (if applicable)</u>  <input type="checkbox"/> Individual appearing without counsel <input type="checkbox"/> Attorney for:	FOR COURT USE ONLY
<b>UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA</b>	
In re: <i>Short Title Case Name</i>          <div style="text-align: right;">Debtor(s)</div>	CHAPTER 13  CASE NO.: <i>Case number</i>  DATE: <i>Date of hearing</i> TIME: <i>Start time of hearing</i> CTRM: <i>Courtroom number</i> FLOOR: 3rd

**MOTION TO EXTINGUISH JUNIOR LIEN OF Name of Junior Lienholder (“RESPONDENT”)**

1. **Property at Issue:** Movant moves to avoid the junior deed of trust, mortgage or other encumbrance (hereinafter, “lien”) encumbering the following real property (“Subject Property”)

Street Address: \_\_\_\_\_  
 Apartment/Suite No.: \_\_\_\_\_  
 City, State, Zip Code: \_\_\_\_\_

Legal description or document recording number (including county of recording):

See attached page.

2. **Case History:**

- a. A voluntary petition under Chapter  7  11  12  13 was filed on: Specify petition date
- b.  An Order of Conversion to Chapter 13 was entered on (*specify date*):

3. **Grounds for Avoidance of Junior Lien:**

a. As of Date of title review, the Subject Property is subject to the following liens in the amounts specified securing the debt against the Subject Property, which the debtor seeks to have treated as indicated:

- i. Name of holder of 1st lien in the amount of \$ Amount of lien  is  is not to be avoided;
- ii. Name of holder of 2nd lien in the amount of \$ Amount of lien  is  is not to be avoided;
- iii. Name of holder of 3rd lien in the amount of \$ Amount of lien  is  is not to be avoided;

See attached page for additional lien(s).

b. As of Date of valuation/appraisal, Subject Property is worth no more than \$ Value per valuation/appraisal.

c. As a result, Respondent’s junior lien encumbering the Subject Property is  wholly  partially unsecured.

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**4. Evidence in Support of Motion:**

- a.  The amount of the lien identified in paragraph 3(a)(i) is based on Type of evidence, attached hereto and identified as Exhibit \_\_\_\_ .
- b.  The amount of the lien identified in paragraph 3(a)(ii) is based on Type of evidence, attached hereto and identified as Exhibit \_\_\_\_ .
- c.  The amount of the lien identified in paragraph 3(a)(iii) is based on Type of evidence, attached hereto and identified as Exhibit \_\_\_\_ .
- d.  The relative priority of the liens encumbering the Subject Property is established by evidence attached as Exhibit \_\_\_\_\_.
- e.  The value of the Subject Property from paragraph 3(b) is based on Type of evidence, attached as Exhibit \_\_\_\_:
- f.  Movant submits the attached Declaration(s).
- g.  Other evidence (specify): Identify supplemental evidence

**WHEREFORE, Movant prays that this Court issue an Order granting the following relief:**

1. That the Subject Property is valued at no more than \$ Requested value .
2. That before the discharge, no payments are to be made on the secured claim of the Respondent, and regular mortgage maintenance payments are not to be made.
3. That the Respondent's claim on the junior position lien shall be allowed as a non-priority general unsecured claim in the amount per the filed Proof of Claim.
4. That the avoidance of the Respondent's junior lien is contingent upon the Debtor's completion of the chapter 13 plan and the Debtor's receipt of a chapter 13 discharge.
5. That the Respondent shall retain its lien in the junior position for the full amount due under the corresponding note and lien in the event of either the dismissal of the Debtor's chapter 13 case, the conversion of the Debtor's chapter 13 case to any other chapter under the United States Bankruptcy Code, if the debtor completes the chapter 13 plan but does not receive a discharge, or if the Subject Property is sold or refinanced prior to the Debtor's receipt of chapter 13 discharge.
6. That in the event that the holder of the first position lien or any senior lien on the Subject Property forecloses on its interest and extinguishes the Respondent's lien rights prior to the Debtor's completion of the chapter 13 plan and receipt of a chapter 13 discharge, the Repondent's lien shall attach to the surplus proceeds from the foreclosure sale for the full amount due and owing under the note and lien.

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7.  See attached continuation page for additional provisions.

Dated: \_\_\_\_\_

Respectfully submitted,

\_\_\_\_\_  
*Movant Name*

\_\_\_\_\_  
*Firm Name of Attorney for Movant (if applicable)*

By: \_\_\_\_\_  
*Signature*

Name: \_\_\_\_\_  
*Typed Name of Individual Movant or Attorney for Movant*

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**NOTE:** When using this form to indicate service of a proposed order, **DO NOT** list any person or entity in Category I. Proposed orders do not generate an NEF because only orders that have been entered are placed on the CM/ECF docket.

**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 described **MOTION TO AVOID JUNIOR LIEN** 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 indicated below:

**I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (“NEF”)** – Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) (“LBR”), the foregoing document will be served by the court via NEF and hyperlink to the document. On \_\_\_\_\_ I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:

Service information continued on attached page

**II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL** (indicate method for each person or entity served):

On \_\_\_\_\_ I served the following person(s) and/or entity(ies) at the last known address(es) 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/or with an overnight mail service 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.*

Name of 1st lien holder Which is the address per:  Proof of claim  
 Street address (line 1)  Secretary of State  
 Street address (line 2)  Other: *specify*  
 City, state and zip code

Name of 2nd lien holder Which is the address per:  Proof of claim  
 Street address (line 1)  Secretary of State  
 Street address (line 2)  Other: *specify*  
 City, state and zip code

Name of 3rd lien holder Which is the address per:  Proof of claim  
 Street address (line 1)  Secretary of State  
 Street address (line 2)  Other: *specify*  
 City, state and zip code

Service information continued on attached page

**III. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL** (indicate method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on date of service I served the following person(s) and/or entity(ies) by personal delivery, 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 the judge will be completed no later than 24 hours after the document is filed.*

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

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

\_\_\_\_\_  
*Type Name*

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

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**ADDITIONAL SERVICE INFORMATION** (if needed):