

4. A true and correct copy of the completed Return of Summons form is attached.
5. The time for filing an answer or other response expired on _____.
6. No answer or other response has been filed or served by Defendant.
7. The default of Defendant:
- a. ☐ has not yet been entered, but is hereby requested.
 - b. ☐ was entered on _____.
8. A Status Conference:
- a. ☐ is scheduled for (*specify date, time, and place*) _____

 - b. ☐ was held on (*specify date, time, and place*) _____

9. **DECLARATION OF NON-MILITARY STATUS** (Servicemembers Civil Relief Act, 50 U.S.C. chapter 50 (§§ 3901-4043)). The undersigned counsel declares under penalty of perjury, with respect to each Defendant against whom a default judgment is sought by this motion:
- a. ☐ Defendant is not currently in military service. The facts that support this statement are as follows (*see the court's website for information about how to verify non-military status*):
 - b. ☐ Defendant is currently in military service. The facts that support this statement are as follows (*if this box is checked, the plaintiff must attach a supplement to this motion addressing the requirements in 50 U.S.C. § 3931(b)(2) to appoint an attorney for the Defendant before entering a judgment*):
 - c. ☐ I am unable to determine whether or not Defendant is in military service. The facts that support this statement are as follows (*if this box is checked, the plaintiff must attach a supplement to this motion addressing the bond requirement in 50 U.S.C. § 3931(b)(3)*):
10. ☐ Defaulting party is **not** an **infant** or **incompetent** party.
11. **Property at Issue:**
- Plaintiff moves to avoid the junior deed of trust, mortgage or other encumbrance (Junior Lien) encumbering the following real property (Property), which is principal residence of Plaintiff(s).
- Street Address: _____
- Unit Number.: _____
- City, State, Zip Code: _____

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

☐ See attached page.

12. Grounds for Determining Unsecured Status and Avoidance of Junior Lien:

a. As of _____, the Property is subject to the following liens in the amounts specified securing the debt against the Property, which Debtor seeks to have treated as indicated:

i. _____ in the amount of \$ _____

ii. _____ in the amount of \$ _____
☐ is ☐ is not to be avoided;

iii. _____ in the amount of \$ _____
☐ is ☐ is not to be avoided;

☐ See attached page for additional lien(s).

b. As of _____, Property is worth no more than \$_____.

c. As a result, Defendant's claim related to the Junior Lien on the Property is ☐ wholly ☐ partially unsecured.

13. Evidence in Support of Motion:

a. ☐ The amount of the 1st lien identified in paragraph 12(a)(i) is based on _____ attached and identified as Exhibit ____.

b. ☐ The amount of the 2nd lien identified in paragraph 12(a)(ii) is based on _____ attached and identified as Exhibit ____.

c. ☐ The amount of the 3rd lien identified in paragraph 12(a)(iii) is based on _____ attached and identified as Exhibit ____.

d. ☐ The relative priority of the liens encumbering the Property is established by evidence attached as Exhibit ____.

e. ☐ The value of the Property from paragraph 3(b) is based on _____ attached and identified as Exhibit ____.

f. ☐ Plaintiff submits the attached Declaration.

g. ☐ Other evidence (*specify*): _____.

14. **Plaintiff requests that this court issue an Order granting the following relief:**

- a. That the Property is valued at no more than \$ _____.
That Defendant's claim related to the Junior Lien shall be allowed as a non-priority general unsecured claim in the amount per the filed Proof of Claim.
- b. The avoidance of Defendant's Junior Lien is contingent upon
☐ Debtor's completion of the Chapter 13 Plan, or
☐ Debtor's receipt of a Chapter 13 discharge.
- c. Defendant will 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 Debtor's Chapter 13 case, the conversion of Debtor's Chapter 13 case to any other chapter under the United States Bankruptcy Code, or if the Property is sold or refinanced prior to:
☐ Debtor's completion of the Chapter 13 Plan, or
☐ Debtor's receipt of a Chapter 13 discharge.
- d. In the event that the holder of the first position lien or any senior lien on the Property forecloses on its interest and extinguishes Defendant's lien rights prior to: ☐ Debtor's completion of the Chapter 13 Plan, or ☐ Debtor's receipt of a Chapter 13 discharge, Defendant's lien will attach to the proceeds greater than necessary to pay the senior lien, if any, from the foreclosure sale.
- e. ☐ See attached continuation page for additional provisions.

Date: _____

Respectfully submitted,

Signature of Plaintiff or Attorney for Plaintiff

Printed name of Plaintiff or Attorney for Plaintiff

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: **PLAINTIFF'S (DEBTOR'S) MOTION FOR DEFAULT JUDGMENT RE COMPLAINT TO AVOID JUNIOR LIEN ON PRINCIPAL RESIDENCE [11 U.S.C. § 506(a),(d), FRBP 3012]** 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 U.S. MAIL, CERTIFIED MAIL OR OVERNIGHT MAIL (indicate method for each person or entity served):
 (Attached page to Proof of Service-please include any additional or alternative addresses and attach additional pages if needed)
 (Certified Mail required for service on a national bank.)

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

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

<i>Name of 3rd Lien Holder & 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: _____
<i>Name of 3rd Lien Holder - Agent for Service of Process</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: _____
<i>Name of 3rd Lien Holder – Servicing Agent</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: _____

<i>Alternative/Additional 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: _____
<i>Alternative/Additional 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: _____