Name of Attorney

Office Mailing Address

Telephone Number

Facsimile Number

E-Mail Address

State Bar I.D. Number

(Attorney for Debtor(s))

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF MONTANA

|  |  |
| --- | --- |
| IN RE:  , ,  Debtors. | Case No. **MOTION TO AVOID LIEN UNDER 11 U.S.C. § 522(f); AND NOTICE** |

Pursuant to Rule 4003(d), Fed. R. Bankr. P., and Mont. LBR 4003-4, the undersigned respectfully moves the Court to avoid the lien of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ on property of the Debtor’s estate pursuant to 11 U.S.C. § 522(f)(1) [(A) or (B)]. In support of its motion, the undersigned alleges as follows:

1. Name of creditor:
2. Type of lien: [Judicial; or nonpossessory, nonpurchase-money security interest]

[If judicial lien, set forth the cause number, title of the case, originating court, date of entry of judgment, and amount(s); and attach copies of judgment(s) or documents evidencing the lien.]

1. Description of property secured by the lien:
2. Market value of the Debtor's interest in the above-described property: $ \_\_\_\_\_\_\_\_\_\_\_
3. Statute(s) under which Debtor claims property as exempt:
4. For purposes of 11 U.S.C. § 522(f)(2)(A):
5. Amount of the lien: $\_\_\_\_\_\_\_\_\_\_\_\_\_\_
6. Description of other creditors and amounts of all other liens on the property and the respective priority of each:
7. Amount of exemption the Debtor could claim if no liens existed on the property: $\_\_\_\_\_\_\_\_\_\_.

WHEREFORE, the undersigned moves the Court to avoid the lien of the above-named Creditor pursuant to 11 U.S.C. § 522(f)(1) [(A) or (B)] on the ground that such lien impairs an exemption to which the Debtor is entitled under 11 U.S.C. § 522(b).

DATED this \_\_\_\_ day of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Name of attorney]

Attorney for Debtor

NOTICE OF OPPORTUNITY TO RESPOND

AND REQUEST A HEARING

If you object to the motion, you must file a written responsive pleading and request a hearing within fourteen (14) days of the date of the motion. The responding party shall schedule the hearing on the motion at least twenty-one (21) days after the date of the response and request for hearing and shall include in the caption of the responsive pleading in bold and conspicuous print the date, time and location of the hearing by inserting in the caption the following:

**NOTICE OF HEARING**

**Date:**

**Time:**

**Location:**

If no objections are timely filed, the Court may grant the relief requested as a failure to respond by any entity shall be deemed an admission that the relief requested should be granted.

DATED this \_\_\_\_ day of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Name of attorney]

Attorney for Debtor

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify under penalty of perjury that on the \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_, a copy of the foregoing was served by electronic means pursuant to LBR 9013-1(d)(2) on the parties noted in the Court’s ECF transmission facilities and/or by mail on the following parties:

See attached mailing matrix [Insert the name and address of each individual or entity served.]

\* The attached list will not be mailed out to creditors but will be on file with the United States Bankruptcy Court. A copy will be provided upon request.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Name of person certifying the mailing]

[Must comply with Mont. LBR 9013-1(d)(2), by reflecting the name and address of each party served, and by being signed “under penalty of perjury” and by identifying the document served. There need be no Certificate of Service if all parties being served will be served electronically via the Court’s CM/ECF system. Only the affected creditor, or its counsel, need also be served with this Motion.]