

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA/FORT MYERS DIVISIONS**

PROCEDURES AND FORMS FOR MOTIONS TO AVOID JUDICIAL LIENS

Pursuant to 11 U.S.C. § 522(f)(1), a lien on an individual debtor's exempt property may be avoided if it is: (a) a judicial lien, other than one that secures a debt of the kind specified in section 523(a)(5) [for a domestic support obligation]; or (b) a nonpossessory, nonpurchase-money security in certain listed items, including but not limited to household furnishings, professional tools of trade, or professionally prescribed health aids. See § 522(f)(1)(B) for a complete listing. This section does not apply to statutory liens, e.g., liens held by the Internal Revenue Service. The following procedures apply:

1. A motion to avoid judicial lien on exempt property may be filed on negative notice in accordance with Local Rule 2002-4.
2. The motion shall:
 - (i) Clearly identify the party that holds the lien sought to be avoided in both the title and the body of the motion;
 - (ii) Describe when and where the lien is recorded in the official records, i.e., book and page or judgment lien certificate document number;
 - (iii) Clearly identify the property that the debtor has claimed as exempt, including the legal description and street address of any real property and the VIN number of any vehicle;
 - (iv) Include on the first page of the motion the "negative notice" legend as it appears in Local Rule 2002-4, giving interested parties 21 days to file an objection/request for hearing;
 - (v) Certify proper service in accordance with Rule 7004. Note the requirement in Fed. R. Bankr. P. 7004(h) that depository institutions be served by certified mail; and
 - (vi) Be docketed in CM/ECF using the "Motion to Avoid Judicial Lien" docket event.
3. The motion and proposed order should conform to the samples attached hereto.

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
_____DIVISION

In re:

Case No. 8/9:00-bk-00000-XXX

JOHN DOE,

Chapter __

Debtor.*

**MOTION TO AVOID JUDICIAL LIEN
OF [LIEN HOLDER] ON EXEMPT PROPERTY**

NOTICE OF OPPORTUNITY TO OBJECT AND FOR HEARING
Pursuant to Local Rule 2002-4, the Court will consider this motion, objection, or other matter without further notice or hearing unless a party in interest files an objection within 21 days from the date this paper is entered on the docket. If you object to the relief requested in this paper, you must file your objection with the Clerk of the Court at __[address]__, and serve a copy on the movant's attorney, [name and address, and any other appropriate persons]. If you file and serve an objection within the time permitted, the Court may schedule a hearing and you will be notified. If you do not file an objection within the time permitted, the Court will consider that you do not oppose the granting of the relief requested in the paper, will proceed to consider the paper without further notice or hearing, and may grant the relief requested.

John Doe (the “Debtor”), by and through undersigned counsel, files this Motion to Avoid the Judicial Lien of [Lien Holder] and states as follows:

1. The Debtor filed a petition for relief under Chapter [**7 or 11 or 12 or 13**] of the Bankruptcy Code on [**petition date**].
2. The Debtor seeks to avoid the judicial lien of [**Lien Holder**] (the “Lien”) which was created by the filing of a [**judgment or judgment lien certificate**] on [**recording or filing**]

*All references to “Debtor” shall refer to both debtors in a case filed jointly by two individuals.

date] at [O.R. Book xxx, Page xxx or Document No. xx], of the [Public Records of [County, State] or the Florida Department of State Judgment Lien Registry].

3. The Lien impairs the following property, which is otherwise exempt under 11 U.S.C. § 522(f):

[Describe property, including legal description and street address of real property and VIN number of vehicle]

WHEREFORE, the Debtor respectfully requests that the Court enter an order avoiding the Lien and for such other and further relief as the Court deems appropriate.

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
_____ DIVISION

In re:

Case No. 8/9:00-bk-00000-XXX

JOHN DOE,

Chapter ____

Debtor.*

_____ /

**ORDER GRANTING MOTION TO AVOID
JUDICIAL LIEN OF [LIEN HOLDER] ON EXEMPT PROPERTY**

THIS CASE came on for consideration of the Motion to Avoid Judicial Lien of [**Lien Holder**] (the “Motion”) (Doc. No. xx) filed pursuant to the negative notice provisions of Local Rule 2002-4. The Court, considering the Motion and the absence of any record objection to the relief requested in the Motion by any party in interest, deems the Motion to be uncontested. Accordingly, it is

ORDERED:

The Motion is GRANTED.

1. Because the judicial lien of [**Lien Holder**], created by the recordation of a [**judgment or judgment lien certificate**] on [**recording or filing date**] at [**O.R. Book xxx, Page xxx or Document No. xx**], of the [**Public Records of [County, State] or the Florida Department of State Judgment Lien Registry**] impairs the Debtor’s [**exempt homestead property located at [street address] and legally described as:**

[legal description]

or [exempt property - describe property including VIN number of any vehicle], the Lien is hereby avoided pursuant to 11 U.S.C. § 522(f).

* All references to “Debtor” shall refer to both debtors in a case filed jointly by two individuals.

2. Unless the Debtor's bankruptcy case is dismissed, the Lien is hereby extinguished and shall not survive the bankruptcy nor affix to or remain enforceable against the Debtor's property described above.

DONE and **ORDERED** in Chambers at _____, Florida, on _____.

[Judge's Name]
United States Bankruptcy Judge