

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI

In re:)	
)	
Name of Debtor(s),)	Case No. _____
Movant/Debtor,)	
)	Chapter ____
vs.)	
)	
Name of Creditor,)	EXAMPLE – (sample dollar values
Serve:)	shown to illustrate partial lien avoidance
Name of Person to be Served)	calculation)
)	
Respondent/Creditor.)	

**NOTICE AND MOTION TO AVOID JUDICIAL LIEN
OF [NAME OF CREDITOR] ON REAL ESTATE**

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY.

YOU MUST FILE AND SERVE YOUR RESPONSE BY [DATE THAT IS 21 DAYS AFTER SERVICE]. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU.

IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING, THE DATE OF WHICH WILL BE SENT TO YOU IF YOU FILE A RESPONSE. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEYS.

1. [Name of debtor] (the “Debtor”) commenced this case on [date of petition] by filing a petition for relief under Chapter [chapter number] of the United States Bankruptcy Code.

2. This Court has jurisdiction under 28 U.S.C. § 1334 and E.D. Mo. L.R. 9.01 to avoid judicial liens on real property of the Debtor pursuant to 11 U.S.C. § 522(f).

3. On or about [date], [name of creditor] (the “Creditor”) obtained a judgment against the Debtor. The judgment was entered in a case styled [case caption, case number] in [court name, division, and location]. The amount of the judgment was \$ [dollar amount] plus court costs and attorneys’ fees.

4. [Complete this paragraph for a judgment entered by an associate circuit court in another county or in another state.] The judgment was transcribed on [date] in [case caption, case number] by filing a transcript of the judgment with the clerk of court for [court name, division].

5. The judgment and/or the transcription of judgment created a judicial lien on the Debtor’s real property located at [address of property and legal description (if available)] (the “Property”).

6. The fair market value of the Property owned by the Debtor and subject to the judicial lien is \$ [dollar amount].

7. The Debtor claims one or more exemptions in the Property in the amount of \$ [dollar amount].

8. At the time this bankruptcy case was filed, the Property was subject to consensual mortgage lien(s) and other liens in the amount of \$ [dollar amount].

9. At the time this bankruptcy case was filed, the Creditor’s judicial lien secured an indebtedness in the amount of \$ [dollar amount of the judgment as of petition date].

10. The Creditor’s judicial lien on the Property impairs the exemption(s) to which the Debtor would be entitled under 11 U.S.C. § 522(b). The applicable formula as set forth in *Kolich v. Antioch Laurel Veterinary Hospital Inc. (In re Kolich)*, 273 B.R. 199 (B.A.P. 8th Cir. 2002), *aff’d*, 328 F.3d 406 (8th Cir. 2003), is:

1	<i>Creditor’s judicial lien</i>	\$14,822.85
2	<i>All other liens</i>	\$140,000.00
3	<i>Debtor’s exemption(s)</i>	\$15,000.00
4	<u>Total</u> <i>(sum of boxes 1-3)</i>	<u>\$169,822.85</u>
5	<i>Fair market value of the Property absent liens</i>	\$165,000.00
6	<u>Extent of impairment</u> <i>(subtract box 5 from box 4)</i>	<u>\$4,822.85</u>

