

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address	FOR COURT USE ONLY
<input type="checkbox"/> Attorney for Plaintiff(s): <input type="checkbox"/> Plaintiff(s) appearing without attorney	
UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - _____ DIVISION	
In re:	CASE NO.: ADVERSARY NO.: CHAPTER:
Debtor(s).	
Plaintiff(s),	DEBTOR'S COMPLAINT TO AVOID JUNIOR LIEN ON PRINCIPAL RESIDENCE [11 U.S.C. § 506(a),(d); FRBP 3012]
vs.	
Defendant(s).	TO BE FILED CONCURRENTLY WITH LBR FORM F 7004-1 SUMMONS AND NOTICE OF STATUS CONFERENCE AND FORM B-104 ADVERSARY PROCEEDING COVER SHEET

NAME OF CREDITOR HOLDING JUNIOR LIEN (Defendant): _____

A. Introduction: This is an adversary proceeding brought by the Plaintiff, _____, in order to determine the value of a claim secured by a lien on principal residence of Plaintiff which the estate has an interest, and to avoid the junior deed of trust, mortgage or other encumbrance (Lien) of Defendant, pursuant to 11 U.S.C. § 506.

B. Jurisdiction: This adversary proceeding arises out of and is related to the above-captioned chapter 13 case now pending in United States Bankruptcy Court. The complaint involves a "core" proceeding pursuant to 28 U.S.C. § 157(b)(2). The court has jurisdiction in this adversary proceeding pursuant to 28 U.S.C. §§ 157, 1334; and General Order No. 266 of the United States District Court for the Central District of California.

This form is optional. It has been approved for use in the United States Bankruptcy Court for the Central District of California.

C. **Venue:** Venue for this adversary proceeding is proper in this court pursuant to 28 U.S.C. § 1409(a).

D. **General Allegations:**

1. **Property at Issue:** Plaintiff owns real property (Property), which is the principal residence of Plaintiff, described below, encumbered by a lien held by Defendant:

Street Address: _____

Unit Number: _____

City, State, Zip Code: _____

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

See attached page

2. **Grounds for 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 the Plaintiff 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 Lien on the Property is wholly partially unsecured.

E. **Claim For Relief:**

1. Pursuant to 11 U.S.C. § 506(a), Defendant's claim as of the date of filing is unsecured.
2. Pursuant to 11 U.S.C. § 506(d) the Defendant's Lien may be avoided.

F. **Wherefore, Plaintiff prays for the following:**

1. The Property is valued at no more than \$ _____.
2. The Defendant's claim related to the Lien shall be allowed as a non-priority general unsecured claim in the amount per the filed Proof of Claim.

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- 3. The avoidance of Defendant's Lien is contingent upon Debtor's completion of the chapter 13 plan, or Debtor's receipt of a chapter 13 discharge.
- 4. The Defendant 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 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.
- 5. 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,
- 6. 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

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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: **DEBTOR'S 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

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