

SAMPLE FORMS BOOKLET
WITH COMMENTARY

INTRODUCTION

This forms booklet was prepared by law clerk Steve Beckham under the direction and guidance of Judge Cook. It includes a number of form motions, notices, and orders, with commentaries including references to pertinent statutes and rules and, when appropriate, explanations as to how the forms are to be completed. **Note that this forms booklet is not an official forms manual adopted and approved by the judges of the court. Hence, there is no requirement that attorneys use these forms. This booklet is simply a guide that attorneys might find useful.**

If the forms are used, the user should incorporate the forms into a WordPerfect or Microsoft Word document with appropriate edits and language pertinent to a specific bankruptcy case or adversary proceeding typed in and filed with the court's electronic case filing system or uploaded to E-orders in pdf format. The forms are not to be completed and uploaded with handwritten inserts, interlineations, or notations.

The forms are numbered for reference only. The numbering system is as follows. The numbers for forms of motions (and similar papers) begin with the letter "M" and a hyphen; and the numbers for forms of orders begin with the letter "O" and a hyphen. Following the hyphen is a three-digit number. The first digit indicates that the form relates to a rule found within that part of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") or the Local Bankruptcy Rules of the United States Bankruptcy Court for the Eastern District of Tennessee (the "Local Rules"). For example, Sample Form M-301 has "3" as the first digit following the hyphen because it relates to a rule in Part 3 of the Bankruptcy Rules and the Local Rules (Fed. R. Bankr. P. 3007 and E.D. Tenn. LBR 3007-1). Many motions have two versions, such as one for when a hearing is set, and another version for when the court's passive notice procedure is employed. In that event, the number of each of the two versions has a letter suffix. Thus, Sample Form M-401P is a motion for relief from the automatic stay using the passive notice procedure while Sample Form M-401H is a motion for stay relief setting a hearing. Similarly, Sample Form M-201E is a motion for a Rule 2004 examination on an ex parte basis while Sample Form M-201H provides for a hearing on a Rule 2004 motion. Note, however, that, while there may be more than one form of motion (or objection or notice), there is usually only one form of order, as each order is designed to "work" with a motion (or objection or notice) irrespective of whether a hearing is conducted, the relief is granted by default under the

passive notice procedure, or the relief is granted on an ex parte basis. The numbers of sample form orders correlate with the numbers of sample form motions. Thus, Sample Form O-401 is a form order granting a motion for relief from the automatic stay (Sample Form M-401P or M-401H).

The forms (as part of this booklet) are available on the court's Web site in Adobe Acrobat (PDF) format. In addition, each form is available on the court's Web site in WordPerfect and Microsoft Word formats.

TABLE OF SAMPLE FORMS

Form No.	Description
M-201E	Motion for Rule 2004 examination (ex parte)
M-201H	Motion for Rule 2004 examination (hearing)
O-201D	Order authorizing Rule 2004 examination of debtor
O-201W	Order authorizing Rule 2004 examination of nondebtor witness
M-301P	Objection to claim (hearing)
M-301H	Objection to claim (passive notice)
O-301	Order disallowing claim
M-302	Motion to modify plan
M-401P	Motion for relief from stay regarding collateral (passive notice)
M-401H	Motion for relief from stay regarding collateral (hearing)
O-401	Order granting relief from stay regarding collateral
M-402	Debtor's motion to extend automatic stay (hearing)
O-402	Order granting debtor's motion to extend automatic stay
M-403	Motion to impose stay (hearing)
O-403	Order imposing stay
M-404P	Trustee's motion to prevent termination of automatic stay (passive notice)
M-404H	Trustee's motion to prevent termination of automatic stay (hearing)

TABLE OF SAMPLE FORMS (continued)

Form No.	Description
O-404	Order preventing termination of automatic stay
M-405P	Motion to avoid nonpossessory nonpurchase-money security interest (passive notice)
M-405H	Motion to avoid nonpossessory nonpurchase-money security interest (hearing)
O-405	Order avoiding nonpossessory nonpurchase-money security interest
M-406P	Motion to avoid judicial lien (passive notice)
M-406H	Motion to avoid judicial lien (hearing)
O-406	Order avoiding judicial lien
M-407A	Motion to enlarge time for filing reaffirmation agreements - first motion (ex parte)
M-407B	Motion to enlarge time for filing reaffirmation agreements - NOT first motion (ex parte)
O-407	Order granting motion to enlarge time for filing reaffirmation agreements
M-408	Motion for hardship discharge (hearing)
O-408A	Order granting motion for hardship discharge - Form 23 filed
O-408B	Order granting motion for hardship discharge - Form 23 NOT filed
M-601	Notice of proposed sale of property (passive notice)
O-601	Order authorizing sale of property

TABLE OF SAMPLE FORMS (continued)

Form No.	Description
M-602A	Motion to sell property free and clear (hearing)
M-602B	Notice of sale combined with motion to sell free and clear (hearing)
O-602A	Order authorizing sale free and clear (but not approving terms of sale)
O-602B	Order approving sale terms and authorizing sale free and clear
M-603	Motion to redeem (passive notice)
O-603	Order authorizing redemption

[Sample Form M-201E]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re:

_____)	
)	
	)	No. _____
Debtor(s)	)	Chapter ____
)	

MOTION FOR RULE 2004 EXAMINATION

_____ request(s) an order authorizing the
movant(s) to conduct a Rule 2004 examination, and makes the following representations in support
of this request:

1. The movant(s) seeks to examine _____.

2. The examination is needed to inquire into matters of the type described in Fed. R. Bankr.

P. 2004(b), including the following: _____

3. [Optional] The debtor shall be examined on _____, _____, at _____m.,
at _____.

4. [any additional pertinent allegations]

[insert attorney's name, office address,
telephone number, and bar number]

CERTIFICATE OF SERVICE

I certify that the foregoing paper will be served electronically on the entities specified in the Notice of Electronic Filing to be issued by the electronic case filing system. I further certify that the foregoing paper was served by mail on the following, at the following addresses, on this date [or] on _____, 20__:

[list of names and addresses of entities served by mail]

This the _____ day of _____, 20__.

[insert attorney's name, office address,
telephone number, and bar number]

[Sample Form M-201H]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re: _____ <p style="text-align: center;">Debtor(s)</p>))))))	No. _____ Chapter ____
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MOTION FOR RULE 2004 EXAMINATION

NOTICE OF HEARING

Notice is hereby given that:

A hearing will be held on this matter on _____, 20__, at _____.m.,
in Courtroom _____, _____ TN.

If you do not want the court to grant the relief requested, you or your attorney must attend this hearing. If you do not attend the hearing, the court may decide that you do not oppose the relief sought and may enter an order granting this motion.

_____ request(s) an order authorizing the
movant(s) to conduct a Rule 2004 examination, and makes the following representations in support
of this request:

1. The movant(s) seeks to examine _____.

2. The examination is needed to inquire into matters of the type described in Fed. R. Bankr.

P. 2004(b), including the following: _____

_____.

3. [Optional] The debtor shall be examined on _____, _____, at _____.m.,
at _____.

4. *[any additional pertinent allegations]*

[insert attorney's name, office address,
telephone number, and bar number]

CERTIFICATE OF SERVICE

I certify that the foregoing paper will be served electronically on the entities specified in the Notice of Electronic Filing to be issued by the electronic case filing system. I further certify that the foregoing paper was served by mail on the following, at the following addresses, on this date [*or*] on _____, 20__:

[list of names and addresses of entities served by mail]

This the _____ day of _____, 20__.

[insert attorney's name, office address,
telephone number, and bar number]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re:

_____)
)
)
Debtor(s))

No. _____
Chapter ____

ORDER

This case is before the court on a motion filed by _____
for a Rule 2004 examination of a/the debtor in the above-styled case. Because it appears that the
movant is entitled to the relief sought, it is hereby

ORDERED that the motion is granted. More specifically, it is ordered that the debtor/witness
shall appear on _____, _____, at _____ .m., at _____
_____ to be examined under Fed. R. Bankr. P. 2004.

###

APPROVED FOR ENTRY BY:

[insert name, office address, telephone number, and bar number]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re:

_____)
)
)
Debtor(s))
)

No. _____
Chapter ____

ORDER

This case is before the court on a motion for a Rule 2004 examination filed by _____ . Because it appears that the movant is entitled to the relief sought, it is hereby

ORDERED that the motion is granted. The attendance of the witness(es) for examination and for the production of documents may be compelled as provided in Rules 2004(c) and 9016 of the Federal Rules of Bankruptcy Procedure.

###

APPROVED FOR ENTRY BY:

[insert name, office address, telephone number, and bar number]

COMMENT ON SAMPLE FORMS M-201E, M-201H, O-201D, AND O-201W

Sample Form M-201E is designed for use when a motion for a Rule 2004 examination is filed on an ex parte basis as authorized by Local Rule 9013-1(g)(2)(iii). If a hearing is desired, Sample Form M-201H may be used instead. If Form M-201H is used, the hearing must be 20-40 days from the service of the motion. E.D. Tenn. LBR 9013-1(f)(2)(ii).

Bankruptcy Rule 2004(d) authorizes the court to order the examination of the debtor at a specific time or place. Accordingly, paragraph 3 of Forms M-201E and M-201H may (but need not be) completed when the person to be examined is a debtor in the case. Neither the motion nor the order should state the place or time of the examination of a nondebtor witness, as the court does not specify that information. Rather, the time and place of the examination may be included in a subpoena, if an agreement of counsel is not possible.

Sample Form O-201D may be completed and uploaded with the motion if the witness is the debtor and the movant wants the order to specify the time and place of the examination. The blank in the first sentence should be completed with the name of the movant. The blanks in the second paragraph should be completed with the date, time, and location of the examination. Sample Form O-201W may be completed and uploaded with the motion if the witness is not the debtor or if the movant does not want the order to specify the time and place of the examination.

[Sample Form M-301P]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re: _____)
)
) **No.** _____
) **Chapter** ____
Debtor(s))

OBJECTION TO CLAIM

NOTICE OF OPPORTUNITY TO OBJECT AND FOR HEARING

Pursuant to Local Rule 9013-1(h), the court may consider this matter without further notice or hearing unless a party in interest files an objection. If you object to the relief requested in this paper, you must file with the clerk of the court at _____ TN _____, an objection within 30 days from the date this objection to claim was filed and serve a copy on the objector's attorney, _____. If you file and serve an objection within the time permitted, the court will 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 this paper and may grant the relief requested without further notice or hearing.

_____ objects to the allowance of the claim identified below, and makes the following representations in support of this objection:

1. The claimant is _____ and the court's claim number is _____. The claim should be disallowed in its entirety *OR* to the following extent or in the following respect: _____.

2. The claim should be disallowed under 11 U.S.C. § 502(b)(____), because _____

3. If this objection is based (in whole or in part) on an assertion of fact that is not evident from the record, this objection is verified *OR* accompanied by a separate affidavit or declaration under penalty of perjury that sets forth the evidentiary basis for the objection.

4. [*any additional pertinent allegations*]

[insert attorney's name, office address,
telephone number, and bar number]

VERIFICATION

The undersigned declare(s) under penalty of perjury that the facts set forth in the foregoing Objection to Claim are true and correct.

[signature]

[date]

[signature]

[date]

CERTIFICATE OF SERVICE

I certify that the foregoing paper will be served electronically on the entities specified in the Notice of Electronic Filing to be issued by the electronic case filing system. I further certify that the

foregoing paper was served by mail on the following, at the following addresses, on this date [or]

on _____, 20__:

[list of names and addresses of entities served by mail]

This the ____ day of _____, 20__.

[insert attorney's name, office address,
telephone number, and bar number]

[Sample Form M-301H]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re:

)
)
)
Debtor(s))

No. _____
Chapter ____

OBJECTION TO CLAIM

NOTICE OF HEARING

Notice is hereby given that:

A hearing will be held on this matter on _____, 20__, at _____m.,
in Courtroom _____, _____ TN.

If you do not want the court to grant the relief requested, you or your attorney must attend this hearing. If you do not attend the hearing, the court may decide that you do not oppose the relief sought and may enter an order granting this motion.

_____ objects to the allowance of the claim identified

below, and makes the following representations in support of this objection:

1. The claimant is _____

and the court's claim number is _____. The claim should be disallowed in its entirety *OR*

to the following extent or in the following respect: _____

_____.

2. The claim should be disallowed under 11 U.S.C. § 502(b)(____), because _____

_____.

3. [Optional] This objection is verified *OR* accompanied by a separate affidavit or declaration under penalty of perjury that sets forth the evidentiary basis for the objection.

4. [any additional pertinent allegations]

[insert attorney's name, office address,
telephone number, and bar number]

VERIFICATION

The undersigned declare(s) under penalty of perjury that the facts set forth in the foregoing Objection to Claim are true and correct.

[signature]

[date]

[signature]

[date]

CERTIFICATE OF SERVICE

I certify that the foregoing paper will be served electronically on the entities specified in the Notice of Electronic Filing to be issued by the electronic case filing system. I further certify that the foregoing paper was served by mail on the following, at the following addresses, on this date [or] on _____, 20__:

[list of names and addresses of entities served by mail]

This the _____ day of _____, 20____.

[insert attorney's name, office address,
telephone number, and bar number]

[Sample Form O-301]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re:

_____)
)
)
Debtor(s))

No. _____
Chapter ____

ORDER DISALLOWING CLAIM

This case is before the court on an objection filed by _____
to the allowance of the claim of _____,
which has been assigned claim no. _____. Because it appears that the objector(s) is (are) entitled to
the relief sought, it is hereby

ORDERED that the objection is sustained. More specifically, it is ordered that the claim
identified above is disallowed [*or, if applicable*] disallowed to the extent that/of _____
_____.

###

APPROVED FOR ENTRY BY:

[insert name, office address, telephone number, and bar number]

COMMENT ON SAMPLE FORMS M-301P, M-301H, AND O-301

Sample Form M-301P is designed to be used to object to any claim in a case under any chapter when the objecting party wishes to utilize the passive notice procedure as authorized by Local Rule 9013-1(h)(1)(xi). Under Local Rule 9013-1(h)(3), the objection period for an objection to a claim is 30 days. Sample Form M-301H is designed to be used when the objecting party does not desire to utilize the passive notice procedure. The hearing must be 30-50 days from the service of the objection. E.D. Tenn. LBR 9013-1(f)(2)(ii)(A).

Paragraph 1 of either form of objection should include the creditor's name and the court's claim number – not the chapter 13 trustee's claim number. (This information should also be included in the docket entry when the objection is filed.) Paragraph 1 should also specify the extent to which the claim should be disallowed. For example, a debtor may seek disallowance only to the extent that the amount of the claim exceeds the amount stated in the schedules; or a trustee may not object to the amount of the claim but only to its characterization as a secured or priority claim. Paragraph 2 should specify the pertinent paragraph of 11 U.S.C. § 502(b) as well as an explanation of how the claim falls within that provision.

Regarding paragraph 3, a verification, affidavit, or unsworn declaration under penalty of perjury is optional when an objection to claim is set for hearing, because the objection may be substantiated by testimony at the hearing. However, Local Rule 3007-1(b) requires a verification, affidavit, or unsworn declaration under penalty of perjury when an objection to claim involving issues of fact is filed utilizing the passive notice procedure.

Sample Form O-301 may be completed and uploaded with either form of objection. The blanks in the first sentence should be completed with the

objecting party's and the creditor's names and the court's claim number – again, not the chapter 13 trustee's claim number. If the claim is to be disallowed in its entirety, the language following "is disallowed" should be deleted. On the other hand, if the claim is to be disallowed in part, the extent of the disallowance should be inserted on the blank line at the end of the second paragraph of the order.

[Sample Form M-302]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re:

Debtor(s)

No. _____
Chapter 13

MOTION TO MODIFY CHAPTER 13 PLAN

The debtor(s) request(s) an order confirming the modified chapter 13 plan attached hereto or filed herewith, and make(s) the following representations in support of this request:

1. The change(s) that the debtor(s) propose(s) to make to the chapter 13 plan previously confirmed in this case may be summarized as follows: _____

_____.

2. The reason(s) for such change(s) are as follows: _____

_____.

3. The modified plan would would not reduce plan payments. If the modified plan would reduce plan payments, amended Schedules I and J are being filed herewith.

4. A notice conforming to Local Form 3015.2 is being filed and served herewith.

5. *[any additional pertinent allegations]*

[insert attorney's name, office address,
telephone number, and bar number]

CERTIFICATE OF SERVICE

I certify that the foregoing paper will be served electronically on the entities specified in the Notice of Electronic Filing to be issued by the electronic case filing system. I further certify that the foregoing paper was served by mail on the following, at the following addresses, on this date *[or]* on _____, 20__:

[list of names and addresses of entities served by mail]

This the ____ day of _____, 20__.

[insert attorney's name, office address,
telephone number, and bar number]

COMMENT ON SAMPLE FORM M-302

This form includes neither a hearing notice nor passive notice language, because Local Rule 3015-2(a)(1)(iii) requires the scheduling of a meeting with the standing chapter 13 trustee that is comparable to the § 341(a) meeting of creditors conducted when the initial plan (or an amended plan) is filed. As indicated in paragraph 4 of the form, the notice of the trustee meeting must be prepared in the form of Local Form 3015.2, which is mandatory. E.D. Tenn. LBR 3015-2(a)(1)(iii).

The introductory clause of the form makes it clear that a modified plan must be filed with the motion in accordance with Local Rule 3015-2(a)(1)(ii). The information in paragraphs 1 and 2 of the motion is required by the sentence following clause (iv) in Local Rule 3015-2(a)(1). Paragraph 3 is derived from Local Rule 3015-2(a)(1)(iv), which requires amended Schedules I and J if the modification would reduce plan payments.

There is no sample form of order granting a motion to modify a plan, because the chapter 13 trustee prepares and uploads such orders since they are analogous to orders confirming plans. Thus, this type of motion is an exception to the general requirement that a proposed order be uploaded with every motion.

[Sample Form M-401P]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re:

)
)
)
Debtor(s))

No. _____
Chapter 7

MOTION FOR RELIEF FROM AUTOMATIC STAY
[optional] AND TO COMPEL ABANDONMENT

NOTICE OF OPPORTUNITY TO OBJECT AND FOR HEARING

Pursuant to Local Rule 9013-1(h), the court may consider this matter without further notice or hearing unless a party in interest files an objection. If you object to the relief requested in this paper, you must file with the clerk of the court at _____ TN _____, an objection within 14 days from the date this motion was filed and serve a copy on the movant's attorney, _____. If you file and serve an objection within the time permitted, the court will 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 this paper and may grant the relief requested without further notice or hearing.

_____ requests an order granting it relief from the automatic stay to enforce its rights against the collateral described below, [optional] that such order not be subject to the stay provided by Fed. R. Bankr. P. 4001(a)(3), and [optional] an order compelling the trustee to abandon the collateral, and makes the following representations in support of this request:

1. The unpaid balance of the claim secured by the collateral was \$ _____ as of the date of the filing of the petition commencing this case.

2. The collateral with respect to which relief from the stay is sought may be described as follows: _____.

3. The movant's good faith estimate of the value of the collateral is \$ _____.

4. Documents or pertinent excerpts of the documents evidencing the creation and perfection of the security interest are attached hereto *OR* listed in an attachment hereto, utilizing the Exhibit Summary Form (Local Form 9070.1) *OR* are summarized as follows: _____

_____.

5. The movant's interest in the collateral is not adequately protected, because _____
_____.

OR

there is other cause for relief from the stay, because _____
_____.

OR

the debtor(s) does not have an equity in the collateral and the collateral is not necessary to an effective reorganization.

6. [optional] The collateral is burdensome to the estate or is of inconsequential value and benefit to the estate.

7. [any additional pertinent allegations]

[insert attorney's name, office address,
telephone number, and bar number]

CERTIFICATE OF SERVICE

I certify that the foregoing paper, along with copies of the documents or pertinent excerpts of the documents evidencing the creation and perfection of the security interest, will be served electronically on the entities specified in the Notice of Electronic Filing to be issued by the electronic case filing system. I further certify that the foregoing paper, along with copies of the documents or pertinent excerpts of the documents evidencing the creation and perfection of the security interest, was served by mail on the following, at the following addresses, on this date [or] on _____, 20__:

[list of names and addresses of entities served by mail]

This the _____ day of _____, 20__.

[insert attorney's name, office address,
telephone number, and bar number]

[Sample Form M-401H]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re:

)	
)	
	)	No. _____
Debtor(s)	)	Chapter ____
)	

MOTION FOR RELIEF FROM AUTOMATIC STAY
[optional] AND TO COMPEL ABANDONMENT

NOTICE OF HEARING

Notice is hereby given that:

A hearing will be held on this matter on _____, 20__, at _____.m.,
in Courtroom _____, _____ TN.

If you do not want the court to grant the relief requested, you or your attorney must attend this hearing. If you do not attend the hearing, the court may decide that you do not oppose the relief sought and may enter an order granting this motion.

_____ requests an order granting it relief from the automatic stay to enforce its rights against the collateral described below, [optional] that such order not be subject to the stay provided by Fed. R. Bankr. P. 4001(a)(3), and [optional] an order compelling the trustee to abandon the collateral, and makes the following representations in support of this request:

1. The unpaid balance of the claim secured by the collateral was \$ _____ as of the date of the filing of the petition commencing this case.

2. The collateral with respect to which relief from the stay is sought may be described as follows: _____.

3. The movant's good faith estimate of the value of the collateral is \$_____.

4. Documents or pertinent excerpts of the documents evidencing the creation and perfection of the security interest are attached hereto *OR* listed in an attachment hereto, utilizing the Exhibit Summary Form (Local Form 9070.1) *OR* are summarized as follows: _____

_____.

5. The movant's interest in the collateral is not adequately protected, because _____
_____.

OR

there is other cause for relief from the stay, because _____
_____.

OR

the debtor(s) does not have an equity in the collateral and the collateral is not necessary to an effective reorganization.

6. [*optional*] The collateral is burdensome to the estate or is of inconsequential value and benefit to the estate.

7. [*any additional pertinent allegations*]

[insert attorney's name, office address,
telephone number, and bar number]

CERTIFICATE OF SERVICE

I certify that the foregoing paper, along with copies of the documents or pertinent excerpts of the documents evidencing the creation and perfection of the security interest, will be served electronically on the entities specified in the Notice of Electronic Filing to be issued by the electronic case filing system. I further certify that the foregoing paper, along with copies of the documents or pertinent excerpts of the documents evidencing the creation and perfection of the security interest, was served by mail on the following, at the following addresses, on this date [or] on _____, 20__:

[list of names and addresses of entities served by mail]

This the ____ day of _____, 20__.

[insert attorney's name, office address,
telephone number, and bar number]

###

APPROVED FOR ENTRY BY:

[insert name, office address, telephone number, and bar number]

COMMENT ON SAMPLE FORMS M-401P, M-401H, AND O-401

Sample Form M-401P is designed for use in seeking relief from the stay with respect to collateral in a case under chapter 7 when the movant wishes to utilize the passive notice procedure. Under Local Rule 9013-1(h)(1)(i) the passive notice procedure may be used only in chapter 7 cases, so the caption specifies that the case is a chapter 7 case. Under Local Rule 9013-1(h)(3)(i), the objection period for a motion for relief from the automatic stay or to compel abandonment in a chapter 7 case is 14 days.

Sample Form M-401H is designed to be used to seek stay relief with respect to collateral in a case (1) under any chapter, if the movant does not desire to utilize the passive notice procedure, or (2) in which the passive notice procedure is not available. Thus, Form M-401H may be used in chapter 11, 12, or 13 cases, and may also be used in chapter 7 cases if the movant wants to set the matter for hearing. Regarding the notice of hearing, the hearing must be scheduled 21-40 days after service of the motion and notice in a chapter 11, 12, or 13 case, but may be scheduled as soon as 14 days off in a chapter 7 case. E.D. Tenn. LBR 9013-1(f)(2)(ii), (ii)(B).

The first optional phrase in the introductory clause of either form motion may be included if the movant desires to take action against the collateral immediately upon the entry of the order granting the motion. The second optional phrase in the introductory clause and paragraph 5 may be included if the movant seeks abandonment of the collateral, as well as relief from the stay. There is no sample form of motion to compel abandonment and no sample form of order compelling abandonment, but these forms could serve

as a guide in the event that abandonment (but not relief from the stay) is desired. Note that, under Local Rule 9013-1(h)(1)(viii), a motion to compel abandonment may utilize the passive notice procedure in a case under any chapter.

The information to be inserted in paragraphs 1, 2, and 3 of the motion forms is required in chapter 7 cases by Local Rule 4001-1(a)(1)(i), (ii), and (iii), respectively. The information to be provided in paragraph 4 is required in chapter 7 cases by Local Rule 4001-1(a)(2). Note that, as indicated in the certificate of service, Local Rule 4001-1(a)(2) requires copies of the supporting documentation to be served with the motion even if only a summary or list of the documents is included in or attached to the motion. Paragraph 5 sets forth the statutory grounds for stay relief under 11 U.S.C. § 362(d)(1) and (2), and the movant should mark the appropriate box(es) or simply delete the irrelevant clause.

Because Bankruptcy Rule 4001(a)(1) incorporates Rule 9014, mail service of a motion for relief from the stay must be sent in accordance with Bankruptcy Rule 7004(b). Note that mail service on a debtor requires mailing both to the debtor's attorney and directly to the debtor. Fed. R. Bankr. P. 7004(b)(9). While service in a chapter 7 or 13 case would normally include only the trustee, the debtor, and the debtor's attorney, service in a chapter 11 case must also include any unsecured creditors committee or, if no such committee has been appointed, the creditors included on the list filed pursuant to Bankruptcy Rule 1007(d). Fed. R. Bankr. P. 4001(a)(1).

Sample Form O-401 may be completed and uploaded with either form of motion. The blank in the first sentence should be completed with the name of the movant. The first optional sentence in the second paragraph may be included if the movant desires to take action against the collateral immediately upon the entry of the order. If the movant does not seek to compel abandonment, as well as relief from the automatic stay, the last phrase of the first sentence of the form and the last sentence of the form should be deleted or stricken.

[Sample Form M-402]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re:

_____)
)
)
Debtor(s))

No. _____
Chapter ____

MOTION TO EXTEND AUTOMATIC STAY

NOTICE OF HEARING

Notice is hereby given that:

A hearing will be held on this matter on _____, 20__, at _____m.,
in Courtroom _____, _____ TN.

If you do not want the court to grant the relief requested, you or your attorney must attend this hearing. If you do not attend the hearing, the court may decide that you do not oppose the relief sought and may enter an order granting this motion.

Pursuant to 11 U.S.C. § 362(c)(3)(B), the debtor(s) request(s) an order extending the automatic stay, and make(s) the following representations in support of this request:

1. There was one case of the debtor(s) previous to this case that was pending within the year preceding the commencement of this case but the previous case was dismissed. The case number of the previous case was ____ - _____. The reason for the dismissal was _____

_____.

2. The debtor(s) seek(s) the continuation of the stay against all creditors *OR* the following creditors: _____

_____.

3. This case was commenced in good faith, as shown by the following facts: _____

_____.

4. [*any additional pertinent allegations*]

[insert attorney's name, office address,
telephone number, and bar number]

VERIFICATION
[*optional*]

The undersigned declare(s) under penalty of perjury that the facts set forth in the foregoing motion are true and correct.

[*signature*]

[*date*]

[*signature*]

[*date*]

CERTIFICATE OF SERVICE

I certify that the foregoing paper will be served electronically on the entities specified in the Notice of Electronic Filing to be issued by the electronic case filing system. I further certify that the foregoing paper was served by mail on the following, at the following addresses, on this date [or] on _____, 20__:

[list of names and addresses of entities served by mail]

This the ____ day of _____, 20__.

[insert attorney's name, office address,
telephone number, and bar number]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re:

_____)
)
)
Debtor(s))

No. _____
Chapter ____

ORDER EXTENDING AUTOMATIC STAY UPON MOTION BY DEBTOR(S)

This case is before the court on the motion of the debtor(s) to extend the automatic stay. After conducting a hearing on the motion, the court finds that this case was commenced in good faith. Accordingly, it is hereby

ORDERED that the automatic stay shall continue in this case until further order of the court or until it expires by operation of law, effective as to all creditors [*or, if applicable*] the following creditors: _____

_____.

###

APPROVED FOR ENTRY BY:

[insert name, office address, telephone number, and bar number]

COMMENT ON SAMPLE FORMS M-402 AND O-402

Local Rule 9013-1(h) does not authorize the use of the passive notice procedure for motions to extend the automatic stay, so a hearing must be set on 21-40 days' notice. E.D. Tenn. LBR 9013-1(f)(2)(ii). Note that § 362(c)(3)-(B) requires that the hearing on a motion to extend the stay be completed within 30 days after the petition was filed. Thus, motions to extend the stay should be filed contemporaneously with the filing of the petition. The information to be inserted in paragraphs 1, 2, and 3 of the motion form is required by Local Rule 4001-2(b)(1)(ii), (i), and (iii), respectively. Note that, if the presumption of a lack of good faith arises, the presumption must be rebutted by clear and convincing evidence. 11 U.S.C. § 362(c)(3)(C).

Although the form indicates that the verification is optional, some judges require a verification, affidavit, or unsworn declaration under penalty of perjury. In addition, the verification (even if not required by the judge) may obviate the need for the debtor to testify at the hearing, at least if there is no opposition to the motion.

Sample Form O-402 may be completed and uploaded with the motion. Under Local Rule 4001-2(b)(3), the order, as well as the motion, must specify which creditors are proposed to be affected by the extension of the stay.

[Sample Form M-403]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re:

)	
)	
	)	No. _____
Debtor(s)	)	Chapter ____
)	

MOTION TO IMPOSE STAY

NOTICE OF HEARING

Notice is hereby given that:

A hearing will be held on this matter on _____, 20__, at _____.m.,
in Courtroom _____, _____ TN.

If you do not want the court to grant the relief requested below, you or your attorney must attend this hearing. If you do not attend the hearing, the court may decide that you do not oppose the relief sought and may enter an order granting this motion.

Pursuant to 11 U.S.C. § 362(c)(4)(B), the debtor(s) request(s) an order imposing a stay, and make(s) the following representations in support of this request:

1. Two or more cases of the debtor(s) were pending within the year preceding the commencement of this case but were dismissed. The numbers of the previous cases and the reasons for their dismissal are as follows:

Case No.	Reason for Dismissal

2. The debtor(s) seek(s) the imposition of the stay against all creditors *OR* the following creditors: _____

_____.

3. This case was commenced in good faith. Although the case was presumptively filed not in good faith, the debtor(s) can present clear and convincing evidence of the following facts rebutting the presumption: _____

_____.

4. [*any additional pertinent allegations*]

 [insert attorney's name, office address,
 telephone number, and bar number]

VERIFICATION
[optional]

The undersigned declare(s) under penalty of perjury that the facts set forth in the foregoing motion are true and correct.

[signature]

[date]

[signature]

[date]

CERTIFICATE OF SERVICE

I certify that the foregoing paper will be served electronically on the entities specified in the Notice of Electronic Filing to be issued by the electronic case filing system. I further certify that the foregoing paper was served by fax e-mail another method effecting immediate receipt (_____) on the following, at the following fax numbers, e-mail addresses, or addresses on this date [or] on _____, 20__:

[list of names, fax numbers, e-mail addresses, or addresses of entities served]

This the ____ day of _____, 20__.

[insert attorney's name, office address,
telephone number, and bar number]

[Sample Form O-403]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re:

Debtor(s)

No. _____
Chapter ____

ORDER IMPOSING STAY

This case is before the court on the motion of the debtor(s) to impose a stay pursuant to 11 U.S.C. § 362(c)(4)(B). After conducting a hearing on the motion, the court finds that this case was commenced in good faith. Accordingly, it is hereby

ORDERED that the stay of 11 U.S.C. § 362(a) is imposed, effective on the date of the entry of this order. The stay shall be effective as to all creditors [*or, if applicable*] the following creditors:

_____.

###

APPROVED FOR ENTRY BY:

[insert name, office address, telephone number, and bar number]

COMMENT ON SAMPLE FORMS M-403 AND O-403

Local Rule 9013-1(h) does not authorize the use of the passive notice procedure for motions to impose a stay. However, Rule 4001-2(a)(2) authorizes the setting of a hearing on as little as seven days' notice without permission from the court or on less than seven days' notice with the court's permission. If the hearing is set on less than ten days' notice, the court will determine at the hearing whether the notice and opportunity for hearing were appropriate in the particular circumstances. E.D. Tenn. LBR 4001-2(a)(4). Regarding the required methods of service of a motion to impose the stay, see Local Rule 4001-2(a)(4).

The information to be inserted in paragraphs 1, 2, and 3 of the motion form is required by Local Rule 4001-2(a)(1)(ii), (i), and (iii), respectively. Note that there will always be a presumption of a lack of good faith when a motion to impose a stay (as opposed to a motion to extend the automatic stay) is filed, so the presumption must be rebutted by clear and convincing evidence.

Although the form indicates that the verification is optional, some judges require a verification, affidavit, or unsworn declaration under penalty of perjury. In addition, the verification (even if not required by the judge) may obviate the need for the debtor to testify at the hearing if no creditor or other party in interests objects.

Sample Form O-403 may be completed and uploaded with the motion. Under Local Rule 4001-2(a)(3), the order, as well as the motion, must specify which creditors are proposed to be affected by the extension of the stay.

[Sample Form M-404P]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re:

)
)
)
Debtor(s))

No. _____
Chapter 7

TRUSTEE'S MOTION TO EXTEND AUTOMATIC STAY

NOTICE OF OPPORTUNITY TO OBJECT AND FOR HEARING

Pursuant to Local Rule 9013-1(h), the court may consider this matter without further notice or hearing unless a party in interest files an objection. If you object to the relief requested in this paper, you must file with the clerk of the court at _____ TN _____, an objection within 21 days from the date this motion was filed and serve a copy on the movant's attorney, _____ . If you file and serve an objection within the time permitted, the court will 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 this paper and may grant the relief requested without further notice or hearing.

Pursuant to paragraph (2) of 11 U.S.C. § 362(h)(2) the trustee requests an order (i) extending the automatic stay, (ii) that the collateral described below remain property of the estate, (iii) providing appropriate adequate protection of the interest in such property, if any, held by the creditor identified below, and (iv) directing the debtor(s) to deliver any such collateral in the possession of the debtor(s) to the trustee. The trustee makes the following representations in support of this request:

1. The debtor(s) is an individual whose schedule of liabilities includes a debt secured by personal property of the estate, namely: _____.

2. The security interest in such personal property is held or asserted by _____
_____.

3. The trustee believes that the debtor(s) may fail to file a statement of intention with respect to the retention or surrender of such property in accordance with 11 U.S.C. § 521(a)(2)(A) within 30 days after the date of the filing of the petition *OR* to perform the stated intention with respect to such property in accordance with 11 U.S.C. § 521(a)(2)(B) within 30 days after the first date set for the meeting of creditors.

4. This motion is being filed before the applicable deadline specified in paragraph 2.

5. The personal property described above is of consequential value or benefit to the estate.

6. The interest of the creditor identified above in such property is receiving or may be accorded appropriate adequate protection by _____
_____.

7. [*any additional pertinent allegations*]

[insert attorney's name, office address,
telephone number, and bar number]

CERTIFICATE OF SERVICE

I certify that the foregoing paper will be served electronically on the entities specified in the Notice of Electronic Filing to be issued by the electronic case filing system. I further certify that the foregoing paper was served by mail on the following, at the following addresses, on this date [or] on _____, 20__:

[list of names and addresses of entities served by mail]

This the _____ day of _____, 20__.

[insert attorney's name, office address,
telephone number, and bar number]

[Sample Form M-404H]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re:

_____)
)
)
Debtor(s))

No. _____
Chapter 7

TRUSTEE'S MOTION TO EXTEND AUTOMATIC STAY

NOTICE OF HEARING

Notice is hereby given that:

A hearing will be held on this matter on _____, 20__, at _____.m.,
in Courtroom _____, _____ TN.

If you do not want the court to grant the relief requested, you or your attorney must attend this hearing. If you do not attend the hearing, the court may decide that you do not oppose the relief sought and may enter an order granting this motion.

Pursuant to paragraph (2) of 11 U.S.C. § 362(h)(2) the trustee requests an order (i) extending the automatic stay, (ii) that the collateral described below remain property of the estate, (iii) providing appropriate adequate protection of the interest in such property, if any, held by the creditor identified below, and (iv) directing the debtor(s) to deliver any such collateral in the possession of the debtor(s) to the trustee. The trustee makes the following representations in support of this request:

1. The debtor(s) is an individual whose schedule of liabilities includes a debt secured by personal property of the estate, namely: _____.

2. The security interest in such personal property is held or asserted by _____

_____.

3. The trustee believes that the debtor(s) may fail to file a statement of intention with respect to the retention or surrender of such property in accordance with 11 U.S.C. § 521(a)(2)(A) within 30 days after the date of the filing of the petition *OR* to perform the stated intention with respect to such property in accordance with 11 U.S.C. § 521(a)(2)(B) within 30 days after the first date set for the meeting of creditors.

4. This motion is being filed before the applicable deadline specified in paragraph 2.

5. The personal property described above is of consequential value or benefit to the estate.

6. The interest of the creditor identified above in such property is receiving or may be accorded appropriate adequate protection by _____

_____.

7. [*any additional pertinent allegations*]

[insert attorney's name, office address,
telephone number, and bar number]

CERTIFICATE OF SERVICE

I certify that the foregoing paper will be served electronically on the entities specified in the Notice of Electronic Filing to be issued by the electronic case filing system. I further certify that the foregoing paper was served by mail on the following, at the following addresses, on this date [*or*] on _____, 20__:

[list of names and addresses of entities served by mail]

This the _____ day of _____, 20____.

[insert attorney's name, office address,
telephone number, and bar number]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re:

_____)
)
)
Debtor(s))

No. _____
Chapter 7

ORDER EXTENDING AUTOMATIC STAY UPON MOTION BY TRUSTEE

This case is before the court on the Trustee's Motion to Extend Automatic Stay. After conducting a hearing on the motion, the court finds that the personal property described in the motion is of consequential value or benefit to the estate. Accordingly, it is hereby

ORDERED that the trustee's motion is granted. More particularly, it is ordered that 11 U.S.C. § 362(h)(1) does not apply. More particularly, it is ordered that the automatic stay shall not terminate with respect to _____ and that such property shall remain property of the estate until further order of the court. It is further ordered that the interest of _____ in such property, if any, is receiving or

will receive appropriate adequate protection as explained in the motion. It is further ordered that the debtor(s) shall deliver to the trustee any such property in the possession of the debtor(s).

###

APPROVED FOR ENTRY BY:

[insert name, office address, telephone number, and bar number]

COMMENT ON SAMPLE FORMS M-404P, M-404H, AND O-404

Section 362(h)(1) of the Bankruptcy Code provides that the automatic stay terminates and the collateral is no longer property of the estate if the debtor in a chapter 7 case fails on a timely basis either to file a statement of intention with respect to personal property subject to a security interest or to perform the stated intention. (Note that this provision applies to personal property only.) Upon the timely motion of the trustee and a showing that the property is of consequential value or benefit to the estate, however, the court may order that § 362(h)(1) does not apply. 11 U.S.C. § 362(h)(2).

Sample Form M-404P is designed to be used when the trustee wishes to utilize the passive notice procedure as authorized by Local Rule 9013-1(h)(1)(xviii). Sample Form M-404H is designed to be used when the trustee does not desire to utilize the passive notice procedure. Regarding the notice of hearing, the hearing must be scheduled 21-40 days after service of the motion and notice. E.D. Tenn. LBR 9013-1(f)(2)(ii).

The collateral is to be described in paragraph 1 of either form motion and the secured creditor identified in paragraph 2. Paragraph 3 should be marked to indicate the reason the trustee is concerned that § 362(h)(1) will become effective, and paragraphs 4 and 5 state the condition(s) and ground(s) upon which the court may order the provision inapplicable.

Sample Form O-404 may be completed and uploaded with either form of motion. The first blank should be completed with a description of the personal property, and the second blank should be completed with the name of the secured creditor.

[Sample Form M-405P]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re: _____)
)
) **No.** _____
) **Chapter** ____
Debtor(s))

**MOTION TO AVOID NONPOSSESSORY, NON-
PURCHASE-MONEY SECURITY INTEREST**

NOTICE OF OPPORTUNITY TO OBJECT AND FOR HEARING

Pursuant to Local Rule 9013-1(h), the court may consider this matter without further notice or hearing unless a party in interest files an objection. If you object to the relief requested in this paper, you must file with the clerk of the court at _____ TN _____, an objection within 21 days from the date this motion was filed and serve a copy on the movant's attorney, _____ . If you file and serve an objection within the time permitted, the court will 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 this paper and may grant the relief requested without further notice or hearing.

The debtor(s) request(s) an order avoiding the security interest described below, and makes the following representations in support of this request:

1. The security interest is held by _____, and secures a debt in the amount of \$_____. The security interest is a nonpossessory, nonpurchase-money security interest.

2. The security interest encumbers property of a type listed in 11 U.S.C. § 522(f)(1)(B), which may be identified as follows: _____

_____.

3. The property has been claimed as fully exempt.

OR

The fair market value of the property is \$_____ and the property has been claimed as exempt to the extent of \$_____.

4. Accordingly, the security interest impairs the exemption in the property [*if applicable*] to the extent of \$_____ [the amount of the security interest, less the difference between the two amounts stated in paragraph 3].

5. [*any additional pertinent allegations*]

[insert attorney's name, office address,
telephone number, and bar number]

CERTIFICATE OF SERVICE

I certify that the foregoing paper will be served electronically on the entities specified in the Notice of Electronic Filing to be issued by the electronic case filing system. I further certify that the foregoing paper was served by mail on the following, at the following addresses, on this date [*or*] on _____, 20__:

[*list of names and addresses of entities served by mail*]

This the _____ day of _____, 20__.

[insert attorney's name, office address,
telephone number, and bar number]

[Sample Form M-405H]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re: _____ <p style="text-align: center;">Debtor(s)</p>)))))	No. _____ Chapter ____
---	-----------------------	---

**MOTION TO AVOID NONPOSSESSORY, NON-
PURCHASE-MONEY SECURITY INTEREST**

NOTICE OF HEARING

Notice is hereby given that:
A hearing will be held on this matter on _____, 20__, at _____.m.,
in Courtroom _____, _____ TN.

If you do not want the court to grant the relief requested, you or your attorney must attend this hearing. If you do not attend the hearing, the court may decide that you do not oppose the relief sought and may enter an order granting this motion.

The debtor(s) request(s) an order avoiding the security interest described below, and makes the following representations in support of this request:

1. The security interest is held by _____, and secures a debt in the amount of \$_____. The security interest is a nonpossessory, nonpurchase-money security interest.

2. The security interest encumbers property of a type listed in 11 U.S.C. § 522(f)(1)(B), which may be identified as follows: _____

3. The property has been claimed as fully exempt.

OR

The fair market value of the property is \$_____ and the property has been claimed as exempt to the extent of \$_____.

4. Accordingly, the security interest impairs the exemption in the property [*if applicable*] to the extent of \$_____ [the amount of the security interest, less the difference between the two amounts stated in paragraph 3].

5. [*any additional pertinent allegations*]

[insert attorney's name, office address,
telephone number, and bar number]

CERTIFICATE OF SERVICE

I certify that the foregoing paper will be served electronically on the entities specified in the Notice of Electronic Filing to be issued by the electronic case filing system. I further certify that the foregoing paper was served by mail on the following, at the following addresses, on this date [*or*] on _____, 20__:

[list of names and addresses of entities served by mail]

This the _____ day of _____, 20__.

[insert attorney's name, office address,
telephone number, and bar number]

[Sample Form O-405]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re:

_____)	
)	
	)	No. _____
Debtor(s)	)	Chapter ____
)	

**ORDER AVOIDING NONPOSSESSORY, NON-
PURCHASE-MONEY SECURITY INTEREST**

This case is before the court on a motion by the debtor(s) to avoid a nonpossessory, nonpurchase-money security interest held by _____ in personal property of a type listed in 11 U.S.C. § 522(f)(1)(B). It appears that the movant(s) is (are) entitled to the relief sought. Accordingly, it is hereby

ORDERED that the motion is granted. More specifically, it is ordered that the fixing of the security interest described in the motion on the property described in the motion is hereby avoided [*whichever is applicable*] in its entirety [*or*] to the extent of \$_____..

###

APPROVED FOR ENTRY BY:

[insert name, office address, telephone number, and bar number]

COMMENT ON SAMPLE FORMS M-405P, M-405H, AND O-405

Sample Form M-405P is designed to be used to seek the avoidance of a nonpossessory, nonpurchase-money security interest in household goods or any of the other types of collateral listed in 11 U.S.C. § 522(f)(1)(B) when the movant does wish to utilize the passive notice procedure made available by Local Rule 9013-1(h)(1)(iii). The objection period is 21 days. E.D. Tenn. LBR 9013-1(h)(3). Sample Form M-405H is designed to be used when the movant does not desire to utilize the passive notice procedure. The hearing must be 21-40 days from the service of the motion. E.D. Tenn. LBR 9013-1(f)(2)(ii).

The name of the secured creditor and the amount of the debt should be inserted in paragraph 1 of either form of motion. The collateral should be described in paragraph 2, which also alleges that the collateral is of one of the types listed in the statute. In most cases, the first box in paragraph 3 should be marked. However, if the property is not claimed as exempt in its entirety, the second box should be marked and the value of the collateral and amount of the exemption should be inserted. In most cases, the last phrase of paragraph 4 should be omitted; however, if the property is not claimed as exempt in its entirety, the blank in paragraph 4 should be completed.

Because Bankruptcy Rule 4003(d) incorporates Rule 9014, mail service of a motion to avoid a nonpossessory, nonpurchase-money security interest must be sent in accordance with Bankruptcy Rule 7004(b).

Sample Form O-405 may be completed and uploaded with either form of motion. The secured creditor's name should be inserted in the first blank. In most cases, the last phrase of the order should be omitted or stricken. However, if the property is not claimed as exempt in its entirety, the amount

stated in paragraph 4 of the sample form motion may be inserted in the last phrase.

[Sample Form M-406P]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re: _____ <p style="text-align: center;">Debtor(s)</p>)))))	No. _____ Chapter ____
---	-----------------------	---

MOTION TO AVOID JUDICIAL LIEN

NOTICE OF OPPORTUNITY TO OBJECT AND FOR HEARING

Pursuant to Local Rule 9013-1(h), the court may consider this matter without further notice or hearing unless a party in interest files an objection. If you object to the relief requested in this paper, you must file with the clerk of the court at _____ TN _____, an objection within 21 days from the date this motion was filed and serve a copy on the movant’s attorney, _____.

If you file and serve an objection within the time permitted, the court will 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 this paper and may grant the relief requested without further notice or hearing.

The debtor(s) request(s) an order avoiding the judicial lien described below, and makes the following representations in support of this request:

1. The judicial lien is held by _____ and is in the amount of \$_____. The lien does not secure a “domestic support obligation” as defined by 11 U.S.C. § 101(14A).

2. The judicial lien encumbers property that may be identified as follows: _____

3. The property has been claimed as exempt to the extent of \$_____.

4. The fair market value of the property is \$_____.

5. The property is encumbered by the following liens (excluding liens that have been avoided), in addition to the judicial lien described above:

Lienholder	Nature of Lien	Amount of Lien

6. Thus, the total of the judicial lien (§ 1) plus the exemption (§ 3) plus the other unavoidable liens on the property (§ 5) is \$_____, and that amount exceeds the value of the interest in the property that the debtor(s) would hold in the absence of any liens (§ 4) by \$_____ (the “Impairment Amount”).

7. Accordingly, the judicial lien impairs the exemption in full, because the Impairment Amount is greater than or equal to the amount of the judicial lien (§ 1) *OR* to the extent of \$_____, because the Impairment Amount is less than the amount of the judicial lien (§ 1).

8. *[any additional pertinent allegations]*

[insert attorney’s name, office address,
telephone number, and bar number]

CERTIFICATE OF SERVICE

I certify that the foregoing paper will be served electronically on the entities specified in the Notice of Electronic Filing to be issued by the electronic case filing system. I further certify that the foregoing paper was served by mail on the following, at the following addresses, on this date [or] on _____, 20__:

[list of names and addresses of entities served by mail]

This the ____ day of _____, 20__.

[insert attorney's name, office address,
telephone number, and bar number]

[Sample Form M-406H]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re:

)	
)	
	)	No. _____
Debtor(s)	)	Chapter ____
)	

MOTION TO AVOID JUDICIAL LIEN

NOTICE OF HEARING

Notice is hereby given that:

A hearing will be held on this matter on _____, 20__, at _____m.,
in Courtroom _____, _____ TN.

If you do not want the court to grant the relief requested, you or your attorney must attend this hearing. If you do not attend the hearing, the court may decide that you do not oppose the relief sought and may enter an order granting this motion.

The debtor(s) request(s) an order avoiding the judicial lien described below, and makes the following representations in support of this request:

1. The judicial lien is held by _____ and is in the amount of \$_____. The lien does not secure a “domestic support obligation” as defined by 11 U.S.C. § 101(14A).

2. The judicial lien encumbers property that may be identified as follows: _____
_____.

3. The property has been claimed as exempt to the extent of \$_____.

4. The fair market value of the property is \$_____.

5. The property is encumbered by the following liens (excluding liens that have been avoided), in addition to the judicial lien described above:

Lienholder	Nature of Lien	Amount of Lien

6. Thus, the total of the judicial lien (¶ 1) plus the exemption (¶ 3) plus the other unavoidable liens on the property (¶ 5) is \$_____, and that amount exceeds the value of the interest in the property that the debtor(s) would hold in the absence of any liens (¶ 4) by \$_____ (the “Impairment Amount”).

7. Accordingly, the judicial lien impairs the exemption in full, because the Impairment Amount is greater than or equal to the amount of the judicial lien (¶ 1) *OR* to the extent of \$_____, because the Impairment Amount is less than the amount of the judicial lien (¶ 1).

8. *[any additional pertinent allegations]*

[insert attorney’s name, office address,
telephone number, and bar number]

CERTIFICATE OF SERVICE

I certify that the foregoing paper will be served electronically on the entities specified in the Notice of Electronic Filing to be issued by the electronic case filing system. I further certify that the

foregoing paper was served by mail on the following, at the following addresses, on this date [or]

on _____, 20__:

[list of names and addresses of entities served by mail]

This the ____ day of _____, 20__.

[insert attorney's name, office address,
telephone number, and bar number]

[Sample Form O-406]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re:

_____)
)
)
Debtor(s))

No. _____
Chapter ____

ORDER AVOIDING JUDICIAL LIEN

This case is before the court on a motion by the debtor(s) to avoid the judicial lien of _____
_____. It appears that the movant(s) is (are) entitled to the relief
sought. Accordingly, it is hereby

ORDERED that the motion is granted. More specifically, it is ordered that the fixing of the
judicial lien described in the motion on the property described in the motion is hereby avoided
[*whichever is applicable*] in its entirety [or] to the extent of \$_____.

###

APPROVED FOR ENTRY BY:

[insert name, office address, telephone number, and bar number]

COMMENT ON SAMPLE FORMS M-406P, M-406H, AND O-406

Sample Form M-406P is designed to be used to seek the avoidance of a judicial lien pursuant to 11 U.S.C. § 522(f)(1)(A) and Local Rule 4003-2 when the movant wishes to utilize the passive notice procedure made available by Local Rule 9013-1(h)(1)(ii). The objection period is 21 days. E.D. Tenn. LBR 9013-1(h)(3). Sample Form M-406H is designed for use when the movant does not desire to utilize the passive notice procedure. The hearing must be 21-40 days from the service of the motion. E.D. Tenn. LBR 9013-1(f)(2)(ii).

The information to be inserted in the first sentence of paragraph 1 of either form motion is required by Local Rule 4003-2(a)(1). The second sentence of that paragraph is derived from 11 U.S.C. § 522(f)(1)(A). The information to be inserted in paragraphs 2 and 4 is required by Local Rule 4003-2(a)(2). The information to be inserted in the chart in paragraph 5 is required by Local Rule 4003-2(a)(3). The amount of the exemption is to be inserted in paragraph 3 as required by Local Rule 4003-2(a)(4).

The computation set forth in paragraph 6 is derived from 11 U.S.C. § 522(f)(2)(A). If the amount of the judicial lien sought to be avoided is less than or equal to the "Impairment Amount" as defined in paragraph 6, the lien will be avoidable in its entirety and the first box in paragraph 7 should be marked. On the other hand, if the amount of the judicial lien is greater than the "Impairment Amount," the lien will only be avoidable to the extent of the "Impairment Amount" and the second box in paragraph 7 should be marked and the "Impairment Amount" should be inserted on the blank following that box.

Because Bankruptcy Rule 4003(d) incorporates Rule 9014, mail service of a motion to avoid a judicial lien must be sent in accordance with Bankruptcy Rule 7004(b).

Sample Form O-406 may be completed and uploaded with either form of motion. The secured creditor's name should be inserted in the first blank. If the amount of the judicial lien sought to be avoided is less than or equal to the "Impairment Amount" as defined in paragraph 6 of the sample form motion, the lien will be avoidable in its entirety and the last phrase of the order should be omitted. However, if the amount of the judicial lien is greater than the "Impairment Amount," the lien will only be avoidable to the extent of the "Impairment Amount" and that amount should be inserted in the last phrase of the order.

[Sample Form M-407A]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re: _____ <p style="text-align: center;">Debtor(s)</p>)))))	No. _____ Chapter 7
---	-----------------------	--------------------------------------

**FIRST MOTION TO ENLARGE TIME FOR
FILING REAFFIRMATION AGREEMENT(S)**

The debtor(s) request(s) that the court enlarge the time for filing one or more reaffirmation agreements in this case until _____, 20__, which is not more than 30 days after the deadline for filing reaffirmation agreements prescribed by Fed. R. Bankr. P. 4008(a), and make(s) the following representations in support of this request:

1. This is the first such motion made by the debtor(s).
2. *[any additional pertinent allegations]*

[insert attorney's name, office address,
telephone number, and bar number]

CERTIFICATE OF SERVICE

I certify that the foregoing paper will be served electronically on the entities specified in the Notice of Electronic Filing to be issued by the electronic case filing system. I further certify that the foregoing paper was served by mail on the following, at the following addresses, on this date *[or]* on _____, 20__:

[list of names and addresses of entities served by mail]

This the _____ day of _____, 20____.

[insert attorney's name, office address,
telephone number, and bar number]

procure the execution of each agreement are _____
_____.

OR

other grounds, namely _____

_____.

4. *[any additional pertinent allegations]*

[insert attorney's name, office address,
telephone number, and bar number]

CERTIFICATE OF SERVICE

I certify that the foregoing paper will be served electronically on the entities specified in the Notice of Electronic Filing to be issued by the electronic case filing system. I further certify that the foregoing paper was served by mail on the following, at the following addresses, on this date *[or]* on _____, 20__:

[list of names and addresses of entities served by mail]

This the ____ day of _____, 20__.

[insert attorney's name, office address,
telephone number, and bar number]

[Sample Form O-407]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re:

_____)
)
)
Debtor(s))

No. _____
Chapter 7

**ORDER ENLARGING TIME FOR FILING
REAFFIRMATION AGREEMENT(S)**

This case is before the court on a motion by the debtor(s) to enlarge the time for filing one or more reaffirmation agreements in this case. It appears that there is cause for such relief.

Accordingly, it is hereby

ORDERED that the motion is granted. The time for filing reaffirmation agreements in this case is enlarged through _____, 20____, and the Clerk is directed to delay entry of the discharge order in this case until after the expiration of that deadline.

###

APPROVED FOR ENTRY BY:

[insert name, office address, telephone
number, and bar number]

COMMENT ON SAMPLE FORMS M-407A, M-407B, AND O-407

Fed. R. Bankr. P. 4008(a) as amended effective December 1, 2008, to include a deadline for filing reaffirmation agreements of 60 days after the first date set for the meeting of creditors. It is not always possible to obtain signatures on and to file reaffirmation agreements by that deadline, so the rule provides that “[t]he court may, at any time and in its discretion, enlarge the time to file a reaffirmation agreement. Local Rule 4008-1 was promulgated to implement that provision, and these forms were designed to comply with that local rule.

A motion to enlarge the time for filing reaffirmation agreements may be filed on an ex parte basis, E.D. Tenn. LBR 9013-1(g)(2)(vi), and both sample form motions assume that attorneys will utilize that procedure. Sample Form M-407A is for use when making the first request for such an enlargement. Local Rule 4008-1(a) indicates that the first motion for a delay of not more than 30 days will ordinarily be granted without any showing. Sample Form M-407B may be used in making a second or subsequent request for an enlargement of the time for filing reaffirmation agreements.

The information to be inserted in paragraph 1 is required by Local Rule 4008-1(b)(ii). The information to be inserted in the chart in paragraph 2 is required by Local Rule 4008-1(b)(i) and (iii). Clause (iv) of that rule requires a statement of the grounds for a further or additional delay, which is provided by marking one of the boxes in paragraph 3 and inserting the appropriate information. The language following the first check box is taken from the language following Local Rule 4008-1(b)(iv), which specifically requires “a description of the efforts made by the debtor to procure the execution of each [reaffirmation] agreement” if the ground for the enlargement is an inability to obtain such an agreement.

Sample Form O-407 may be completed and uploaded with either form of motion. The enlarged deadline requested should be inserted in the second paragraph of the order. If Sample Form M-407A is used, the deadline may not be extended to more than 30 days after the expiration of the original deadline for filing reaffirmation agreements. E.D. Tenn. LBR 4008-1(a).

[Sample Form M-408]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re:

)	
)	
	)	No. _____
Debtor(s)	)	Chapter 13
)	

MOTION FOR HARDSHIP DISCHARGE

NOTICE OF HEARING

Notice is hereby given that:

A hearing will be held on this matter on _____, 20__, at _____.m.,
in Courtroom _____, _____ TN.

If you do not want the court to grant the relief requested, you or your attorney must attend this hearing. If you do not attend the hearing, the court may decide that you do not oppose the relief sought and may enter an order granting this motion.

The debtor(s) request(s) an order granting a discharge even though payments under the confirmed plan have not been completed, and make(s) the following representations in support of this request:

1. The failure to complete such payments is due to circumstances for which the debtor(s) should not justly be held accountable, namely: _____

2. The value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed unsecured claim is not less than the amount that would have been paid on such claim if the estate had been liquidated under chapter 7 of the Bankruptcy Code on such date.

3. Modification of the plan under 11 U.S.C. § 1329 is not practicable, because _____

4. The debtor(s) has completed an instructional course concerning personal financial management as required by 11 U.S.C. § 1328(g) and filed a statement regarding the completion of such course as required by Fed. R. Bankr. P. 1007(b)(7) *OR* understands that such a course must be completed and such a statement in the form prescribed by Official Form No. 23 must be filed before a discharge order may be entered.

5. [*any additional pertinent allegations*]

[insert attorney's name, office address,
telephone number, and bar number]

CERTIFICATE OF SERVICE

I certify that the foregoing paper will be served electronically on the entities specified in the Notice of Electronic Filing to be issued by the electronic case filing system. I further certify that the foregoing paper was served by mail on the following, at the following addresses, on this date [or] on _____, 20__:

[list of names and addresses of entities served by mail]

This the ____ day of _____, 20__.

[insert attorney's name, office address,
telephone number, and bar number]

[Sample Form O-408A]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re:

_____)
)
)
Debtor(s))

No. _____
Chapter 13

ORDER GRANTING MOTION FOR HARDSHIP DISCHARGE

This case is before the court on the motion of the debtor(s) for a hardship discharge. After conducting a hearing on the motion, the court finds and concludes that the relief sought should be granted. Accordingly, it is

ORDERED that the motion for a hardship discharge is granted. The debtor(s) having completed an instructional course concerning personal financial management in accordance with 11 U.S.C. § 1328(g) and filed a statement regarding the completion of such course in accordance with Fed. R. Bankr. P. 1007(b)(7), the court will proceed to enter a separate discharge order.

###

APPROVED FOR ENTRY BY:

[insert name, office address, telephone
number, and bar number]

[Sample Form O-408B]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re:

_____)
)
)
Debtor(s))

No. _____
Chapter 13

ORDER GRANTING MOTION FOR HARDSHIP DISCHARGE

This case is before the court on the motion of the debtor(s) for a hardship discharge. After conducting a hearing on the motion, the court finds that the requirements for granting a hardship discharge under 11 U.S.C. § 1328(b) have been satisfied.

Accordingly, it is hereby ORDERED that a hardship discharge shall be granted, provided that the debtor(s) completes an instructional course concerning personal financial management as required by 11 U.S.C. § 1328(g) and files a statement regarding the completion of such course as required by Fed. R. Bankr. P. 1007(b)(7). The debtor(s) should complete the course and file the statement in the form prescribed by Official Form No. 23 within the next 20 days. The failure timely

to file such certification may result in the closing of this case without the entry of a discharge. Upon the filing of the certification, the court will enter a separate discharge order.

###

APPROVED FOR ENTRY BY:

[insert name, office address, telephone number, and bar number]

COMMENT ON SAMPLE FORMS M-408, O-408A, AND O-408B

Local Rule 9013-1(h) does not authorize the use of the passive notice procedure for a motion for a hardship discharge, so a hearing must be set on 21-40 days' notice. E.D. Tenn. LBR 9013-1(f)(2)(ii).

Paragraphs 1, 2, and 3 of the motion form are derived from 11 U.S.C. § 1328(b)(1), (2), and (3), respectively. If the debtor has completed the required financial management course and filed the required statement, the first box in paragraph 4 should be marked and Sample Form O-408A may be uploaded with the motion. If the debtor has not yet completed the course or has not filed the statement, the second box in paragraph 4 should be marked and Sample Form O-408B may be uploaded with the motion. In the former event, the clerk will generally enter the discharge promptly upon entry of the order granting the motion; in the latter event, the clerk will wait until the certificate is filed before entering the discharge.

[Sample Form M-601]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re:

)
)
)
Debtor(s))

No. _____
Chapter ____

NOTICE OF PROPOSED SALE OF PROPERTY

NOTICE OF OPPORTUNITY TO OBJECT AND FOR HEARING

Pursuant to Local Rule 9013-1(h), the court may consider this matter without further notice or hearing unless a party in interest files an objection. If you object to the sale proposed in this paper, you must file with the clerk of the court at _____ TN _____, an objection within 21 days from the date this notice was filed and serve a copy on the filer's attorney, _____. If you file and serve an objection within the time permitted, the court will 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 this paper and may grant the relief requested without further notice or hearing.

_____ hereby give(s) notice of intent to sell the property described below in the manner and at the time stated below, and provides the following information in that regard:

1. The property to be sold may be described as follows: _____

2. The name and address of the proposed buyer are: _____

3. The purchase price is \$ _____, and the estate or the debtor(s) will also receive the following additional consideration: _____

_____.

4. The sale is to be made by:

Public sale. The sale will take place at _____ .m. on _____, 20____, at _____.

OR

Private sale. The terms and conditions of the sale are as follows: _____

5. *[any additional pertinent allegations]*

[insert attorney's name, office address, telephone number, and bar number]

CERTIFICATE OF SERVICE

I certify that the foregoing paper will be served electronically on the entities specified in the Notice of Electronic Filing to be issued by the electronic case filing system. I further certify that the foregoing paper was served by mail on the following, at the following addresses, on this date *[or]* on _____, 20____:

[list of names and addresses of entities served by mail]

This the _____ day of _____, 20____.

[insert attorney's name, office address, telephone number, and bar number]

[Sample Form O-601]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re:

_____)
)
)
Debtor(s))

No. _____
Chapter ____

ORDER AUTHORIZING SALE OF PROPERTY

_____ has filed a notice of intent to sell certain property, namely _____ for the consideration and under the terms and conditions stated in the notice. Either (i) no party in interest has filed a timely objection to the sale (or the objection has been withdrawn) and it appears that the sale is in the best interests of the estate, the debtor(s), and the creditors, or (ii) if a timely objection was filed, the court has conducted a hearing and determines that the sale is in the best interests of the estate, the debtor(s), and the creditors. Accordingly, it is hereby

ORDERED that the sale of the property described above may proceed under the terms and conditions stated in the notice of sale. Within 14 days after the closing of the sale, a report of sale must be filed and served on the debtor, the trustee, and the United States trustee.

###

APPROVED FOR ENTRY BY:

[insert name, office address, telephone number, and bar number]

COMMENT ON SAMPLE FORMS M-601 AND O-601

Sample Form M-601 is designed for use when a trustee or debtor proposes to sell property and either does not seek to sell the property free and clear of liens or other interests or will file a separate motion to sell the property free and clear. When the seller wishes to combine the notice of sale with a motion to sell free and clear, Sample Form M-602B may be used instead.

The passive notice procedure applies to notices of proposed sales, but a hearing must be scheduled with respect to a motion to sell free and clear (or a combined notice of sale and motion to sell free and clear). E.D. Tenn. LBR 9013-1(h)(1)(vii). Another difference in procedure is that a notice of a proposed sale (or a combined notice of sale and motion to sell free and clear) must be sent to all creditors and parties in interest, Fed. R. Bankr. P. 6004(a), 2002(a)(2); E.D. Tenn. LBR 6-401(a)(4), while a motion to sell free and clear need only be served on the entities holding the liens or other interests, Fed. R. Bankr. P. 6004(c); E.D. Tenn. LBR 6004-1(b)(4). Because Bankruptcy Rule 6004(c) incorporates Rule 9014, mail service of a motion to sell free and clear (or a combined notice of sale and motion to sell free and clear) must be sent in accordance with Bankruptcy Rule 7004(b). Note that mail service on a debtor requires mailing both to the debtor's attorney and directly to the debtor. Fed. R. Bankr. P. 7004(b)(9).

The information to be inserted in paragraphs 1, 3, and 4 is required by Bankruptcy Rule 2002(c)(1) and Local Rule 6004-1(a)(1)(ii). The information to be inserted in paragraph 2 is required by Local Rule 6004-1(a)(1)(i). The pertinent box in paragraph 4 should be marked or the irrelevant clause omitted.

If an order is desired, Sample Form O-601 may be completed and uploaded with the notice. The name of the seller and a description of the property being sold should be inserted in the first paragraph of the order. The last sentence of the order reiterates the requirement set forth in Local Rule 6004-1(c).

[Sample Form M-602A]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re:

)	
)	
	)	No. _____
Debtor(s)	)	Chapter ____
)	

MOTION TO SELL PROPERTY FREE AND CLEAR

NOTICE OF HEARING

Notice is hereby given that:

A hearing will be held on this matter on _____, 20__, at _____.m.,
in Courtroom _____, _____ TN.

If you do not want the court to grant the relief requested, you or your attorney must attend this hearing. If you do not attend the hearing, the court may decide that you do not oppose the relief sought and may enter an order granting this motion.

_____ request(s) an order authorizing the sale of the property described below free and clear of the interest(s) in such property described below, and makes the following representations in support of this request:

1. The property to be sold may be described as follows: _____
_____.

2. Those holding interests in the property, the nature of their interests, and the amounts of their claims are as follows:

Interest Holder	Description of Interest	Amount of Claim	Ground: 363(f)___

If the ground for selling the property free and clear of an interest is something other than that the interest holder consents to the sale, the movant(s) provide(s) the following additional explanation:

3. *[any additional pertinent allegations]*

[insert attorney's name, office address, telephone number, and bar number]

CERTIFICATE OF SERVICE

I certify that the foregoing paper will be served electronically on the entities specified in the Notice of Electronic Filing to be issued by the electronic case filing system. I further certify that the foregoing paper was served by mail on the following, at the following addresses, on this date *[or]* on _____, 20__:

[list of names and addresses of entities served by mail]

This the _____ day of _____, 20____.

[insert attorney's name, office address,
telephone number, and bar number]

[Sample Form M-602B]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re:

)	
)	
	)	No. _____
Debtor(s)	)	Chapter ____
)	

**NOTICE OF PROPOSED SALE OF PROPERTY, COMBINED
WITH MOTION TO SELL PROPERTY FREE AND CLEAR**

NOTICE OF HEARING

Notice is hereby given that:

A hearing will be held on this matter on _____, 20__, at _____.m.,
in Courtroom _____, _____ TN.

If you do not want the court to grant the relief requested, you or your attorney must attend this hearing. If you do not attend the hearing, the court may decide that you do not oppose the relief sought and may enter an order granting this motion.

_____ gives notice of intent to sell the property described below in the manner and at the time stated below, and requests an order authorizing the sale of the property free and clear of the interest(s) in such property described below. The movant makes the following representations in support of this request:

1. The property to be sold may be described as follows: _____

_____.

2. The name and address of the proposed buyer are: _____

_____.

3. The purchase price is \$ _____, and the estate or the debtor(s) will also receive the following additional consideration: _____

_____.

4. The sale is to be made by:

Public sale. The sale will take place at _____m. on _____, 20____, at

_____.

OR

Private sale. The terms and conditions of the sale are as follows: _____

_____.

5. Those holding interests in the property, the nature of their interests, and the amounts of their claims are as follows:

Interest Holder	Description of Interest	Amount of Claim	Ground: 363(f)___

If the ground for selling the property free and clear of an interest is something other than that the interest holder consents to the sale, the movant(s) provide(s) the following additional explanation:

6. *[any additional pertinent allegations]*

[insert attorney's name, office address,
telephone number, and bar number]

CERTIFICATE OF SERVICE

I certify that the foregoing paper will be served electronically on the entities specified in the Notice of Electronic Filing to be issued by the electronic case filing system. I further certify that the foregoing paper was served by mail on the following, at the following addresses, on this date [*or*] on _____, 20__:

[list of names and addresses of entities served by mail]

This the ____ day of _____, 20__.

[insert attorney's name, office address,
telephone number, and bar number]

ORDERED that the sale of the property described above may be made free and clear of the interests of the entities identified above [*if appropriate*] with such interests to attach to the proceeds of the sale.

#

APPROVED FOR ENTRY BY:

[insert name, office address, telephone number, and bar number]

[Sample Form O-602B]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re:

_____)
)
)
Debtor(s))
)

No. _____
Chapter ____

ORDER APPROVING SALE TERMS AND AUTHORIZING SALE FREE AND CLEAR

This case is before the court on a motion filed by _____, which seeks authorization to sell certain property free and clear of the interests of _____, such property being _____, for the consideration and under the terms and conditions stated in the notice of sale filed by the movant(s). The court has conducted a hearing and determines that the movant(s) is (are) entitled to the relief sought. Accordingly, it is hereby

ORDERED that the sale of the property described above may proceed under the terms and conditions stated in the notice of sale, and that the sale will be free and clear of the interests of the

entities identified above [*if appropriate*] with such interests to attach to the proceeds of the sale.

Within 14 days after the closing of the sale, a report of sale must be filed and served on the debtor, the trustee, and the United States trustee.

###

APPROVED FOR ENTRY BY:

[insert name, office address, telephone number, and bar number]

COMMENT ON SAMPLE FORMS M-602A, M-602B, O-602A, AND O-602B

Sample Form M-602A is designed for use when a trustee or debtor proposes to sell property free and clear of liens or other interests and prepares a separate notice of the proposed sale. Sample Form M-602B may be used when the seller wishes to combine the notice with the motion.

The passive notice procedure applies to notices of proposed sales, but a hearing must be scheduled with respect to a motion to sell free and clear (or a combined notice of sale and motion to sell free and clear). E.D. Tenn. LBR 9013-1(h)(1)(vii). Another difference in procedure is that a notice of a proposed sale (or a combined notice of sale and motion to sell free and clear) must be sent to all creditors and parties in interest, Fed. R. Bankr. P. 6004(a), 2002(a)(2); E.D. Tenn. LBR 6–401(a)(4), while a motion to sell free and clear need only be served on the entities holding the liens or other interests, Fed. R. Bankr. P. 6004(c); E.D. Tenn. LBR 6004-1(b)(4). Because Bankruptcy Rule 6004(c) incorporates Rule 9014, mail service of a motion to sell free and clear (or a combined notice of sale and motion to sell free and clear) must be sent in accordance with Bankruptcy Rule 7004(b). Accordingly, the certificate of service included either form motion should demonstrate service under Rule 7004(b).

Regarding Sample Form M-602A, the information to be inserted in the chart in paragraph 2 is required by Local Rule 6004-1(b)(1). The right column of the chart should state the particular subdivision of 11 U.S.C. § 363(f) – (1),

(2), (3), (4), or (5) – constituting the ground for selling the property free and clear of the interest. If the ground is other than the one stated in § 363(f)(2), the facts giving rise to the right to sell free and clear of the interest should be inserted after the chart in paragraph 2.

Regarding Sample Form M-602B, the information to be inserted in paragraphs 1, 3, and 4 is required by Bankruptcy Rule 2002(c)(1) and Local Rule 6004-1(a)(1)(ii). The information to be inserted in paragraph 2 is required by Local Rule 6004-1(a)(1)(i). The appropriate box in paragraph 4 should be marked or the irrelevant clause omitted. The information to be inserted in the chart in paragraph 5 is required by Local Rule 6004-1(b)(1). The right column of the chart should state the particular subdivision of 11 U.S.C. § 363(f) – (1), (2), (3), (4), or (5) – constituting the ground for selling the property free and clear of the interest. If the ground is other than the one stated in § 363(f)(2), the facts giving rise to the right to sell free and clear of the interest should be inserted after the chart in paragraph 5.

Sample Form O-602A may be completed and uploaded with Form M-602A. The order authorizes the sale free and clear but does not approve of the terms of the sale. Thus, an order in the form of Sample Form O-601 (if desired) should be uploaded with the notice of sale (Sample Form X-601), even if a motion to sell free and clear (Form M-602A) is filed separately (with an order in the form of Sample Form O-602A uploaded with the motion). The name of the movant, the names of the parties whose interests are proposed to be affected, and a description of the property being sold should be inserted in the first paragraph of the order. If the lien or other interest is not to be transferred to the sale proceeds, the phrase at the end of the first sentence of the second paragraph of the order should be omitted.

Sample Form O-602B may be completed and uploaded with Form M-602B. The order will both authorize the sale and authorize the sale free and clear, so a separate order is not required if the notice of sale is combined with the motion for sale free and clear. The name of the movant, the names of the parties whose interests are proposed to be affected, and a description of the property being sold should be inserted in the first paragraph of the order. If the lien or other interest is not to be transferred to the sale proceeds, the phrase at the end of the first sentence of the second paragraph of the order should be omitted. The last sentence of the order reiterates the requirement set forth in Local Rule 6004-1(c).

[Sample Form M-603]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re:

_____)
)
)
Debtor(s))

No. _____
Chapter 7

MOTION TO REDEEM

NOTICE OF OPPORTUNITY TO OBJECT AND FOR HEARING

Pursuant to Local Rule 9013-1(h), the court may consider this matter without further notice or hearing unless a party in interest files an objection. If you object to the relief requested in this paper, you must file with the clerk of the court at _____ TN _____, an objection within 21 days from the date this motion was filed and serve a copy on the movant's attorney, _____ . If you file and serve an objection within the time permitted, the court will 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 this paper and may grant the relief requested without further notice or hearing.

The debtor(s) request(s) an order authorizing the redemption of the property described below from the lien described below, and make(s) the following representations in support of this request:

1. The property proposed to be redeemed is described as follows: _____

2. According to the debtor(s), the good faith estimate of the value of the property is \$_____.

3. The property has been abandoned OR is exempt.

4. *[any additional pertinent allegations]*

[insert attorney's name, office address,
telephone number, and bar number]

CERTIFICATE OF SERVICE

I certify that the foregoing paper will be served electronically on the entities specified in the Notice of Electronic Filing to be issued by the electronic case filing system. I further certify that the foregoing paper was served by mail on the following, at the following addresses, on this date *[or]* on _____, 20__:

[list of names and addresses of entities served by mail]

This the ____ day of _____, 20__.

[insert attorney's name, office address,
telephone number, and bar number]

[Sample Form O-603]

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE EASTERN DISTRICT OF TENNESSEE**

In re:

_____)
)
)
Debtor(s))

No. _____
Chapter 7

ORDER AUTHORIZING REDEMPTION

This case is before the court on a motion of the debtor(s) to redeem certain property from a lien held by _____. It appears that the movant(s) is (are) entitled to the relief sought. Accordingly, it is hereby

ORDERED that the motion is granted. More specifically, it is ordered that the debtor(s) may redeem the property described in the motion from the lien described therein by paying the creditor the sum of \$_____ in full at the time of redemption.

###

APPROVED FOR ENTRY BY:

[insert name, office address, telephone
number, and bar number]

COMMENT ON SAMPLE FORMS M-603 AND O-603

Local Rule 9013-1(h)(1)(v) authorizes the use of the passive notice procedure with respect to motions to redeem, and these sample forms assume that attorneys will continue to utilize that procedure. The objection period is 21 days. E.D. Tenn. LBR 9013-1(h)(3). The information to be inserted in paragraphs 1, 2, and 3 is required by Local Rule 6008-1(a)(1), (2), and (3), respectively. Note that one of the two boxes in paragraph 3 should be marked or the irrelevant phrase omitted.

Sample Form O-603 may be completed and uploaded with the motion. The name of the secured creditor should be inserted in the first paragraph, and the redemption amount should be inserted in the second paragraph. The requirement of payment in full at the time of redemption was added to 11 U.S.C. § 722 by the Bankruptcy Abuse Protection and Consumer Protection Act of 2005.