

Instructions for Filing and Serving Motion

Step 1: Draft Notice of Motion, Affidavit in Support with supporting documentation, Affidavit of Service and proposed Order.

Step 2: Obtain a hearing date:

To schedule a hearing, call the Bankruptcy Clerk's Office and give your name and case number. Say that you would like to file a motion to avoid a lien and need to find out when and where the judge will hear arguments on your motion.

Link to WDNY judges' motion practice rules: <https://www.nywb.uscourts.gov/judges-info>

Step 3: Serving the Motion:

- Make at least three extra copies of all forms.
- Papers must be served by someone other than you, who is eighteen (18) years of age or older.
- Proof of service must include the trustee and the U.S. Trustee as well as lienholders.
- Service on lienholders must be by certified mail.
- If the lienholder is a corporation the proof of service must identify a specific person as the object of the service. Example: "Attn: President or C.E.O."
- Copies of the Notice of Motion and Affidavit in Support with supporting documentation must be served on all parties.
- After the motion papers have been served, the person who served the papers must fill out an Affidavit of Service.
- File (in person or by mail) the original (signed) Notice of Motion, Affidavit in Support with supporting documentation, Affidavit of Service and proposed Order with the bankruptcy court at least ten (10) days prior to the hearing date of the motion.
- Mail copies of the Notice of Motion, Affidavit in Support with supporting documentation, and proposed Order to the bankruptcy judge assigned to your case within two (2) days of filing.

Step 4: The court should sign your proposed order and mail it back to you.

Step 5: Request a certified copy of the order from the bankruptcy court clerk and file it with the land records office in the County where your property is located. This will remove the lien from the official records.

See also: <https://www.nywb.uscourts.gov/judges-info>