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UNITED STATES BANKRUPTCY COURT EASTERN
DISTRICT OF CALIFORNIA

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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

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|--------------------------|---|--------------------------|
| In re |) | Case No. 19-90245-E-7 |
| FATIMA De'SHAWN BORDNER, |) | Docket Control No. RPK-1 |
| Debtor. |) | |

**This Memorandum Decision is not appropriate for publication.
It may be cited for persuasive value on the matters addressed.**

MEMORANDUM OPINION AND DECISION

Fatima De'Shawn Bordner, the Debtor ("Debtor"), has filed this Motion to Avoid the Judicial Lien of Riverwalk Holdings, LTD ("Creditor") that encumbers the real property commonly known as 800 Salina Drive, Modesto, California ("Property"). The Motion was set for hearing on August 29, 2019, as provided in Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). The defaults of the non-responding parties and other parties in interest were entered at the August 29, 2019 hearing.

The court continued the hearing to allow the Debtor to complete the record in this Contested Matter. Though not disputed by Creditor, the copy of the abstract of judgment filed as Exhibit D, which placed the judgment lien on the property, was not a copy of the recorded abstract and did not

1 include the recording information.

2 Debtor has now filed as an authenticated exhibit a copy of the recorded Abstract of Judgment.
3 Declaration, Dckt. 32; Abstract of Judgment, Dckt. 33. With the filing of this copy of the full
4 Abstract of Judgment, including the separate title page showing the recording information, the court
5 has evidence of the required information. Upon review of the record, there are no disputed material
6 factual issues, and the matter will be resolved without oral argument. The court will issue its ruling
7 from the parties' pleadings, with there being no need for further hearing.

8 **AVOIDANCE OF JUDGMENT LIEN**

9 A judgment was entered against Debtor in favor of Creditor in the amount of \$4,634.58.
10 Exhibit A, Dckt. 33. An abstract of judgment was recorded with Stanislaus County on March 27,
11 2012, that encumbers the Property. *Id.*

12 Pursuant to Debtor's Schedule A, the subject real property has an approximate value of
13 \$250,000.00 as of the petition date. Dckt. 1. The unavoidable consensual liens that total \$512,249.00
14 as of the commencement of this case are stated on Debtor's Schedule D. *Id.* Debtor has claimed an
15 exemption pursuant to California Code of Civil Procedure § 703.140 in the amount of \$15,000.00
16 on Schedule C. *Id.*

17 After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is
18 no equity to support the judicial lien. Therefore, the fixing of the judicial lien impairs Debtor's
19 exemption of the real property, and its fixing is avoided subject to 11 U.S.C. § 349(b)(1)(B).

20 The court's findings of fact and conclusions of law are set forth in this Memorandum Opinion
21 and Decision. The court shall issue a separate order consistent with this Ruling.

22 Dated: August 30, 2019

23 /s/

24 _____
25 RONALD H. SARGIS, Chief Judge
26 United States Bankruptcy Court
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Instructions to Clerk of Court
Service List - Not Part of Order/Judgment

3 **The Clerk of Court is instructed to** send the Order/Judgment or other court generated
4 document transmitted herewith *to the parties below*. The Clerk of Court will send the document
via the BNC or, if checked _____, via the U.S. mail.

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| Debtor(s) | Attorney for the Debtor(s) (if any) |
|--|---|
| Bankruptcy Trustee (if appointed in the case) | Office of the U.S. Trustee Robert T. Matsui United States Courthouse 501 I Street, Room 7-500 Sacramento, CA 95814 |

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