

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

Honorable Michael S. McManus  
Bankruptcy Judge  
Sacramento, California

**January 4, 2016 at 10:00 a.m.**

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No written opposition has been filed to the following motions set for argument on this calendar:

5, 6, 8, 9, 10, 11

When Judge McManus convenes court, he will ask whether anyone wishes to oppose one of these motions. If you wish to oppose a motion, tell Judge McManus there is opposition. Please do not identify yourself or explain the nature of your opposition. If there is opposition, the motion will remain on calendar and Judge McManus will hear from you when he calls the motion for argument.

If there is no opposition, the moving party should inform Judge McManus if it declines to accept the tentative ruling. Do not make your appearance or explain why you do not accept the ruling. If you do not accept the ruling, Judge McManus will hear from you when he calls the motion for argument.

If no one indicates they oppose the motion and if the moving party does not reject the tentative ruling, that ruling will become the final ruling. The motion will not be called for argument and the parties are free to leave (unless they have other matters on the calendar).

**MOTIONS ARE ARRANGED ON THIS CALENDAR IN TWO SEPARATE SECTIONS. A CASE MAY HAVE A MOTION IN EITHER OR BOTH SECTIONS.** THE FIRST SECTION INCLUDES ALL MOTIONS THAT WILL BE RESOLVED WITH A HEARING. A TENTATIVE RULING IS GIVEN FOR EACH MOTION. THE SECOND SECTION INCLUDES ALL MOTIONS THAT HAVE BEEN RESOLVED BY THE COURT WITHOUT A HEARING. A FINAL RULING IS GIVEN FOR EACH MOTION. WITHIN EACH SECTION, CASES ARE ORGANIZED BY THE LAST TWO DIGITS OF THE CASE NUMBER.

**ITEMS WITH TENTATIVE RULINGS:** IF A CALENDAR ITEM HAS BEEN SET FOR HEARING BY THE COURT PURSUANT TO AN ORDER TO SHOW CAUSE OR AN ORDER SHORTENING TIME, OR BY A PARTY PURSUANT TO LOCAL BANKRUPTCY RULE 3007-1(c)(1) OR LOCAL BANKRUPTCY RULE 9014-1(f)(1), AND IF ALL PARTIES AGREE WITH THE TENTATIVE RULING, THERE IS NO NEED TO APPEAR FOR ARGUMENT. HOWEVER, IT IS INCUMBENT ON EACH PARTY TO ASCERTAIN WHETHER ALL OTHER PARTIES WILL ACCEPT A RULING AND FOREGO ORAL ARGUMENT. IF A PARTY APPEARS, THE HEARING WILL PROCEED WHETHER OR NOT ALL PARTIES ARE PRESENT. AT THE CONCLUSION OF THE HEARING, THE COURT WILL ANNOUNCE ITS DISPOSITION OF THE ITEM AND IT MAY DIRECT THAT THE TENTATIVE RULING, AS ORIGINALLY WRITTEN OR AS AMENDED BY THE COURT, BE APPENDED TO THE MINUTES OF THE HEARING AS THE COURT'S FINDINGS AND CONCLUSIONS.

IF A MOTION OR AN OBJECTION IS SET FOR HEARING BY A PARTY PURSUANT TO LOCAL BANKRUPTCY RULE 3007-1(c)(2) OR LOCAL BANKRUPTCY RULE 9014-1(f)(2), RESPONDENTS WERE NOT REQUIRED TO FILE WRITTEN OPPOSITION TO THE RELIEF REQUESTED. RESPONDENTS MAY APPEAR AT THE HEARING AND RAISE OPPOSITION ORALLY. IF THAT OPPOSITION RAISES A POTENTIALLY MERITORIOUS DEFENSE OR ISSUE, THE COURT WILL GIVE THE RESPONDENT AN OPPORTUNITY TO FILE WRITTEN OPPOSITION AND SET A FINAL HEARING UNLESS THERE IS NO NEED

January 4, 2016 at 10:00 a.m.

TO DEVELOP THE WRITTEN RECORD FURTHER.

IF THE COURT SETS A FINAL HEARING, UNLESS THE PARTIES REQUEST A DIFFERENT SCHEDULE THAT IS APPROVED BY THE COURT, THE FINAL HEARING WILL TAKE PLACE ON JANUARY 19, 2016 AT 10:00 A.M. OPPOSITION MUST BE FILED AND SERVED BY JANUARY 4, 2016, AND ANY REPLY MUST BE FILED AND SERVED BY JANUARY 11, 2015. THE MOVING/OBJECTING PARTY IS TO GIVE NOTICE OF THESE DATES.

ITEMS WITH FINAL RULINGS: THERE WILL BE NO HEARING ON THE ITEMS WITH FINAL RULINGS. INSTEAD, EACH OF THESE ITEMS HAS BEEN DISPOSED OF AS INDICATED IN THE FINAL RULING BELOW. THAT RULING ALSO WILL BE APPENDED TO THE MINUTES. THIS FINAL RULING MAY OR MAY NOT BE A FINAL ADJUDICATION ON THE MERITS. IF ALL PARTIES HAVE AGREED TO A CONTINUANCE OR HAVE RESOLVED THE MATTER BY STIPULATION, THEY MUST ADVISE THE COURTROOM DEPUTY CLERK PRIOR TO HEARING IN ORDER TO DETERMINE WHETHER THE COURT VACATE THE FINAL RULING IN FAVOR OF THE CONTINUANCE OR THE STIPULATED DISPOSITION.

ORDERS: UNLESS THE COURT ANNOUNCES THAT IT WILL PREPARE AN ORDER, THE PREVAILING PARTY SHALL LODGE A PROPOSED ORDER WITHIN 14 DAYS OF THE HEARING.

**MATTERS FOR ARGUMENT**

1. 15-20312-A-7 MARLAN/GLORIA FISHER MOTION TO  
MPD-3 SELL ETC  
2-10-15 [43]

**Tentative Ruling:** The motion will be granted.

The chapter 7 trustee requests authority to sell for \$185,000 the estate's interest in a real property in Chico, California to Black Diamond Holdings, LLC. The trustee also asks for waiver of the 14-day period of Fed. R. Bankr. P. 6004(h) and asks for approval of the payment of the real estate commission.

The trustee seeks authority to pay out of escrow the following:

- (1) \$11,100 in real estate commissions, all to the estate's real estate broker, Keller Williams, as it represents both seller and buyer,
- (2) approximately \$1,850 in incidental closing costs, such as escrow fees,
- (3) outstanding real property taxes for approximately \$2,600,
- (4) a judicial lien for approximately \$6,500 held by Butte County Credit Bureau, and
- (5) the debtors' \$24,630 exemption claim.

11 U.S.C. § 363(b) allows the trustee to sell property of the estate, other than in the ordinary course of business. The sale will generate net proceeds of approximately \$138,320, which will be sufficient to pay all estate claims (approximately \$37,500 as of this time) in full.

Hence, the sale will be approved pursuant to 11 U.S.C. § 363(b), as it is in the best interests of the creditors and the estate. The court will waive the 14-day period of Rule 6004(h) and will authorize payment of the real estate commission, in accordance with Keller Williams' approved terms of employment.

2. 15-28418-A-7 COLETTE MONTGOMERY MOTION FOR  
AP-1 RELIEF FROM AUTOMATIC STAY  
BANK OF AMERICA, N.A. VS. 11-25-15 [12]

**Tentative Ruling:** The motion will be granted.

The motion is granted in part pursuant to 11 U.S.C. § 362(d)(2) in order to permit the movant to conduct a nonjudicial foreclosure sale and to obtain possession of the subject real property following the sale. All other relief is denied. The subject real property has a value of \$210,000 and is encumbered by a perfected deed of trust or mortgage in favor of the movant. That security interest secures a claim of \$205,600.70. After considering all other liens and security interests, which Schedule D admits total \$5,000, there is no equity and there is no evidence that the subject real property is necessary to a reorganization or that the trustee can administer the subject real property for the benefit of creditors.

While the debtor has opposed the motion, that opposition admits the \$210,000 valuation and the amount owed to the movant but fails to acknowledge that with the \$5,000 owed to Sacramento County, there is no equity in the subject

property.

Because the movant has not established that the value of its collateral exceeds the amount of its claim, the court awards no fees and costs. 11 U.S.C. § 506(b).

The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) will not be waived. That period, however, shall run concurrently with the 7-day period specified in Cal. Civ. Code § 2924g(d) to the extent section 2924g(d) is applicable to orders terminating the automatic stay.

3. 12-41025-A-7 PATRICK MULLIN MOTION TO  
CWC-8 SELL  
11-19-15 [62]

**Tentative Ruling:** The motion will be granted.

The hearing on this motion was continued from December 21, 2015 in order for the movant to supplement the record. The movant's additional papers have amended the prayer for relief.

The chapter 7 trustee requests authority to sell for \$145,000 the estate's undivided 50% interest in a real property in Oroville, California - with the co-owner's interest in the property - to Mark Romig. The debtor's brother, George Mullin, owns the other 50% interest in the property. The sale of the co-owner's interest in the property is based on a stipulation between the estate and Mr. Mullin. The trustee asks for approval of the payment of the real estate commission.

The trustee asks for authority to pay from escrow:

- incidental sales costs, including closing costs,
- prorated property taxes,
- \$11,601.58 to the co-owner, Mr. Mullin, for his maintenance of the property and payment of fees, taxes, insurance and utilities on the property,
- the 6% real estate commission to Remax Gold; and
- 50% of the net sales proceeds to Mr. Mullin.

The trustee also asks to impound from escrow \$4,586.89 to compensate the estate's surveyor, Frank Lehmann - subject to further court order - for his assistance with curing title defects associated with the property. Lastly, the trustee asks to impound from escrow \$5,298.20 to compensate the estate's counsel, Carl Collins - subject to further court order - for his assistance with curing title defects associated with the property.

11 U.S.C. § 363(b) allows the trustee to sell property of the estate, other than in the ordinary course of business.

The sale will generate approximately \$56,823 for distribution to creditors of the estate. Docket 70 at 2. Hence, the sale will be approved pursuant to 11 U.S.C. § 363(b), as it is in the best interests of the creditors and the estate.

The court will authorize payment of the real estate commission in accordance

with the broker's approved compensation terms. The trustee may hold the amounts reflecting the compensation of Mr. Lehmann and Mr. Collins for their services associated with the property, subject to further court order.

4. 15-27228-A-7 GARY PATRICK OBJECTION TO  
DMB-1 CLAIM OF EXEMPTION  
12-4-15 [15]

**Tentative Ruling:** The objection will be overruled.

Creditors Edward Bomengen and Donna Fasce (formerly Bomengen) object to the debtor's \$175,000 exemption claim under Cal. Civ. Proc. Code § 704.730 in real property on Oleander Circle in Redding, California. The grounds for the objection are that (1) the creditors own equitable interest in the property, and (2) the debtor, as co-trustee of his mother's trust, along with another co-trustee, have fraudulently executed their duties as trustees of that trust. The parties are all siblings in a formerly blended family. The creditors are the biological children of the father, who passed away in 1984. The debtor and his co-trustee non-filing sister, Kathy Leonard, are the children of the mother, who passed away in 2013.

Fed. R. Bankr. P. 4003(b)(1) provides that:

"[A] party in interest may file an objection to the list of property claimed as exempt within 30 days after the meeting of creditors held under § 341(a) is concluded or within 30 days after any amendment to the list or supplemental schedules is filed, whichever is later. The court may, for cause, extend the time for filing objections if, before the time to object expires, a party in interest files a request for an extension."

The objection is timely as it was filed on December 4, 2015, within 30 days after the meeting of creditors concluded on November 4, 2015.

Whether or not the debtor actually owns the subject property and whether or not the creditors have an interest in that property will not and cannot be resolved on a motion/objection. Determining the validity, priority or extent of interest in property can be done only via an adversary proceeding. Fed. R. Bankr. P. 7001(2).

The debtor's exemption in the property does not somehow, ratify or prove endorse that the debtor owns the property. The debtor's exemption does not confer an ownership interest in the property.

Further, even if the debtor perpetrated fraud in executing his trusteeship duties with respect to his late mother's trust, thereby inflicting damages on the creditors, this is not basis for disallowing the exemption. The exemption does not negate any fraud perpetrated by the debtor in his capacity as trustee of the trust. Fraud perpetrated by the debtor upon the creditors may give rise to an award of damages in favor of the creditors. Yet, it is not a basis for disallowing an exemption in property the creditors contend belongs to them, in whole or in part.

An exemption exists and it is enforceable only to the extent the exemption claimant actually owns an interest in the property. The exemption does not bar anyone from asserting causes of action against the debtor or disputing the claimant's interest in the property.

5. 14-27337-A-7 DONNA RICHARDS  
RLC-1

MOTION TO  
REOPEN CASE  
10-23-15 [24]

**Tentative Ruling:** The motion will be granted.

The hearing on this motion was continued from November 23, 2015 in order for the movant to supplement the record. The movant has filed additional papers and an amended ruling follows below.

The debtor asks the court to reopen the case, waive the requirement for a post-petition personal financial management course certificate, and enter the debtor's discharge.

The court may reopen a case to "accord relief to the debtor." 11 U.S.C. § 350(b). Motions for the reopening of cases should be "routinely granted because the case is necessarily reopened to consider the underlying request for relief." In re Dodge, 138 B.R. 602, 605 (Bankr. E.D. Cal. 1992) (citing In re Corqiat, 123 B.R. 388, 392, 393 (Bankr. E.D. Cal. 1991)).

The case will be reopened for the limited purpose of considering a waiver of the requirement that the debtor complete a course on a personal financial management.

This case was filed on July 17, 2014. The trustee filed a report of no distribution on September 24, 2014. The case was closed on November 4, 2014 without entry of discharge. Docket 22. The debtor passed away on September 17, 2015. This motion was filed on October 23, 2015.

The court will waive the requirement for a personal financial management course certificate, as there is evidence that the debtor was in need of and received substantial medical care in the year after filing the case and before her passing, including multiple emergency room visits, over 30 physician visits, etc. Docket 30. In addition, the debtor's counsel contacted the debtor multiple times to remind her of the requirement for obtaining the personal financial management course certificate. Docket 31. The court then is satisfied that the debtor was unable to obtain the certificate prior to her passing. Accordingly, the requirement for the certificate will be waived.

The debtor's discharge will be entered assuming all other conditions for entry of discharge are satisfied.

6. 15-28243-A-7 JOSE CRUZ  
BN-1  
THE GOLDEN 1 CREDIT UNION VS.

MOTION FOR  
RELIEF FROM AUTOMATIC STAY  
12-16-15 [12]

**Tentative Ruling:** Because less than 28 days' notice of the hearing was given by the creditor, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the other creditors, the debtor, the trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this

tentative ruling.

The motion will be granted pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to repossess its collateral, to dispose of it pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim including any attorneys' fees awarded herein. No other relief is awarded. The subject property has a value of \$12,498 and is encumbered by a perfected security interest in favor of the movant. That security interest secures a claim of \$30,648. There is no equity and there is no evidence that the property is necessary to a reorganization or that the trustee can administer the subject property for the benefit of creditors.

Because the movant has not established that the value of its collateral exceeds the amount of its claim, the court awards no fees and costs. 11 U.S.C. § 506(b).

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be waived.

7.	13-26551-A-7    MICHAEL HOLT EJN-4	MOTION TO APPROVE COMPENSATION OF CHAPTER 7 TRUSTEE 12-5-15 [228]
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**Tentative Ruling:**    The motion will be granted in part.

The chapter 7 trustee, Eric Nims, has filed first and final motion for approval of compensation. The requested compensation consists of \$59,126.11 in fees and \$1,369.53 in expenses, for a total of \$60,495.64. The services for the sought compensation were provided from May 22, 2013 through November 13, 2015. The sought compensation represents approximately 179 hours of services.

The court is satisfied that the requested compensation does not exceed the cap set by 11 U.S.C. § 326(a). The movant will make or has made \$1,195,870.33 in distributions to creditors. Docket 231 at 2. This means that the cap under section 326(a) on the movant's compensation is \$59,126.11 (\$1,250 (25% of the first \$5,000) + \$4,500 (10% of the next \$45,000) + \$47,500 (5% of the next \$950,000) + \$5,876.11 (3% of any amount above \$1 million or \$195,870.33)). Hence, the requested trustee fees of \$59,126.11 do not exceed the cap of section 326(a).

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses."

"[A]bsent extraordinary circumstances, chapter 7, 12 and 13 trustee fees should be presumed reasonable if they are requested at the statutory rate. Congress would not have set commission rates for bankruptcy trustees in §§ 326 and 330(a)(7), and taken them out of the considerations set forth in § 330(a)(3), unless it considered them reasonable in most instances. Thus, absent extraordinary circumstances, bankruptcy courts should approve chapter 7, 12 and 13 trustee fees without any significant additional review."

Hopkins v. Asset Acceptance LLC (In re Salgado-Nava), 473 B.R. 911, 921 (B.A.P. 9<sup>th</sup> Cir. 2012).

The movant's services did not involve extraordinary circumstances and included, without limitation: (1) reviewing petition documents and analyzing assets, (2)

conducting the meeting of creditors, (3) employing professionals to assist the estate in the administration of estate assets, (4) selling real property of the estate, (5) selling the debtor's interest in an LLC, (6) securing the debtor's Porsche vehicle and selling it, (7) claiming and obtaining a refund of over \$23,000 from the California Franchise Tax Board, (8) objecting to a request for an administrative claim, (9) resolving a dispute over the debtor's exemption claim, (10) reviewing and analyzing claims and resolving issues pertaining to claims, (11) preparing final report, and (12) preparing compensation motion.

The court concludes that the compensation is for actual and necessary services rendered in the administration of this estate.

However, the motion does not explain how or why the estate incurred \$23,701.75 in "[b]ank service fees." Docket 231 at 33. On their face, such fees appear extraordinary. The fees and expenses will be approved only if the necessity and calculation of these fees is explained at the hearing.

8.	11-22859-A-7     FRANK/MARILYN FERRIS HP-5 VS. TIM HOMAN AND RUSSELL PUTNAM	MOTION TO AVOID JUDICIAL LIEN 12-16-15 [87]
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**Tentative Ruling:** Because less than 28 days' notice of the hearing was given by the debtor, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the respondent creditor and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted.

A judgment was entered against the debtor Frank Ferris in favor of Tim Homan and Russell Putnam for the sum of \$194,738.42 on January 29, 2010. The abstract of judgment was recorded with Sacramento County on February 25, 2010. That lien attached to the debtor's residential real property in Sacramento, California.

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of \$375,000 as of the petition date. Docket 89 at 3. The unavoidable liens totaled \$405,000 on that same date, consisting of a single mortgage in favor of Wells Fargo Bank. Dockets 89 & 92. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of \$100 in Amended Schedule C. Dockets 89 & 92.

The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the subject real property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtor's exemption of the real property and its fixing will be avoided subject to 11 U.S.C. § 349(b)(1)(B).



9. 11-22859-A-7 FRANK/MARILYN FERRIS  
HP-6  
VS. WIGGINS 21 LENDER, LLC

MOTION TO  
AVOID JUDICIAL LIEN  
12-16-15 [99]

**Tentative Ruling:** Because less than 28 days' notice of the hearing was given by the debtor, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the respondent creditor and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted.

A judgment was entered against the debtor Frank Ferris in favor of Wiggins 21 Lender, LLC for the sum of \$1,208,642.35 on October 6, 2009. The abstract of judgment was recorded with Sacramento County on February 25, 2010. That lien attached to the debtor's residential real property in Sacramento, California.

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of \$375,000 as of the petition date. Dockets 101 at 3. The unavoidable liens totaled \$405,000 on that same date, consisting of a single mortgage in favor of Wells Fargo Bank. Dockets 101 & 103. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of \$100 in Amended Schedule C. Dockets 101, 103, 61.

The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the subject real property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtor's exemption of the real property and its fixing will be avoided subject to 11 U.S.C. § 349(b)(1)(B).

10. 11-22859-A-7 FRANK/MARILYN FERRIS  
HP-7  
VS. JASON GRAZIANO

MOTION TO  
AVOID JUDICIAL LIEN  
12-16-15 [91]

**Tentative Ruling:** Because less than 28 days' notice of the hearing was given by the debtor, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the respondent creditor and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted.

A judgment was entered against the debtor Frank Ferris in favor of Jason

Graziano for the sum of \$53,181.36 on March 28, 2013. The abstract of judgment was recorded with Sacramento County on April 29, 2013. That lien attached to the debtor's residential real property in Sacramento, California.

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of \$375,000 as of the petition date. Docket 95 at 3. The unavoidable liens totaled \$405,000 on that same date, consisting of a single mortgage in favor of Wells Fargo Bank. Dockets 95 & 97. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of \$100 in Amended Schedule C. Dockets 95, 97, 61.

The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the subject real property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtor's exemption of the real property and its fixing will be avoided subject to 11 U.S.C. § 349(b)(1)(B).

11.	15-24481-A-7    EMERY ULRICH AP-1 WELLS FARGO BANK, N.A. VS.	MOTION FOR RELIEF FROM AUTOMATIC STAY 9-11-15 [12]
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**Tentative Ruling:** The motion will be granted in part and dismissed as moot in part.

The movant, Wells Fargo Bank, seeks relief from the automatic stay as to a real property in Red Bluff, California.

Given the entry of the debtor's discharge on October 6, 2015, the automatic stay has expired as to the debtor and any interest the debtor may have in the property. See 11 U.S.C. § 362(c). Hence, as to the debtor, the motion will be dismissed as moot.

As to the estate, the analysis is different. The property has a value of \$250,000 and it is encumbered by claims totaling approximately \$261,460. The movant's deed is the only encumbrance against the property.

The court concludes that there is no equity in the property and there is no evidence that it is necessary to a reorganization or that the trustee can administer it for the benefit of creditors.

Thus, the motion will be granted pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to conduct a nonjudicial foreclosure sale and to obtain possession of the subject property following sale. No other relief is awarded.

The court determines that this bankruptcy proceeding has been finalized for purposes of Cal. Civil Code § 2923.5 and the enforcement of the note and deed of trust described in the motion against the subject real property. Further, upon entry of the order granting relief from the automatic stay, the movant and its successors, assigns, principals, and agents shall comply with Cal. Civil Code § 2923.52 et seq., the California Foreclosure Prevention Act, to the extent it is otherwise applicable.

Because the movant has not established that the value of its collateral exceeds the amount of its secured claim, the court awards no fees and costs in connection with the movant's secured claim as a result of the filing and prosecution of this motion. 11 U.S.C. § 506(b).

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will not be waived. That period, however, shall run concurrently with the 7-day period specified in Cal. Civ. Code § 2924g(d) to the extent section 2924g(d) is applicable to orders terminating the automatic stay.

12. 07-30685-A-7 INTELLIGENT DIRECT MOTION FOR  
TAA-5 MARKETING ADMINISTRATIVE EXPENSES  
12-8-15 [337]

**Tentative Ruling:** Because less than 28 days' notice of the hearing was given by the trustee, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the creditors, the debtor, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted in part.

The trustee seeks to allow payments (some already made) to the California Franchise Tax Board for: \$8,019.67 covering the 2008 through 2013 post-petition estate income tax liability; \$800 covering the 2014 post-petition estate income tax liability, and \$369.92 (the last remaining funds in the estate) covering partially the 2015 post-petition estate income tax liability.

In addition, the trustee is seeking the court to approve the payment of any future state tax liability, if and when funds become available in the estate.

11 U.S.C. § 503(b)(1)(B) provides that "After notice and a hearing, there shall be allowed administrative expenses, other than claims allowed under section 502(f) of this title, including-

(1) . . . (B) any tax-- (i) incurred by the estate, whether secured or unsecured, including property taxes for which liability is in rem, in personam, or both, except a tax of a kind specified in section 507(a)(8) of this title."

This case was filed as an involuntary petition on December 10, 2007. The order for relief was entered on June 18, 2008. The tax liability in question was incurred from 2008 through 2015. As the tax was incurred post-petition, the court will allow its payment as an administrative expense claim under section 503(b)(1)(B). As to any future tax liability, the motion will be denied because the court does not know what it is being asked to approve and whether it comports with the requirements of section 503(b)(1)(B). The motion will be granted in part.

**FINAL RULINGS BEGIN HERE**

13. 11-37803-A-7 ALAN/SABRINA TANNER MOTION TO  
SPB-5 AVOID JUDICIAL LIEN ETC  
VS. BENEFICIAL CALIFORNIA, INC. 12-4-15 [60]

**Final Ruling:** The motion will be dismissed without prejudice.

The notice of hearing is not accurate. It states that written opposition need not be filed by the respondent. Instead, the notice advises the respondent to oppose the motion by appearing at the hearing and raising any opposition orally at the hearing. This is appropriate only for a motion set for hearing on less than 28 days of notice. See Local Bankruptcy Rule 9014-1(f)(2). However, because 28 days or more of notice of the hearing was given in this instance, Local Bankruptcy Rule 9014-1(f)(1) is applicable. It specifies that written opposition must be filed and served at least 14 days prior to the hearing. Local Bankruptcy Rule 9014-1(f)(1)(ii). The respondent was told not to file and serve written opposition even though this was necessary. Therefore, notice was materially deficient.

In short, if the movant gives 28 days or more of notice of the hearing, it does not have the option of pretending the motion has been set for hearing on less than 28 days of notice and dispensing with the court's requirement that written opposition be filed.

14. 11-37803-A-7 ALAN/SABRINA TANNER MOTION TO  
SPB-6 AVOID JUDICIAL LIEN ETC  
VS. DIRECT MERCHANTS CREDIT CARD, N.A. 12-4-15 [70]

**Final Ruling:** The motion will be dismissed without prejudice.

The notice of hearing is not accurate. It states that written opposition need not be filed by the respondent. Instead, the notice advises the respondent to oppose the motion by appearing at the hearing and raising any opposition orally at the hearing. This is appropriate only for a motion set for hearing on less than 28 days of notice. See Local Bankruptcy Rule 9014-1(f)(2). However, because 28 days or more of notice of the hearing was given in this instance, Local Bankruptcy Rule 9014-1(f)(1) is applicable. It specifies that written opposition must be filed and served at least 14 days prior to the hearing. Local Bankruptcy Rule 9014-1(f)(1)(ii). The respondent was told not to file and serve written opposition even though this was necessary. Therefore, notice was materially deficient.

In short, if the movant gives 28 days or more of notice of the hearing, it does not have the option of pretending the motion has been set for hearing on less than 28 days of notice and dispensing with the court's requirement that written opposition be filed.

15. 15-24012-A-7 LAURO REAL MOTION TO  
PGM-1 AVOID JUDICIAL LIEN  
VS. KELKRIS ASSOCIATES, INC. 11-27-15 [28]

**Final Ruling:** This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent creditor and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46

F.3d 52, 53 (9<sup>th</sup> Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9<sup>th</sup> Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

A judgment was entered against the debtor in favor of Kelkris Associates, Inc. for the sum of \$11,585.51 on June 30, 2009. The abstract of judgment was recorded with Sacramento County on November 17, 2009. That lien attached to the debtor's residential real property in Galt, California.

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of \$261,000 as of the petition date. Docket 30. The unavoidable liens totaled \$196,418 on that same date, consisting of a single mortgage in favor of Nationstar Mortgage. Dockets 1 & 10, Schedule and Amended Schedule D. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730(a)(2) in the amount of \$100,000 in Schedule C. Dockets 30, 1, 10.

The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the subject real property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtor's exemption of the real property and its fixing will be avoided subject to 11 U.S.C. § 349(b)(1)(B).

16.	13-23517-A-7    TRACY GATEWAY, LLC ASF-2	MOTION FOR ADMINISTRATIVE EXPENSES 12-1-15 [201]
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**Final Ruling:** This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9<sup>th</sup> Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9<sup>th</sup> Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The trustee requests the allowance of payments of 2014 through 2016 post-petition estate income tax liability to the California Franchise Tax Board in amount of \$3,300.

11 U.S.C. § 503(b)(1)(B) provides that "After notice and a hearing, there shall be allowed administrative expenses, other than claims allowed under section 502(f) of this title, including-

(1) . . . (B) any tax-- (i) incurred by the estate, whether secured or unsecured, including property taxes for which liability is in rem, in personam, or both, except a tax of a kind specified in section 507(a)(8) of this title."

This case was filed on March 15, 2013. The tax liability in question was incurred from 2014 through 2016. As the tax was incurred post-petition, the court will allow its payment as an administrative expense claim under section 503(b)(1)(B). The motion will be granted.

17. 15-28238-A-7 DAVID/LEANN DOANE MOTION TO  
MDA-1 AVOID JUDICIAL LIEN  
VS. CAPITOL ONE BANK (USA), N.A. 12-1-15 [13]

**Final Ruling:** This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent creditor and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9<sup>th</sup> Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9<sup>th</sup> Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

A judgment was entered against the debtor Leann Doane in favor of Capital One Bank for the sum of \$6,042.40 on August 3, 2015. The abstract of judgment was recorded with El Dorado County on September 2, 2015. That lien attached to the debtor's residential real property in El Dorado Hills, California.

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of \$417,264 as of the petition date. Docket 15. The unavoidable liens totaled \$333,985 on that same date, consisting of a mortgage for \$259,220 in favor of Bank of America and a mortgage for \$74,765 in favor of San Mateo Credit Union. Docket 16. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730 in the amount of \$100,000 in Schedule C. Dockets 15 & 16.

The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the subject real property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtor's exemption of the real property and its fixing will be avoided subject to 11 U.S.C. § 349(b)(1)(B).

18. 15-28841-A-7 RICHARD ANSELMO MOTION FOR  
VVF-1 RELIEF FROM AUTOMATIC STAY  
AMERICAN HONDA FINANCE CORP. VS. 12-7-15 [11]

**Final Ruling:** This motion for relief from the automatic stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the debtor and the trustee to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9<sup>th</sup> Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9<sup>th</sup> Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to repossess its collateral, to dispose of it pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim including any attorneys' fees awarded herein. No other relief is awarded. The subject property has a value of \$17,150 and is encumbered by a perfected security interest in favor of the movant. That security interest secures a claim of \$32,662. There is no equity and there is no evidence that the property is necessary to a reorganization or that the trustee can administer the subject property for the benefit of creditors.

Because the movant has not established that the value of its collateral exceeds the amount of its claim, the court awards no fees and costs. 11 U.S.C. § 506(b).

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be waived.

19.	15-28747-A-7     KARISSA LUJAN BHT-1 WILMINGTON TRUST, N.A. VS.	MOTION FOR RELIEF FROM AUTOMATIC STAY 11-23-15 [9]
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**Final Ruling:** This motion for relief from the automatic stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the debtor and the trustee to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9<sup>th</sup> Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9<sup>th</sup> Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The movant seeks relief from the automatic stay as to real property in Sacramento, California.

The movant purchased the property at a pre-petition foreclosure sale. It now wishes to take possession of the property from the debtor.

This is a liquidation proceeding and the debtor has no interest in the property as the movant purchased it pre-petition. This is cause for the granting of relief from stay. Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) in order to permit the movant to proceed with an unlawful detainer action against the debtor in state court. The parties are to go to state court in order to determine who is entitled to possession of the property. If the movant prevails, no monetary claim may be collected from the debtors. The movant is limited to recovering possession of the property if such is permitted by the state court.

No fees and costs are awarded because the movant is not an over-secured creditor. See 11 U.S.C. § 506.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived.

20. 15-28952-A-7 SANTORA SHELTON

ORDER TO  
SHOW CAUSE  
12-14-15 [24]

**Final Ruling:** The order to show cause will be discharged and the petition will remain pending.

This order to show cause was issued because the debtor filed an Amended Master Address List on November 30, 2015, but did not pay the \$30 filing fee. However, the court waived the fee in an order entered on December 15, 2015. Docket 27.

21. 13-29754-A-7 TIMOTHY/SHAWN POLI  
GMR-3

MOTION TO  
APPROVE COMPENSATION OF CHAPTER 7  
TRUSTEE  
12-6-15 [104]

**Final Ruling:** This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9<sup>th</sup> Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9<sup>th</sup> Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The chapter 7 trustee, Geoffrey Richards, has filed first and final motion for approval of compensation. The requested compensation consists of \$14,142.69 in fees and \$40.24 in expenses, for a total of \$14,182.93. The services for the sought compensation were provided from July 26, 2013 through the present. The sought compensation represents 51.90 hours of services.

The court is satisfied that the requested compensation does not exceed the cap of section 326(a).

The movant will make or has made \$217,853.83 in distributions to creditors. This means that the cap under section 326(a) on the movant's compensation is \$14,142.69 (\$1,250 (25% of the first \$5,000) + \$4,500 (10% of the next \$45,000) + \$8,392.69 (5% of the next \$950,000 or \$167,853.83)). Hence, the requested trustee fees of \$14,142.69 do not exceed the cap of section 326(a).

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses."

"[A]bsent extraordinary circumstances, chapter 7, 12 and 13 trustee fees should be presumed reasonable if they are requested at the statutory rate. Congress would not have set commission rates for bankruptcy trustees in §§ 326 and 330(a)(7), and taken them out of the considerations set forth in § 330(a)(3), unless it considered them reasonable in most instances. Thus, absent extraordinary circumstances, bankruptcy courts should approve chapter 7, 12 and 13 trustee fees without any significant additional review."



Hopkins v. Asset Acceptance LLC (In re Salgado-Nava), 473 B.R. 911, 921 (B.A.P. 9<sup>th</sup> Cir. 2012).

The movant's services did not involve extraordinary circumstances and included, without limitation: (1) reviewing petition documents and analyzing assets, (2) conducting the meeting of creditors, (3) employing professionals to assist the estate in the administration of estate assets, (4) negotiating sale of real property with co-owner, (5) negotiating with the lender on the property about improprieties with its reverse mortgage, (6) selling the property, (7) reviewing claims, (8) negotiating with creditors about changes or withdrawal of claims, (9) preparing final report, and (10) preparing compensation motion.

The court concludes that the compensation is for actual and necessary services rendered in the administration of this estate. The compensation will be approved.

22. 15-28763-A-7      BERNARDO/MARIA VALENCIA      MOTION FOR  
AP-1      RELIEF FROM AUTOMATIC STAY  
FIRST TECH FEDERAL CREDIT UNION VS.      12-3-15 [12]

**Final Ruling:** This motion for relief from the automatic stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the debtor and the trustee to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9<sup>th</sup> Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9<sup>th</sup> Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to repossess its collateral, to dispose of it pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim including any attorneys' fees awarded herein. No other relief is awarded. The subject property has a value of \$11,408 and is encumbered by a perfected security interest in favor of the movant. That security interest secures a claim of \$18,517. There is no equity and there is no evidence that the property is necessary to a reorganization or that the trustee can administer the subject property for the benefit of creditors.

Because the movant has not established that the value of its collateral exceeds the amount of its claim, the court awards no fees and costs. 11 U.S.C. § 506(b).

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be waived.

23. 15-23173-A-7      MAY LEE      MOTION FOR  
GMR-2      ALLOWANCE OF PAYMENT OF INCOME TAX  
AS AN ADMINISTRATIVE EXPENSE  
12-6-15 [37]

**Final Ruling:** This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf.

Ghazali v. Moran, 46 F.3d 52, 53 (9<sup>th</sup> Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9<sup>th</sup> Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The trustee requests the allowance of payments of 2015 post-petition estate income tax liability to the IRS in amount not to exceed \$18,550 and to the California Franchise Tax Board in amount not to exceed \$6,325.

11 U.S.C. § 503(b)(1)(B) provides that "After notice and a hearing, there shall be allowed administrative expenses, other than claims allowed under section 502(f) of this title, including-

(1) . . . (B) any tax-- (i) incurred by the estate, whether secured or unsecured, including property taxes for which liability is in rem, in personam, or both, except a tax of a kind specified in section 507(a)(8) of this title."

This case was filed on April 17, 2015. The tax liability in question was incurred in 2015. As the tax was incurred post-petition, the court will allow its payment as an administrative expense claim under section 503(b)(1)(B). The motion will be granted.

24. 15-22990-A-7 XTREME ELECTRIC, INC. MOTION TO  
JRR-3 APPROVE COMPROMISE  
11-23-15 [41]

**Final Ruling:** This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9<sup>th</sup> Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9<sup>th</sup> Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The trustee requests approval of a settlement agreement between the estate and JPMorgan Chase Bank, resolving a \$16,532.39 preferential transfer claim.

Under the terms of the compromise, the bank will pay \$4,000 to the estate in full satisfaction of the claim.

On a motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Fed. R. Bankr. P. 9019. Approval of a compromise must be based upon considerations of fairness and equity. In re A & C Properties, 784 F.2d 1377, 1381 (9<sup>th</sup> Cir. 1986). The court must consider and balance four factors: 1) the probability of success in the litigation; 2) the difficulties, if any, to be encountered in the matter of collection; 3) the complexity of the litigation involved, and the expense, inconvenience, and delay necessarily attending it; and 4) the paramount interest of the creditors with a proper deference to their reasonable views. In re Woodson, 839 F.2d

610, 620 (9<sup>th</sup> Cir. 1988).

The court concludes that the Woodson factors balance in favor of approving the compromise. That is, given the approximately \$10,330 of new value given by the bank after the transfer, given the relatively small amount at stake, and given the inherent costs, risks, delay and inconvenience of further litigation, the settlement is equitable and fair.

Therefore, the court concludes the compromise to be in the best interests of the creditors and the estate. The court may give weight to the opinions of the trustee, the parties, and their attorneys. In re Blair, 538 F.2d 849, 851 (9<sup>th</sup> Cir. 1976). Furthermore, the law favors compromise and not litigation for its own sake. Id. Accordingly, the motion will be granted.

25.	11-24596-A-7	JOHN/COLLEEN REKERS	MOTION TO
	SLH-2		AVOID JUDICIAL LIEN
	VS. ROCKLIN 65, L.L.C.		12-19-15 [25]

**Final Ruling:** The motion will be denied without prejudice.

A judgment was entered against the debtors in favor of Rocklin 65, LLC for the sum of \$114,896.07 on December 2, 2008. The abstract of judgment was recorded with Placer County twice, on March 23, 2009 and on October 20, 2010. That lien attached to the debtors' residential real property in Rocklin, California. The debtors are seeking avoidance of the lien.

The subject real property had an approximate value of \$265,500 as of the petition date. Docket 27. The unavoidable liens totaled \$304,941.58 on that same date, consisting of a single mortgage in favor of Wachovia Mortgage. Docket 28. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(1) in the amount of \$1,000 in Amended Schedule C. Dockets 24 & 28.

The motion will be denied because the debtors amended their Schedule C on December 19, 2015, when this motion was filed, to change their exemption in the subject property, but they did not serve the Amended Schedule C on any of the creditors and the trustee, informing them of the changed exemption. Docket 24. Parties in interest have 30 days from an exemption amendment to object to any added or altered exemptions. Fed. R. Bankr. P. 4003(b)(1). Because the debtor has not afforded parties in interest such an opportunity, the motion will be denied.