

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

Honorable Michael S. McManus  
Bankruptcy Judge  
Sacramento, California

**January 17, 2017 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:

**3, 6, 7**

When Judge McManus convenes court, he will ask whether anyone wishes to oppose this motion. If you wish to oppose the 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 17, 2017 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 FEBRUARY 13, 2017 AT 10:00 A.M. OPPOSITION MUST BE FILED AND SERVED BY JANUARY 30, 2016, AND ANY REPLY MUST BE FILED AND SERVED BY FEBRUARY 6, 2016. 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. 14-31211-A-7 ALICE CARLSON MOTION TO  
MOH-2 AVOID JUDICIAL LIEN  
VS. CITIBANK (SOUTH DAKOTA), N.A. 11-21-16 [38]

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

The court continued the hearing on this motion from December 5, 2016, as the debtor stated an intention to amend an exemption claim in Schedule C.

A judgment was entered against the debtor in favor of Citibank for the sum of \$17,370.38 on January 27, 2011. The abstract of judgment was recorded with Butte County on March 17, 2011. That lien attached to the debtor's residential real property in Berry Creek, California. The debtor asks for avoidance of the lien.

The subject real property had an approximate value of \$187,000 as of the petition date. Dockets 40 & 41. The unavoidable liens totaled \$43,071 on that same date, consisting of a mortgage in favor of Ocwen in the amount of \$8,483 and another mortgage in favor of Green Tree Servicing in the amount of \$34,588. Dockets 40 & 41. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730 in the amount of \$143,929 in Amended Schedule C, filed on December 2, 2016. Docket 45.

However, the motion will be denied because the debtor's Amended Schedule C, filed on December 2, 2016, was not served on all creditors informing them of the altered exemption. It was served only on the chapter 7 trustee and Citibank. Dockets 47, 49, 50. Parties in interest, including all creditors, 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.

2. 16-23040-A-7 MARK TARASOV MOTION TO  
MS-1 CONVERT CASE  
12-19-16 [58]

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

The debtor requests conversion from chapter 7 to chapter 13.

Given the Supreme Court's decision in Marrama v. Citizens Bank of Massachusetts, 127 S. Ct. 1105 (2007), before the conversion of a case from chapter 7 to chapter 13, the court must determine that the debtor is eligible for chapter 13 relief. This entails examining whether the debtor is seeking the conversion for an improper purpose or in bad faith, whether the debtor is eligible for chapter 13 relief under 11 U.S.C. § 109(e), and whether there is any cause that might warrant dismissal or conversion to chapter 7 under 11 U.S.C. § 1307(c). See Marrama, 127 S. Ct. at 1112.

Among the eligibility requirements for relief under chapter 13 are the requirements that the debtor have regular income and owe, on the date of the petition, noncontingent, liquidated, unsecured debts of less than \$383,175 and noncontingent, liquidated, secured debts of less than \$1,149,525. 11 U.S.C. § 109(e).

While the debtor has established that he is within the eligibility debt limits

for chapter 13 relief, the motion states nothing about whether the debtor has regular income to fund a chapter 13 plan.

3. 15-21845-A-7 JOSEPH BARNES MOTION TO  
SS-7 RECONVERT CASE  
12-27-16 [131]

**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 creditors, 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 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.

The debtor requests conversion from chapter 7 to chapter 13. This case was filed as a chapter 13 proceeding on March 9, 2015. The court converted the case to chapter 7 on June 6, 2016. Docket 94. Now, the debtor is seeking to convert the case back to chapter 13.

Under Marrama v. Citizens Bank of Massachusetts, 127 S. Ct. 1105 (2007), before the conversion of a case from chapter 7 to chapter 13, the court must determine that the debtor is eligible for chapter 13 relief. This entails examining whether the debtor is seeking the conversion for an improper purpose or in bad faith, whether the debtor is eligible for chapter 13 relief under 11 U.S.C. § 109(e), and whether there is any cause that might warrant dismissal or conversion to chapter 7 under 11 U.S.C. § 1307(c). See Marrama, 127 S. Ct. at 1112.

Among the eligibility requirements for relief under chapter 13 are the requirements that the debtor must have regular income and owe, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts of less than \$383,175 and noncontingent, liquidated, secured debts of less than \$1,149,525. 11 U.S.C. § 109(e).

The court has reviewed the record and concludes that the debtor is not seeking the conversion for an improper purpose or in bad faith and there is no cause that might warrant dismissal or conversion to chapter 7 under 11 U.S.C. § 1307(c).

The debtor has over \$2,000 in regular monthly net income. Dockets 28 & 133. The income is regular as it is generated from the debtor's social security and veteran's benefits payments.

And, the debtor has noncontingent, liquidated secured debt in amount less than \$1,149,525 (actual amount of all secured debt is \$78,772) and noncontingent, liquidated unsecured debt in amount less than \$383,175 (actual amount of all unsecured debt is \$34,790). Given the foregoing, the court concludes that the debtor is eligible for chapter 13 relief as prescribed by Marrama. The motion will be granted and the case will be converted back to chapter 13.

4. 14-24449-A-7 ROBERT/KATHLEEN BRANSON MOTION TO  
PA-7 SELL AND TO APPROVE COMPENSATION  
OF BROKER  
12-20-16 [126]

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

The chapter 7 trustee requests authority to sell as is and free and clear of liens for \$363,000 the estate's interest in a real property in Truckee, California to Gary Massetani, Karen Massetani, and Nicolas Massetani. The trustee also asks for payment approval of the 6% real estate broker's commission, asks for waiver of the 14-day period of Fed. R. Bankr. P. 6004(h), and asks for a good faith finding under 11 U.S.C. § 363(m).

The sales price does not include a buyer's premium of \$21,250 that is to be paid by the buyers to the trustee, for the benefit of the estate.

The buyers will also pay \$9,734.14 to cover escrow fees, document preparation and mobile signing fees, government recording charges, transfer taxes, outstanding HOA dues (\$6,814.84), hazards disclosures, sewer test fees, and taxes and assessments to Tahoe-Truckee Sanitation.

The sale is free and clear of the only encumbrance on the property, of Wells Fargo Bank, in the scheduled amount of \$386,567. Wells Fargo Bank has agreed to accept \$338,820.75 in full satisfaction of its claim.

From the \$363,000 purchase price, Wells Fargo Bank has authorized the payment of county taxes in the amount of \$1,861.75, signing fee in the amount of \$30, escrow fees in the amount of \$507.50, and real estate commissions in the total amount of \$21,780 or 6% of the purchase price. After payment of these, \$338,820.75 is left to be paid on account of Wells Fargo Bank's claim.

11 U.S.C. § 363(b) allows the trustee to sell property of the estate, other than in the ordinary course of business. Under 11 U.S.C. § 363(f), the trustee may sell property of the estate free and clear of liens only if: 1) applicable nonbankruptcy law permits sale of such property free and clear of such liens; 2) the entity holding the lien consents; 3) the proposed purchase price exceeds the aggregate value of the liens encumbering the property; 4) the lien is in bona fide dispute; or 5) the entity could be compelled to accept a money satisfaction of the lien.

The sale will generate \$21,250 for distribution to creditors of the estate. No negative tax consequences are anticipated from the sale. Hence, the sale will be approved pursuant to 11 U.S.C. §§ 363(b) and 363(f)(2), given the consent to the sale by Wells Fargo Bank. The court will approve the sale free and clear only of the claim held by Wells Fargo Bank, as no other encumbrances have been identified by the motion.

And, the court will approve the sale free and clear of Wells Fargo Bank's claim only to the extent Wells Fargo Bank consents to the sale. The bank's conditional non-opposition identifies a purchase price (\$365,000) different from the price identified by the motion. Docket 134.

The sale 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, consistent with the estate's broker's court-approved terms of employment. The court will also make a good faith finding as to the

stalking horse buyers. See Docket 128 at 6-7.

5. 11-37753-A-7 CORY WIEST MOTION TO  
MS-1 AVOID JUDICIAL LIEN  
VS. LABOR COMMISSIONER OF 12-26-16 [24]  
THE STATE OF CALIFORNIA

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

A judgment was entered against the debtor in favor of Richard Byers for the sum of \$8,740.75 on March 17, 2008. Subsequently, the judgment was assigned to the Labor Commissioner of the State of California. The abstract of judgment was recorded with Solano County on April 14, 2008. That lien attached to the debtor's residential real property in Fairfield, California. The debtor is asking the court to avoid the lien.

The subject real property had an approximate value of \$127,800 as of the petition date. Dockets 26 & 1. The unavoidable liens totaled \$195,722 on that same date, consisting of a single mortgage in favor of Wells Fargo Home Mortgage. Dockets 19 & 1. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of \$1.00 in Amended Schedule C. Dockets 19 & 1.

The motion will be denied because the debtor amended Schedule C on December 26, 2016, to add an exemption in the subject property, but he did not serve the Amended Schedule C on all creditors, informing them of the added exemption. Dockets 19, 21, 3. While the master address list contains over 40 creditors, the Amended Schedule C was served only on two creditors, the trustee, and the U.S. Trustee. Dockets 3 & 21. Because the debtor has not afforded all parties in interest such an opportunity, the motion will be denied.

And, parties in interest, including all creditors, have 30 days from an exemption amendment to object to any added or altered exemptions. Fed. R. Bankr. P. 4003(b)(1). Yet, the service of the Amended Schedule C was effectuated on December 26, 2016, only 22 days prior to the January 17, 2017 hearing on this motion. Docket 21.

Finally, the motion was not served properly on the respondent creditor, the Labor Commissioner for the State of California, as prescribed by Fed. R. Bankr. P. 7004(b)(6), which requires service:

*"[u]pon a state or municipal corporation or other governmental organization thereof subject to suit, by mailing a copy of the summons and complaint to the person or office upon whom process is prescribed to be served by the law of the state in which service is made when an action is brought against such a defendant in the courts of general jurisdiction of that state, or in the absence of the designation of any such person or office by state law, then to the chief executive officer thereof."*

Cal. Civ. Proc. Code § 416.50 prescribes that:

*"(a) A summons may be served on a public entity by delivering a copy of the summons and of the complaint to the clerk, secretary, president, presiding officer, or other head of its governing body.*

*"(b) As used in this section, 'public entity' includes the state and any office, department, division, bureau, board, commission, or agency of the*

state, the Regents of the University of California, a county, city, district, public authority, public agency, and any other political subdivision or public corporation in this state."

Here, although the debtor attempted to serve the motion on the respondent, The Labor Commissioner for the State of California, the notice was addressed also to the attention of "c/o Richard Wayne Byers" the original plaintiff, and to the "Attn: Officer, a Managing or General Agent, or Agent for Service of Process." Docket 28. This does not satisfy the requirements of Fed. R. Bankr. P. 7004(b)(6). That rule does not permit service to the attention of "Officer, a Managing or General Agent, or Agent for Service of Process."

Service on the Commissioner's counsel James Berry was improper, unless the attorney agreed to accept service. See, e.g., Beneficial California, Inc. v. Villar (In re Villar), 317 B.R. 88, 92-94 (B.A.P. 9th Cir. 2004). The court has no evidence that the attorney agreed to accept service on behalf of the Commissioner.

6. 16-27653-A-7 MANJIT JHAJ MOTION TO  
PR-1 COMPEL ABANDONMENT  
12-29-16 [20]

**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 creditors, 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.

The debtor requests an order compelling the trustee to abandon the estate's interest in his trucking business, Manjit Jhaj Trucking.

11 U.S.C. § 554(b) provides that on request of a party in interest and after notice and a hearing, the court may order the trustee to abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate.

According to the motion, the business assets include only a Peterbilt truck, with a value of \$15,000, which truck has been claimed fully exempt in Schedule C and Amended Schedule C. Given the exemption claim, the court concludes that the business, to the extent of the assets listed in the motion, is of inconsequential value to the estate. The motion will be granted.

7. 16-27088-A-7 TERRANCE/APEAR MOTION FOR  
CJO-1 HENDRICKSON RELIEF FROM AUTOMATIC STAY  
PINGORA LOAN SERVICING, L.L.C. VS. 12-30-16 [13]

**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.

The movant, Pingora Loan Servicing, L.L.C., seeks relief from the automatic stay as to a real property in Vacaville, California. The movant purchased the property at a pre-petition foreclosure sale, on August 9, 2016. On October 17, 2016, the movant served the debtor with a notice to vacate. The debtor filed this bankruptcy case on October 25, 2016. The movant filed an unlawful detainer complaint on October 27.

The movant is not seeking retroactive relief from stay.

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 for cause pursuant to 11 U.S.C. § 362(d)(1) in order to permit the movant to proceed with its state law remedies to obtain possession of the property. If the movant prevails with any action, no monetary claim may be collected from the debtor. The movant is limited to recovering possession of the property if and to the extent permitted.

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.



**FINAL RULINGS BEGIN HERE**

8. 12-33411-A-7 ESTEBAN DURAN MOTION TO  
CAH-3 AVOID JUDICIAL LIEN  
VS. MAIN STREET ACQUISITIONS CORP. 12-14-16 [33]

**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 Main Street Acquisition Corporation Portfolio for the sum of \$3,420.79 on December 23, 2011. The abstract of judgment was recorded with Yolo County on February 10, 2012. That lien attached to the debtor's residential real property in West 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 \$161,400 as of the petition date. Dockets 35 & 1. The unavoidable liens totaled \$214,194 on that same date, consisting of a single mortgage in favor of Green Tree Servicing. Dockets 35 & 1. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of \$1.00 in Schedule C. Dockets 35 & 1.

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. 12-33411-A-7 ESTEBAN DURAN MOTION TO  
CAH-4 AVOID JUDICIAL LIEN  
VS. VION HOLDINGS, L.L.C. 12-14-16 [39]

**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 Vion Holdings, L.L.C. for



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) evaluating the debtor's residence, (3) preparing pleadings to employ a real estate broker, (4) preparing and prosecuting a motion to sell the real property, (5) assessing the value of two promissory notes, pertaining to the sale of the debtor's business, (6) collecting on the notes, (7) addressing tax issues, (8) preparing final report, and (9) 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.

11. 16-21599-A-7 CHRISTOPHER/GLEE WOODYARD MOTION TO  
SS-2 RECONVERT CASE  
11-4-16 [109]

**Final Ruling:** The court concludes that a hearing will not be helpful to its consideration and resolution of this matter. There is no objection to the relief requested and the court will not materially alter the relief requested. Accordingly, an actual hearing is unnecessary and this matter is removed from calendar for resolution without oral argument. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9<sup>th</sup> Cir. 2006).  
The motion will be granted.

The court continued the hearing on this motion from December 5, 2016 in order for the debtors to supplement the record. The debtors have filed another declaration in support of the motion. An amended ruling from December 5 follows.

The debtors request conversion from chapter 7 to chapter 13. This case was filed as a chapter 13 proceeding on March 15, 2016. The debtors converted the case to chapter 7 on August 11. Docket 71. Now, they are seeking to convert the case back to chapter 13.

Under Marrama v. Citizens Bank of Massachusetts, 127 S. Ct. 1105 (2007), before the conversion of a case from chapter 7 to chapter 13, the court must determine that the debtor is eligible for chapter 13 relief. This entails examining whether the debtor is seeking the conversion for an improper purpose or in bad faith, whether the debtor is eligible for chapter 13 relief under 11 U.S.C. § 109(e), and whether there is any cause that might warrant dismissal or conversion to chapter 7 under 11 U.S.C. § 1307(c). See Marrama, 127 S. Ct. at 1112.

Among the eligibility requirements for relief under chapter 13 are the requirements that the debtor must have regular income and owe, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts of less than \$383,175 and noncontingent, liquidated, secured debts of less than \$1,149,525. 11 U.S.C. § 109(e).

The court has reviewed the record and concludes that the debtors are not seeking the conversion for an improper purpose or in bad faith and there is no cause that might warrant dismissal or conversion to chapter 7 under 11 U.S.C. § 1307(c).

The debtors have executed a declaration stating they are within the chapter 13 debt eligibility limits. Docket 126. They have monthly disposable income of \$900. Dockets 126 & 112. Their income is regular as Mr. Woodyard is employed at a medical clinic and Mrs. Woodyard is employed with the County of Sacramento. Docket 112. Accordingly, the motion will be granted and the case will be reconverted to chapter 13.