

error or the initial decision was manifestly unjust, or (3) if there is an intervening change in the controlling law." School Dist. No. 1J, Multnomah County, Oregon v. ACandS, Inc., 5 F.3d 1255, 1263 (9th Cir.1993). A Rule 59(e) motion "should not be granted[] absent highly unusual circumstances." 389 Orange St. Partners v. Arnold, 179 F.3d 656, 665 (9th Cir.1999). A motion to reconsider is not another opportunity for the losing party to make its strongest case, reassert arguments, or revamp previously unmeritorious arguments. Reconsideration motions do not give parties a "second bite at the apple." They "are not vehicles permitting the unsuccessful party to 'rehash' arguments previously presented.... Nor is a motion to reconsider justified on the basis of new evidence which could have been discovered prior to the court's ruling.... Finally, 'after thoughts' or 'shifting of ground' do not constitute an appropriate basis for reconsideration." United States v. Navarro, 972 F.Supp. 1296, 1299 (E.D.Cal.1999), rev'd on other grounds, 160 F.3d 1254 (9th Cir.1998) (internal citations omitted); accord United States v. Westlands Water Dist., 134 F.Supp.2d 1111, 1130 (E.D.Cal.2001); see also Backlund v. Barnhart, 778 F.2d 1386, 1388 (9th Cir.1985).

The debtor has not shown a basis for reconsideration. She has not shown newly discovered evidence that could not have been discovered prior to the court's ruling, she has not shown that the court committed clear error or that its decision was manifestly unjust and she has not shown that there has been an intervening change in controlling law that would change the court's decision. Rather, the debtor is simply unhappy with the court's decision and wishes to reargue the motion. The fact that the debtor is unhappy, however, is not a basis for reconsideration.

The court will issue a minute order.

3. [13-32410](#)-B-7 HAAS MAINTENANCE AND MOTION TO EMPLOY GREGORY J.
GJH-2 REMODELING, INC. HUGHES AS SPECIAL COUNSEL
12-24-13 [21]

Disposition After Oral Argument: This matter came on for final hearing on December 17, 2013, at 9:32 a.m. Appearances are noted on the record. The following constitutes the court's findings of fact and conclusions of law, pursuant to Federal Rule of Bankruptcy Procedure 7052.

The motion is granted to the extent set forth herein. Pursuant to 11 U.S.C. §§ 327(a) and 328(a) and Bankruptcy Rule 2014, the debtor is authorized to employ Hughes Law Corporation ("HLC") as counsel to the bankruptcy estate, effective October 14, 2013, on the terms and conditions set forth in the motion, to the extent permitted by 11 U.S.C. § 328(a). Counsel's fees and costs, if any, shall be paid only pursuant to application. 11 U.S.C. § 330 and Fed. R. Bankr. P. 2016. Except as so ordered, the motion is denied.

The court finds that HLC is a disinterested person as that term is defined in 11 U.S.C. § 101(14).

The court treats the motion as one seeking authorization pursuant to 11 U.S.C. § 327(a) and 328(a). Employment of HLC as "special counsel" pursuant to 11 U.S.C. § 327(e) is unnecessary.

Counsel for the chapter 7 trustee shall submit an order that conforms to the foregoing ruling.

4. [13-34620](#)-B-7 BRIAN/ALISON OLEINIK MOTION TO COMPEL ABANDONMENT
EJS-1 12-27-13 [[13](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted. Pursuant to 11 U.S.C. § 554(b) and Fed. R. Bankr. P. 6007(b), the real property located at 4665 Grove Street, Rocklin, California (the "Real Property") and all personal property listed by the debtors on Schedule B, with the exception of "Undetermined 2013 Tax Refund", (collectively, the "Personal Property") are deemed abandoned by the estate. Except as so ordered, the motion is denied.

The debtors allege without dispute that the Real Property has a value of \$225,000.00 and is encumbered by a loan secured by a deed of trust on the Real Property with a balance of \$165,015.00 as of the date of the filing of the petition. The debtors have claimed a \$100,000.00 exemption in the Real Property pursuant to Cal. Civ. Proc. Code § 703.030. The debtors have also claimed the Personal Property as entirely exempt on Schedule C. The debtors have carried their burden of showing that the Real Property and the Personal Property are of inconsequential value and benefit to the estate.

The court will issue a minute order.

5. [13-31022](#)-B-7 KATHLEEN DEEGAN MOTION FOR ORDER FOR SERVICE BY
[13-2337](#) WSS-2 PUBLICATION OF SUMMONS AND
BANK OF AMERICA, N.A. V. COMPLAINT
NOBACH 12-23-13 [[15](#)]

Tentative Ruling: The motion is granted. Pursuant to Fed. R. Civ. P. 4(e)(1) Cal. Civ. Proc. Code §§ 763.010 and 415.50 the plaintiff is directed to serve the unknown defendants named in this adversary proceeding as Does 26-50 with the summons and complaint by 1.) publication of the summons and complaint in the Sacramento Bee in the manner prescribed by Cal. Civ. Proc. Code § 415.50 and Cal. Gov't Code § 6064, and 2.) by posting a copy of the summons and complaint on the real property that is the subject of this adversary proceeding located at 1412 Yukon Street, Davis, California.

The court finds that the plaintiff has used reasonable diligence to ascertain the identity and residence of and to serve summons on Does 26-50.

The court will issue a minute order.

6. [13-34525](#)-B-7 JOSHUA/ASHLEY SKINNER MOTION TO COMPEL ABANDONMENT
FF-1 1-2-14 [[18](#)]

Tentative Ruling: This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

7. [12-36626](#)-B-7 SUREN/HEMINA PATEL MOTION TO STAY
[12-2633](#) WSS-2 1-7-14 [[57](#)]
PATEL V. PATEL ET AL

Tentative Ruling: None.

8. [13-32529](#)-B-7 GARY/DEBRA CAMPBELL MOTION TO EXTEND TIME
HSM-2 12-31-13 [[54](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted. The deadline for the chapter 7 trustee to file an objection to the debtors' claims of exemption is extended to and including April 2, 2014. Except as so ordered, the motion is denied.

The court will issue a minute order.

9. [13-35936](#)-B-7 JOHN/CHERYL SEGOVIA MOTION TO COMPEL ABANDONMENT
RAC-1 12-30-13 [[9](#)]

Tentative Ruling: The motion is continued to March 11, 2014, at 9:32 a.m.

As the personal property for which the debtor seeks abandonment (the "Property") is of inconsequential value and benefit to the estate due to the fact that the Property is claimed as exempt, the court continues the motion to a date after the period for objecting to the debtors' claims of exemption pursuant to Fed. R. Bankr. P. 4003(b)(1) has expired.

The court will issue a minute order.

10. [13-34046](#)-B-7 JASON/SHANNON WONG
RAC-1

CONTINUED MOTION TO COMPEL
ABANDONMENT
11-18-13 [[9](#)]

WITHDRAWN BY M.P.

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

The motion is removed from the calendar. The debtors withdrew the motion on January 8, 2014 (Dkt. 38).

11. [10-34749](#)-B-7 LESLIE MCGAHA
BLL-1

MOTION TO COMPEL ABANDONMENT
12-30-13 [[35](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

Pursuant to 11 U.S.C. § 554(b), the motion is granted and the estate's interest in a cause of action against the debtor's original bankruptcy counsel Douglas B. Jacobs (the "Cause of Action") is deemed abandoned by the estate to the extent that the Cause of Action is property of the estate. Except as so ordered, the motion is denied.

The debtor alleges without dispute that she and the trustee entered into a settlement agreement (Dkt. 38, p.2-7) (the "Settlement Agreement") whereby the parties agreed to settle a dispute regarding disbursements the debtor had been receiving post-petition in relation to a pre-petition interest she held in the partnership known as "Collins and Denny Market No. 2." Under the terms of the Settlement Agreement, the debtor agreed to refinance the existing secured loan on her residence and pay the trustee the sum of \$100,000.00. As added consideration for the \$100,000.00 payment, the trustee agreed to assign to the debtor the estate's interest in the Cause of Action. The court approved the Settlement Agreement by order entered October 3, 2013 (Dkt. 34). The debtor further alleges without dispute that she has fully performed under the terms of the Settlement Agreement and that the Cause of Action is therefore of inconsequential value and benefit to the estate. The trustee has filed a statement of non-opposition to the motion and asserts in his sworn declaration (Dkt. 37) that, in his business judgment, the Cause of Action is of inconsequential value and benefit to the estate. In the absence of opposition, the court finds that the debtor has satisfied her burden of establishing that the Cause of Action is of inconsequential value and benefit to the estate. In re Viet Vu, 245 B.R. 644, 647 (9th Cir. BAP 2000).

The court will issue a minute order.

12. [13-32058](#)-B-7 TERRY FAITH MOTION TO AVOID LIEN OF MIDLAND
ALF-1 FUNDING, LLC
12-31-13 [[14](#)]

Tentative Ruling: None.

13. [13-21264](#)-B-7 MIGUEL MONTANO MOTION TO VACATE FINAL DECREE
MOH-1 AND PERMIT CLOSING OF CASE WITH
A DISCHARGE
1-13-14 [[27](#)]

Tentative Ruling: This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

14. [13-24369](#)-B-7 NAEEM/WIZMA AMIRI MOTION TO COMPROMISE
DNL-2 CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH RASOOL AMIRI
12-31-13 [[46](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted, and the chapter 7 trustee is authorized to enter into and perform in accordance with the Settlement Agreement (the "Agreement") filed as Exhibit "A" to the motion (Dkt. 49, p.2-5). Except as so ordered, the motion is denied.

The court has great latitude in approving compromise agreements. In re Woodson, 839 F.2d 610, 620 (9th Cir. 1988). The court is required to consider all factors relevant to a full and fair assessment of the wisdom of the proposed compromise. Protective Committee For Independent Stockholders Of TMT Trailer Ferry, Inc. v. Anderson, 390 U.S. 414, 88 S.Ct. 1157, 20 L.Ed.2d 1 (1968). The court will not simply approve a compromise proffered by a party without proper and sufficient evidence supporting the compromise, even in the absence of objections.

The chapter 7 trustee alleges without dispute that the Agreement is fair and equitable. He believes that it will settle a contested adversary proceeding regarding an alleged fraudulent transfer from debtor Naeem Amiri to Rasool Amiri. He further states without dispute that, without the Agreement, there will be significant delay and expense in litigating a fact-intensive adversary proceeding. The court finds that the Agreement is a reasonable exercise of the trustee's business judgment. In re Rake, 363 B.R. 146, 152 (Bankr. D. Idaho 2006). Accordingly, the court finds that the trustee has carried his burden of persuading the court that the Agreement is fair and equitable, and the motion is granted.

The court will issue a minute order.

15. [13-24369](#)-B-7 NAEEM/WIZMA AMIRI
NMA-1

OBJECTION TO CLAIM OF CREDIT
BUREAU ASSOCIATES, CLAIM NUMBER
13
12-10-13 [[41](#)]

Tentative Ruling: The objection is dismissed.

The objection is dismissed because the debtors have failed to establish that they have constitutional standing to object to claims filed in this chapter 7 case. "Standing is a jurisdictional requirement which is open to review at all stages of litigation. . . . The burden to establish standing remains with the party claiming that standing exists." Max Recovery v. Than (In re Than), 215 B.R. 430, 434 (9th Cir. BAP 1997). In general, "'debtors only have standing to object to claims where there is 'a sufficient possibility' of a surplus to give them a pecuniary interest.'" Law v. Golden (In re Eisen), 2007 Bankr. LEXIS 4864, at *21, quoting Heath v. Am. Express Travel Related Servs. Co. (In re Heath), 331 B.R. 424, 429 (9th Cir. BAP 2005); see also In re Sandwich Islands Distilling Corp., 2009 Bankr. LEXIS 3692, at *7-8 (Bankr. D. Haw. 2009) (chapter 7 debtor has standing to object to claim only if it retains a pecuniary interest in the estate); Dellamarggio v. B-Line, LLC (In re Barker), 306 B.R. 339, 346 (Bankr. E.D. Cal. 2004) (chapter 7 debtors typically lack standing to object to claims because they have no economic interest in whether the claim is allowed or disallowed). Therefore, in order to prove that they have constitutional standing, the debtors have the burden of establishing that they have a pecuniary interest in an amount of the claim, which could occur if the debtors can prove that the estate is solvent or that they have been denied a discharge in this case.

Here, the debtors have provided no evidence that there is a possibility of a distribution of surplus to them. The court notes that the chapter 7 trustee filed a report of no distribution on May 8, 2013, stating that he found no property available for distribution from the estate over and above that exempted by law. In other words, the estate is insolvent and there is no possibility of a surplus distribution to the debtors. Furthermore, the debtors have provided no evidence that they will be denied their discharges in this case. The only evidence offered by the debtors is that they received consent to file this objection by the trustee. This is insufficient to establish constitutional standing under the aforementioned standard. As such, the objection is dismissed.

The court will issue a minute order.

16. [13-33277](#)-B-7 DINO HOYT
DLM-1

MOTION TO AVOID LIEN OF CAVALRY
PORTFOLIO SERVICES, LLC
12-11-13 [[13](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted pursuant to 11 U.S.C. § 522(f)(1)(A), subject to the provisions of 11 U.S.C. § 349. The judicial lien in favor of Cavalry Portfolio Services, LLC, recorded in the official records of Sacramento County, Book No. 20060315, is avoided as against the real property located at 6204 Leola Way, Sacramento, CA 95824 (the "Property").

The Property has a value of \$105,000.00 as of the date of the petition. The unavoidable liens total approximately \$104,037.16. The debtor claimed the Property as exempt under California Code of Civil Procedure Section 703.140(b)(5) under which he exempted \$5,000.00. The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the 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 Property and its fixing is avoided.

The court will issue a minute order.

17. [13-33277](#)-B-7 DINO HOYT
DLM-2

MOTION TO AVOID LIEN OF
PALISADES COLLECTION, LLC
12-11-13 [[19](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted pursuant to 11 U.S.C. § 522(f)(1)(A), subject to the provisions of 11 U.S.C. § 349. The judicial lien in favor of Palisades Collection, LLC, recorded in the official records of Sacramento County, Book No. 20061227, is avoided as against the real property located at 6204 Leola Way, Sacramento, CA 95824 (the "Property").

The Property has a value of \$105,000.00 as of the date of the petition. The unavoidable liens total approximately \$104,037.16. The debtor claimed the Property as exempt under California Code of Civil Procedure Section 703.140(b)(5) under which he exempted \$5,000.00. The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the 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 Property and its fixing is avoided.

The court will issue a minute order.

18. [12-33980](#)-B-7 LARRY WALLER MOTION FOR ORDER APPROVING
HSM-10 STIPULATION AND EXTENDING
DEADLINE FOR TRUSTEE TO FILE
OBJECTIONS TO DEBTOR'S CLAIMS
OF EXEMPTIONS
12-23-13 [[115](#)]

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted. The stipulation between the debtor and the chapter 7 trustee (Dkt. 118, p.2-3) is approved. Pursuant to the approved stipulation, the deadline for the chapter 7 trustee to file an objection to the debtor's claims of exemptions is extended to February 21, 2014.

The chapter 7 trustee requests an extension of the deadline to file an objection to the debtor's claims of exemptions pursuant to Fed. R. Bankr. P. 4003(b). When a request for an enlargement of time to file an objection to a claim of exemptions is made before the time has expired, as it was here, the court may enlarge the time for cause shown. Fed. R. Bankr. P. 4003(b)(1). Here, the chapter 7 trustee alleges that he and the debtor have entered into a fully executed agreement which resolves certain disputes that the parties have regarding the debtor's claims of exemptions. The debtor, through his counsel, and the chapter 7 trustee have entered into a stipulation to extend the deadline (Dkt. 118, p.2-3) pending bankruptcy court approval of the final agreement. This constitutes "cause" for purposes of Fed. R. Bankr. P. 4003(b).

The court will issue a minute order.

19. [11-44792](#)-B-7 CELESTE ROBERTS MOTION TO COMPEL ABANDONMENT
CAH-1 1-14-14 [[126](#)]

Tentative Ruling: This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

20. [12-38199](#)-B-7 STEVE GREGORY MOTION FOR ENTRY OF DEFAULT
[13-2022](#) CLG-2 JUDGMENT
GREGORY V. GREGORY 12-19-13 [[52](#)]

Tentative Ruling: The motion is denied without prejudice.

The plaintiff has failed to provide any support with the request for entry of default judgment as to why the court should grant the relief she seeks. In the complaint (Dkt. 1) (the "Adversary Complaint"), the

plaintiff prays that her claim of \$75,000.00 plus late fees, interest, and attorney's fees and costs, be determined to be non-dischargeable under 11 U.S.C. §§ 523(a)(5), (6), and (15), as well as for compensatory and punitive damages according to proof, and reasonable attorney's fees and costs. However, the plaintiff has provided the court with nothing to support why she is entitled to default judgment as to the relief she seeks. See Fed. R. Bankr. P. 7055, incorporating Fed. R. Civ. P. 55.

A "prove up" hearing is held only if the court determines that one is required after consideration of a proper motion.

The court notes that this is the third time that the plaintiff has moved for an entry of default judgment against the defendant. The court has previously heard this matter on August 20, 2013, and October 1, 2013. In each instance, the plaintiff has filed the exact same motion supported by the same declaration and proof of the state court judgment. As a result, the motion has been repeatedly denied on the same grounds. This is the final time that the court will deny the motion without prejudice. Next time, the plaintiff is instructed to do the following: (1) file a motion for entry of default judgment that complies with Federal Bankruptcy Rule 7055, incorporating Federal Rule of Civil Procedure 55. The motion shall include the legal standards governing the claims for relief alleged in the Adversary Complaint, and an application of the relevant facts to those standards. The facts set forth in the motion shall only lend support to the facts already alleged in the Adversary Complaint and shall not add allegations of fact not found in the Adversary Complaint; and (2) file and serve the motion and notice of hearing in a manner consistent with Local Bankruptcy Rule 9014-1(f)(1). If the plaintiff does not file and serve a compliant motion for entry of default judgment, the defendant may submit a proposed order dismissing the Adversary Complaint without leave to amend. See Fed. R. Bankr. P. 7041, incorporating Fed. R. Civ. P. 41.

The court will issue a minute order.