

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA**

Honorable Fredrick E. Clement
Sacramento Federal Courthouse
501 I Street, 7th Floor
Courtroom 28, Department A
Sacramento, California

DAY: MONDAY
DATE: JANUARY 31, 2022
CALENDAR: 9:00 A.M. CHAPTER 7 CASES

RULINGS

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling.

"**No Ruling**" means the likely disposition of the matter will not be disclosed in advance of the hearing. The matter will be called; parties wishing to be heard should rise and be heard.

"**Tentative Ruling**" means the likely disposition, and the reasons therefor, are set forth herein. The matter will be called. Aggrieved parties or parties for whom written opposition was not required should rise and be heard. Parties favored by the tentative ruling need not appear. Non-appearing parties are advised that the court may adopt a ruling other than that set forth herein without further hearing or notice.

"**Final Ruling**" means that the matter will be resolved in the manner, and for the reasons, indicated below. The matter will not be called; parties and/or counsel need not appear and will not be heard on the matter.

CHANGES TO PREVIOUSLY PUBLISHED RULINGS

On occasion, the court will change its intended ruling on some of the matters to be called and will republish its rulings. The parties and counsel are advised to recheck the posted rulings after 3:00 p.m. on the next business day prior to the hearing. Any such changed ruling will be preceded by the following bold face text: "**[Since posting its original rulings, the court has changed its intended ruling on this matter]**".

ERRORS IN RULINGS

Clerical errors of an insignificant nature, e.g., nomenclature ("2017 Honda Accord," rather than "2016 Honda Accord"), amounts, ("\$880," not "\$808"), may be corrected in (1) tentative rulings by appearance at the hearing; or (2) final rulings by appropriate ex parte application. Fed. R. Civ. P. 60(a) *incorporated by* Fed. R. Bankr. P. 9024. All other errors, including those occasioned by mistake, inadvertence, surprise, or excusable neglect, must be corrected by noticed motion. Fed. R. Bankr. P. 60(b), *incorporated by* Fed. R. Bankr. P. 9023.

1. [19-27507](#)-A-7 **IN RE: KENNETH/LIELANIE STEERS**
[HSM-17](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH RONNIE STEERS, KENNETH LEE STEERS II, DAN
CARIDI AND STEPHANIE JEAN CARIDI
1-10-2022 [\[246\]](#)

WALTER DAHL/ATTY. FOR DBT.
HOWARD NEVINS/ATTY. FOR MV.
DEBTORS DISCHARGED: 04/06/2021

Tentative Ruling

Motion: Approve Compromise or Settlement of Controversy
Notice: LBR 9014-1(f)(2); no written opposition required
Disposition: Granted
Order: Civil minute order

Parties to Compromise: Ronnie Steers, Kenneth Lee Steers III, Dan Caridi and Stephanie Jean Caridi
Dispute Compromised: Multiple Avoidable Transfers in the total amount of \$197,078.94
Summary of Material Terms: described in Exhibit A - Settlement and Release Agreement, ECF No. 249

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The chapter 7 trustee requests approval of a compromise between the parties regarding multiple avoidable transfers of property.

Ronnie Steers, Kenneth Lee Steers III, Dan Caridi and Stephanie Jean Caridi, jointly and severally, agree to pay to the Trustee the cash sum of Twenty Thousand (\$20,000.00). The funds shall be paid in four installments of \$5,000.00 each commencing December 1, 2021, and payable on the first of January, February and March 2022 thereafter.

APPROVAL OF COMPROMISE

In determining whether to approve a compromise under Federal Rule of Bankruptcy Procedure 9019, the court determines whether the compromise was negotiated in good faith and whether the party proposing the compromise reasonably believes that the compromise is the best that can be negotiated under the facts. *In re A & C Props.*, 784 F.2d 1377, 1381 (9th Cir. 1982). More than mere good faith negotiation of a compromise is required. The court must also find that the compromise is fair and equitable. *Id.* "Fair and equitable" involves a consideration of four factors: (i) the probability of success in the litigation; (ii) the difficulties to be encountered in collection; (iii) the complexity of the litigation, and expense, delay and inconvenience necessarily attendant to litigation; and (iv) the paramount interest of

creditors and a proper deference to the creditors' expressed wishes, if any. *Id.* The party proposing the compromise bears the burden of persuading the court that the compromise is fair and equitable and should be approved. *Id.*

The movant requests approval of a compromise that settles the dispute(s) described above. The compromise is reflected in the settlement agreement filed with the motion as an exhibit. Based on the motion and supporting papers, the court finds that the compromise presented for the court's approval is fair and equitable considering the relevant *A & C Properties* factors. The compromise or settlement will be approved.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Geoffrey Richard's motion to approve a compromise has been presented to the court. Having considered the motion, oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the motion is granted. The court hereby approves the compromise that is reflected in the settlement agreement filed with the motion as an exhibit and filed at docket no. 249.

2. [12-31810](#)-A-7 **IN RE: BRIAN/COLLEEN WELLS**
[BLF-5](#)

MOTION FOR COMPENSATION FOR LORIS L. BAKKEN, TRUSTEE'S
ATTORNEY
1-3-2022 [\[57\]](#)

MARK HANNON/ATTY. FOR DBT.
DEBTORS DISCHARGED: 10/09/2012

Final Ruling

Application: Allowance of First and Final Compensation and Expense
Reimbursement

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Approved

Order: Civil minute order

Compensation: \$7,230.00

Expenses: \$107.99

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this application was required not less than 14 days before the hearing on the application. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

COMPENSATION AND EXPENSES

In this Chapter 7 case, Loris L. Bakken, attorney for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$7,230.00 and reimbursement of expenses in the amount of \$107.99. The motion is supported by the declaration of the chapter 7 trustee, Michael McGranahan, ECF No. 60.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Loris L. Bakken's application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$7,230.00 and reimbursement of expenses in the amount of \$107.99.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

3. [21-23912](#)-A-7 **IN RE: ROBERT/JENNIFER FINE**
[JHK-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-29-2021 [\[19\]](#)

BRUCE DWIGGINS/ATTY. FOR DBT.
JOHN KIM/ATTY. FOR MV.
EXETER FINANCE, LLC VS.
TRUSTEE NON-OPPOSITION

Final Ruling

Motion: Stay Relief

Notice: LBR 9014-1(f)(1); non-opposition by chapter 7 trustee

Disposition: Granted

Order: Civil minute order

Subject: 2010 Dodge Ram

Cause: delinquent installment payments 3 months/\$1,628.01

Debtor's Statement of Intention: Surrender

These minutes constitute the court's findings of fact and conclusions of law required by Fed. R. Civ. P. 52(a), *incorporated* by Fed. R. Bankr. P. 7052, 9014(c). The findings of fact are as set forth above; the conclusions of law are as set forth below.

DEFAULT OF RESPONDENT

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated* by Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true.

TeleVideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917-18 (9th Cir. 1987).

Exeter Finance, LLC, seeks an order for relief from the automatic stay under 11 U.S.C. § 362(d)(1). The chapter 7 trustee, Nikki Farris, has filed a non-opposition to the motion. The debtors' Statement of Intention indicates that it is their intention to surrender the vehicle, ECF No. 1.

STAY RELIEF

"[A]fter notice and a hearing," the court may terminate, annul, modify or condition the stay: (1) "for cause, including the lack of adequate protection"; or (2) "with respect to a stay of an act against property [of the estate]" if the debtor lacks "equity" in that property and if that "property is not necessary for an effective reorganization." 11 U.S.C. § 362(d); see also Fed. R. Bankr. P. 4001(a)(1). The party seeking stay relief bears the burden of proof as to "the debtor's equity in the property" and on the validity and perfection of its security interest, as well as the amount of its debt. 11 U.S.C. § 362(g)(1); *In re Dahlquist*, 34 B.R. 476, 481 (Bankr. S.D. 1983). The party opposing stay relief, e.g., the debtor or Chapter 7 trustee, bears the burden of proof on all other issues. 11 U.S.C. § 362(g)(2).

Subsection (d)(1) of § 362 of Title 11 provides for relief from stay for "cause, including the lack of adequate protection of an interest in property of such party." 11 U.S.C. § 362(d)(1). The debtor bears the burden of proof. 11 U.S.C. § 362(g)(2). Adequate protection may consist of a lump sum cash payment or periodic cash payments to the entity entitled to adequate protection "to the extent that the stay . . . results in a decrease in the value of such entity's interest in property." 11 U.S.C. § 361(1). "An undersecured creditor is entitled to adequate protection only for the decline in the [collateral's] value after the bankruptcy filing." See Kathleen P. March, Hon. Alan M. Ahart & Janet A. Shapiro, *California Practice Guide: Bankruptcy* ¶ 8:1065.1 (rev. 2019) (citing *United Sav. Ass'n v. Timbers of Inwood Forest Assocs., Ltd.*, 484 U.S. 365, 370-73 (1988)); see also *In re Weinstein*, 227 BR 284, 296 (9th Cir. BAP 1998) ("Adequate protection is provided to safeguard the creditor against depreciation in the value of its collateral during the reorganization process"); *In re Deico Electronics, Inc.*, 139 BR 945, 947 (9th Cir. BAP 1992) ("Adequate protection payments compensate undersecured creditors for the delay bankruptcy imposes upon the exercise of their state law remedies").

The debtor is obligated to make debt payments to the moving party pursuant to a loan contract that is secured by a security interest in the debtor's vehicle described above. The debtor has defaulted on such loan with the moving party, and postpetition payments are past due. Vehicles depreciate over time and with usage. Consequently, the moving party's interest in the vehicle is not being adequately protected due to the debtor's ongoing postpetition default.

Cause exists to grant relief under § 362(d)(1). The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Exeter Finance, LLC's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as a 2010 Dodge Ram, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

4. [19-26964](#)-A-7 **IN RE: LYNN HARRINGTON**
[GMR-2](#)

MOTION FOR ADMINISTRATIVE EXPENSES
12-22-2021 [[70](#)]

KAREN PINE/ATTY. FOR DBT.
J. CUNNINGHAM/ATTY. FOR MV.
DEBTORS DISCHARGED: 03/02/2020

Final Ruling

Motion: Allow Administrative Expense [Estate Taxes]
Notice: LBR 9014-1(f)(1); written opposition required
Disposition: Granted
Order: Civil minute order

2021 Federal Tax: Internal Revenue Service \$1,000.00
2021 California State Tax: Franchise Tax Board \$200.00

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 7 trustee, Geoffrey Richards, seeks an order approving payment of post-petition income taxes due from the bankruptcy estate for the 2021 tax year, under 11 U.S.C. § 503(b)(1)(B).

ALLOWANCE OF ADMINISTRATIVE EXPENSE

"Subject to limited exceptions, a trustee must pay the taxes of the estate on or before the date they come due, 28 U.S.C. § 960(b), even if no request for administrative expenses is filed by the tax authorities, 11 U.S.C. § 503(b)(1)(D), and the trustee must insure that 'notice and a hearing' have been provided before doing so, see *id.* § 503(b)(1)(B). The hearing requirement insures that interested parties . . . have an opportunity to contest the amount of tax paid before the estate's funds are diminished, perhaps irretrievably." *In re Cloobek*, 788 F.3d 1243, 1246 (9th Cir. 2015). It is error to approve a trustee's final report without first holding a hearing, see 11 U.S.C. § 102(1), to allow creditors and parties in interest an opportunity to object to the allowance or amount of tax before it is paid. *Id.* 1245 n.1, 1246.

Creditors and parties in interest have had an opportunity to contest the allowance and amount of the estate taxes in this case. No objection has been made. Accordingly, the taxes specified in the motion shall be allowed as an administrative expense under 11 U.S.C. § 503(b)(1)(B).

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The chapter 7 trustee's motion for allowance of administrative expense has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The court allows federal taxes of \$1,000.00 and California state taxes of \$200.00 as an administrative expense under 11 U.S.C. § 503(b) (1) (B).

5. [21-23670](#)-A-7 **IN RE: MICHAEL DURAN**
[LCL-2](#)

MOTION TO AVOID LIEN OF BANK OF AMERICA AND/OR MOTION TO
AVOID LIEN OF CAPITAL ONE BANK
12-21-2021 [\[23\]](#)

LUONG LECHAU/ATTY. FOR DBT.

Final Ruling

Motion: Avoid Multiple Liens that Impair Exemption

Notice: LBR 9014-1(f) (1); written opposition required

Disposition: Granted

Order: Prepared by moving party

Judicial Lien Avoided 1: \$18,733.89 Bank of America, N.A. recorded October 17, 2019

Judicial Lien Avoided 2: \$3,563.82 Capital One Bank (USA), N.A. recorded March 15, 2021

All Other Liens:

- Deed of Trust \$186,133.00 Flagstar Bank

Exemption: \$600,000.00

Value of Property: \$367,030.00

Subject Property: 719 W. Lincoln Road, Stockton, CA

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f) (1) (B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The debtor seeks and order avoiding the judicial liens of Bank of America, N.A., and Capital One Bank (USA), N.A., under 11 U.S.C. § 522(f).

LIEN-AVOIDANCE STANDARDS

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

REVERSE-PRIORITY ANALYSIS

In cases in which there are multiple liens to be avoided, the liens must be avoided in the reverse order of their priority. See *In re Meyer*, 373 B.R. 84, 87-88 (B.A.P. 9th Cir. 2007). "[L]iens already avoided are excluded from the exemption-impairment calculation with respect to other liens." *Id.*; 11 U.S.C § 522(f)(2)(B).

The lowest priority judicial lien to be avoided is the lien of Capital One Bank (USA), N.A., securing a judgment debt in the amount of \$3,563.82. The total of the judicial liens, all other liens, plus the exemption amount equals approximately \$804,866.89. The value of the property is \$373,030.00. This judicial lien, all other liens, and the exemption amount together exceed the property's value by an amount greater than or equal to the debt secured by Capital One Bank (USA), N.A.'s judicial lien. As a result, Capital One Bank (USA), N.A.'s judicial lien will be avoided entirely.

Next, the court considers the lien of Bank of America, N.A. securing a judgment debt in the amount of \$18,733.89. The total of the judicial lien, all other liens except liens lower in priority, plus the exemption amount equals approximately \$804,866.89. The value of the property without liens is \$373,030.00. Bank of America, N.A.'s judicial lien, all other liens, and the exemption amount together exceed the property's value by an amount greater than or equal to Bank of America, N.A.'s judicial lien. As a result, Bank of America, N.A.'s judicial lien will be avoided entirely.

6. [12-38073](#)-A-7 **IN RE: MICHAEL LEWIS**
[HLG-1](#)

CONTINUED MOTION TO AVOID LIEN OF RIVERWALK HOLDINGS, LTD
9-10-2021 [\[35\]](#)

KRISTY HERNANDEZ/ATTY. FOR DBT.
DEBTOR DISCHARGED: 01/29/2013

[Since posting its original rulings, the court has changed its intended ruling on this matter].

Final Ruling

Motion: Avoid Judicial Lien
Notice: Continued from October 18, 2021
Disposition: Withdrawn by moving party
Order: Civil minute order

The hearing on the debtor's motion to avoid judicial lien was continued from October 18, 2021, for the parties to obtain an appraisal of the subject property and to file status reports.

On January 25, 2022, the debtor filed a notice of withdrawal of his motion, ECF No. 61.

DISCUSSION

Federal Rule of Civil Procedure 41 governs the circumstances where a party may withdraw a motion or objection. Fed. R. Civ. P. 41, *incorporated by* Fed. R. Bankr. P. 7041, 9014(c) (applying rule dismissal of adversary proceedings to contested matters). A motion or objection may be withdrawn without a court order only if it has not been opposed or by stipulation "signed by all parties who have appeared." Fed. R. Civ. P. 41(a)(1)(A). In all other instances, a motion or objection may be withdrawn "only by court order, on terms that the court considers proper." Fed. R. Civ. P. 41(a)(2). Here, the debtor has signaled his abandonment of his motion. The creditor has not expressed opposition to the withdrawal of the debtor's motion. No unfair prejudice will result from withdrawal of the motion and the court will accede to the debtor's request.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

IT IS ORDERED that the objection is withdrawn.

7. [12-38073](#)-A-7 **IN RE: MICHAEL LEWIS**
[HLG-2](#)

CONTINUED MOTION TO AVOID LIEN OF CAPITAL ONE BANK (USA) ,
N.A.
9-10-2021 [[40](#)]

KRISTY HERNANDEZ/ATTY. FOR DBT.
DEBTOR DISCHARGED: 01/29/2013

[Since posting its original rulings, the court has changed its intended ruling on this matter].

Final Ruling

The debtor has withdrawn his motion, ECF No. 63. No other parties have appeared in this matter. This motion will be removed from the calendar. No appearances are necessary.

8. [12-38073](#)-A-7 **IN RE: MICHAEL LEWIS**
[HLG-3](#)

CONTINUED MOTION TO AVOID LIEN OF CITIBANK (SOUTH DAKOTA),
N.A.
9-10-2021 [[45](#)]

KRISTY HERNANDEZ/ATTY. FOR DBT.
DEBTOR DISCHARGED: 01/29/2013

[Since posting its original rulings, the court has changed its intended ruling on this matter].

Final Ruling

The debtor has withdrawn his motion, ECF No. 66. No other parties have appeared in this matter. This motion will be removed from the calendar. No appearances are necessary.

9. [13-35275](#)-A-7 **IN RE: JAMES/JOCELYN GRIFFIN**
[EJS-2](#)

CONTINUED MOTION TO AVOID LIEN OF ADVANTA BANK CORP.
11-23-2021 [\[38\]](#)

ERIC SCHWAB/ATTY. FOR DBT.
DEBTORS DISCHARGED: 03/17/2014

Final Ruling

Motion: Avoid Judicial Lien
Notice: Continued from December 16, 2021
Disposition: Denied without prejudice
Order: Civil minute order

The hearing on this matter was continued to allow the debtor to file a motion requesting service by the Secretary of State. Until this court approves such an order for service the Secretary of State may not serve the motion. Following is the court's ruling on December 16, 2021:

"The court concludes that to properly serve the respondent in this motion the debtor must bring the appropriate motion to serve the Secretary of State. The court will continue this motion to allow the debtor to bring the appropriate motion". ECF No. 45.

The debtor filed a Motion Requesting Service Of The Motion To Avoid Judicial Lien By The Secretary Of State, (EJS-3) on January 13, 2022, ECF No. 47. The motion indicates a hearing date before this court of January 31, 2022, at 9:00 a.m. However, a notice was not filed with the motion pursuant to LBR 9014-1, nor was the relief requested ex-parte. As such, that motion, (EJS-3) is not before the court and an order may not issue.

There is no declaration filed in support of the motion requesting service by the Secretary of State (EJS-3). The court notes that the Motion Requesting Service of The Motion To Avoid Judicial Lien By The Secretary Of State references documents detailing the debtor's efforts to serve the respondent bank and the bank's defunct status, however none of the documents are filed as exhibits *with reference to the motion for service by publication, under LBR 9004-2(d)(1)*. Thus, the motion (EJS-3) is not accompanied by any supporting evidence.

On January 18, 2022, two certificates of service were filed regarding the Motion Requesting Service Of The Motion To Avoid Judicial Lien By The Secretary Of State, ECF Nos. 48 and 49. Illegible documents are affixed to each of these documents.

As the motion for service by publication has not been properly presented to the court the instant motion to avoid judicial lien may not be granted. The court will deny the motion to avoid judicial lien of Advanta Bank without prejudice.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

IT IS ORDERED that the motion to avoid judicial lien of Advanta Bank is denied without prejudice.

10. [19-25797](#)-A-7 **IN RE: KIMBERLEY LIVINGSTON**
[TLA-2](#)

MOTION TO AVOID LIEN OF SAFE CREDIT UNION
12-23-2021 [[26](#)]

THOMAS AMBERG/ATTY. FOR DBT.
DEBTORS DISCHARGED: 12/30/2019

Final Ruling

Motion: Avoid Lien that Impairs Exemption
Notice: LBR 9014-1(f)(1); written opposition required
Disposition: Granted
Order: Prepared by moving party

Judicial Lien Avoided: \$21,188.28 - Safe Credit Union
All Other Liens:
- Deed of Trust \$ 304,340.00 Mr. Cooper
Exemption: \$100,000.00
Value of Property: \$212,500.00

Subject Property: 1161 Valley Glen Drive, Dixon, California

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The debtor seeks an order avoiding the judicial lien of Safe Credit Union under 11 U.S.C. § 522(f).

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC*

Distrib. (In re Goswami), 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

The responding party's judicial lien, all other liens, and the exemption amount together exceed the property's value by an amount greater than or equal to the judicial lien. As a result, the responding party's judicial lien will be avoided entirely.

11. [21-22898](#)-A-7 **IN RE: HEATH V. FULKERSON LLC**
[GEL-3](#)

MOTION FOR COMPENSATION FOR GABRIEL LIBERMAN, DEBTOR'S
ATTORNEY
1-10-2022 [[89](#)]

GABRIEL LIBERMAN/ATTY. FOR DBT.

Tentative Ruling

Application: Allowance of First and Final Compensation and Expense Reimbursement

Notice: LBR 9014-1(f)(2); no written opposition required

Disposition: Approved

Order: Civil minute order

Compensation: \$9,828.00

Expenses: \$45.00

Dates of Service: August 23, 2021, through December 21, 2021

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, incorporated by Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

COMPENSATION AND EXPENSES

This case was converted from a Chapter 11 to a Chapter 7 on December 21, 2021. Gabriel Liberman, counsel for the debtor in possession during the case pendency in Chapter 11, has applied for an allowance of final compensation and reimbursement of expenses.

The applicant requests that the court allow compensation in the amount of \$9,828.00 and reimbursement of expenses in the amount of \$45.00. This is the applicant's first and final application for compensation. The applicant states that he currently holds \$5,000.00 in his trust account as a retainer, paid by third-party, the Estate of Larry M. Fulkerson.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by counsel for the debtor in possession in a Chapter 11 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Gabriel Liberman's application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$9,828.00 and reimbursement of expenses in the amount of \$45.00. The applicant is authorized to draw on any retainer held.

IT IS FURTHER ORDERED that the debtor in possession is authorized to pay the fees allowed by this order from available funds only if the estate is administratively solvent and such payment will be consistent with the priorities of the Bankruptcy Code.