UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

March 23, 2015 at 10:00 a.m.

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

2, 11, 12, 14, 16, 17, 18, 20, 22, 23, 24, 26, 27

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 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 APRIL 6, 2015 AT 10:00 A.M. OPPOSITION MUST BE FILED AND SERVED BY MARCH 23, 2015, AND ANY REPLY MUST BE FILED AND SERVED BY MARCH 29, 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.	14-29312-A-7 TAA-1	GORDON CUFFE AND LAURA CANAVERO-CUFFE	OBJECTION TO EXEMPTIONS 1-20-15 [15]

Tentative Ruling: This objection has been resolved by a settlement between the parties. The request for approval of the settlement will be denied without prejudice

The trustee filed this objection on January 20, 2015 and, on March 10, 2015, the trustee also filed supplemental pleadings, informing the court that the objection has been resolved by settlement and asking the court to approve the settlement.

The court cannot approve the settlement for at least two reasons, both of which are found in Fed. R. Bankr. P. 2002(a).

First, that rule requires that a request for approval of a settlement be noticed on all creditors. The trustee has not served his request for approval of the settlement on any creditors. Docket 20.

Second, the rule requires at least 21 days' notice of the hearing on the request for approval of the settlement. Yet, the settlement approval request was filed on March 10, only 13 days prior to the March 23 hearing on this motion. In other words, the settlement approval request does not even meet this court's minimal 14-day notice length requirement. See Local Bankruptcy Rule 9014-1(f)(2).

2.	09-39713-A-7 TJW-6 VS. THOMAS/KATHLEEN HALASZYNSKI	SCOTT DINSDALE	MOTION TO AVOID JUDICIAL LIEN 3-9-15 [49]

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 in favor of Thomas Halaszynski for the sum of $108,576.50 on October 17, 2005. The abstract of judgment was recorded with Solano County on December 18, 2005. That lien attached to the debtor's residential real property in Benicia, 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 $190,000 as of the petition date. Dockets 51, 52, 1. The unavoidable liens totaled $450,500 on that same date, consisting of a mortgage in favor of JPMorgan Chase Bank for $407,000, a mortgage in favor of Bank of America for $38,300, an HOA lien in favor of Terrace Townhome Association for $5,200. Dockets 1, Schedule D. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of $100.00 in Schedule C. Dockets 51, 52, 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).

3. 12-28413-A-7 F. RODGERS CORPORATION
KRM-2
UNITED AUBURN INDIAN COMMUNITY VS.

MOTION FOR
RELIEF FROM AUTOMATIC STAY
3-6-15 [795]

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 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 movant, United Auburn Indian Community (dba Thunder Valley Casino), seeks relief from the automatic stay to proceed in Placer County Superior Court with its construction defect claims against the debtor. Recovery will be limited to available insurance coverage, if any.

Given that the movant would not seek to enforce any judgments against the debtor or the estate and will proceed against the debtor only to the extent its claims can be satisfied from the debtor's insurance proceeds, the court concludes that cause exists for the granting of relief from the automatic stay. The motion will be granted pursuant to 11 U.S.C. § 362(d)(1) to allow the movant to prosecute the claims against the debtor, but not to enforce any judgments against the debtor or the estate other than against available insurance coverage, if any.

No other relief will be awarded. Specifically, the court will not lift the stay for 180 days "in any bankruptcy case commenced by or against the . . . [d]ebtor." Docket 795 at 9. The movant has proffered no basis for such relief. Moreover, such relief amounts to an injunction that goes beyond the scope of this case, requiring an adversary proceeding. See Fed. R. Bankr. P. 7001(7).

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.

4. 13-30013-A-7 JON/FAITH PARMER
JWR-1

MOTION TO
APPROVE COMPENSATION OF TRUSTEE
2-11-15 [95]

Tentative Ruling: The motion will be denied.

The hearing on this motion was continued from March 9, 2015 in order for the movant to supplement the record. The movant filed additional papers in support

of the motion. An amended ruling from March 9 follows below.

The chapter 7 trustee, John Reger, has filed his first and final motion for approval of compensation. The requested compensation consists of $13,310.98 in fees and $163.03 in expenses, for a total of $13,474.01. The services for the sought compensation were provided from August 2, 2013 through February 11, 2015.

The motion will be denied for two reasons. First, the supplemental declaration in support of the motion has added services performed by the trustee that were not in the original motion. The supplemental declaration states that the trustee administered rents and two note payments and assisted in the recovery of a preferential transfer. Docket 100.

Not only does the original motion not include the above services, but the docket does not support any such services. For instance, as to the recovery of a preferential transfer, there is no record of an adversary proceeding or a motion to approve compromise on the docket regarding such a transfer. Also, there is no record of a motion by the trustee to operate a business.

Given the discrepancies in the description of services provided by the movant, the court is unwilling to award compensation until the movant has clarified such discrepancies.

Second, the supplemental declaration states that the trustee "collected $202,719.54 and . . . disbursed $148,966.52." Docket 100 at 2.

However, the $202,719.54 figure does not appear on the attached Exhibit B to the supplemental declaration. The movant's compensation is based on a $201,219.54 figure, even though the basis standard of section 326(a) is "moneys disbursed or turned over in the case by the trustee to parties in interest, excluding the debtor, but including holders of secured claims."

The court should not have to speculate about what the trustee means by him "hav[ing] disbursed $148,966.52," when his compensation, as calculated in Exhibit B to the supplemental declaration, is based on another figure, $201,219.54. Docket 101. The motion will be denied.

5. 13-27715-A-7 CALIFORMACY INC. MOTION TO EMPLOY
SK-1 2-13-15 [130]

Tentative Ruling: The motion will be denied.

The formerly chapter 11 debtor requests retroactive authority, to June 4, 2013, to employ Sunita Kapoor as bankruptcy counsel for the estate. The movant's compensation is to be based on an hourly fee arrangement.

11 U.S.C. § 1107(a) provides that a debtor in possession shall have all rights, powers, and shall perform all functions and duties, subject to certain exceptions, of a trustee, "[s]ubject to any limitations on [that] trustee." This includes the trustee's right to employ professional persons under 11 U.S.C. § 327(a). This section states that, subject to court approval, a trustee may employ professionals to assist the trustee in the administration of the estate. Such professional must "not hold or represent an interest adverse to the estate, and [must be a] disinterested [person]." 11 U.S.C. § 327(a). 11 U.S.C. § 328(a) allows for such employment "on any reasonable terms and conditions . . . including . . . on a contingent fee basis."

The Ninth Circuit has a two-prong standard for the retroactive approval of

employment for estate professionals. Courts require: (1) satisfactory explanation for the failure of the estate to obtain prior court approval; and (2) a showing that the professional has benefitted the estate. In re THC Financial Corp., 837 F.2d 389, 392 (9th Cir. 1988). In deciding whether satisfactory explanation for the failure of the estate to obtain prior court approval exists, the court may consider not just the reason for the delay but also prejudice, or the lack thereof, to the estate resulting from the delay. In re Gutterman, 239 B.R. 828, 831 (Bankr. N.D. Cal. 1999); see also Atkins v. Wain, Samuel & Co. (In re Atkins), 69 F.3d 970, 974 (9th Cir. 1995) (listing permissive factors for nunc pro tunc approval of employment). And, the decision to grant nunc pro tunc approval of employment of a professional is committed to the discretion of the bankruptcy court. Gutterman at 831.

This case was filed as a chapter 11 skeletal petition on June 5, 2013. On June 19, 2013, the debtor filed the outstanding petition documents, including schedules and statements. On July 5, 2013, the debtor filed a motion for conversion of the case to chapter 7. Docket 28. That motion was granted and the court entered an order converting the case to chapter 7 on July 17, 2013. Docket 38.

The court is not satisfied with the debtor's explanation of why it has taken approximately 19 months for Ms. Kapoor's employment to be approved. The court notes that the instant motion was filed for the first time on December 15, 2014.

The explanation given by the debtor is that Ms. Kapoor fell and dislocated her shoulder on April 19, 2013. In her declaration, she states that "*I was on heavy pain medication and it has taken much longer than I anticipated to recover. In addition, I was facing hardship in that I could not type and had to rely on other people for help. Recently I lost my dear friend of over twenty-six years as well as the Son of another friend who was only twenty years old and whom I regarded as a nephew. From the beginning of the case, I was immediately faced with extensive document and motion preparation that consumed my time including preparation of Bankruptcy Schedules, Statement of Financial Affairs, Statement regarding ownership of Corporate Debtor, filing of Certification of Resolution Authorizing Chapter 11 Petition, filing a List of Equity Shareholders, preparation and filing a Motion to convert case to a Chapter 7; and Memorandum of Points & Authorities and Declaration in Support. Circumstances started to rapidly deteriorate for Californiacy and I was more concerned with trying to help the Debtor at the time and overlooked preparing and filing an application to approve my employment*." Docket 133 at 3.

First, Ms. Kapoor's explanation makes no effort to place a time line on the events that have caused hardship and difficult times in her personal life. While the court is sympathetic, Ms. Kapoor has not established when during the 19 months of delay these events transpired.

Second, Ms. Kapoor's heavy medication and recovery from the personal injury are not adequate explanation about why she did not file the employment motion on behalf of the debtor, given that she prepared much more involved pleadings on behalf of the debtor after this case was filed. As mentioned above, this filing was skeletal and Ms. Kapoor did not file the missing schedules and statements until June 19, 2013.

More important, Ms. Kapoor's personal injury took place on April 19, 2013, 47 days prior the filing of this case on June 5, 2013. If Ms. Kapoor's injury was so serious, she should not have agreed to represent the debtor, much less agreed to represent the debtor in a chapter 11 proceeding, which typically requires much more work.

Third, while the court is sympathetic to the passing of Ms. Kapoor's family and/or close friends, as mentioned above, she has given the court no time line of when these events took place and why they caused a 19-month delay of seeking employment.

Fourth, buried in the paragraph explaining Ms. Kapoor's delay in seeking employment, she admits to having overlooked filing the employment motion.

However, this is not a satisfactory explanation for the delay that warrants nunc pro tunc employment approval. If the court were to approve retroactive employment every time the moving party "overlooks" obtaining such approval, this would make the first prong of the THC Financial standard superfluous.

Finally, the motion makes no effort to establish that no one would be prejudiced by the retroactive employment approval. It merely states that "Based upon information and belief, the approval of this application should not prejudice any parties in interest." Docket 130 at 4.

Given the foregoing, the debtor has not satisfactorily explained the failure of the estate to obtain prior court approval of Ms. Kapoor's employment. Accordingly, the motion will be denied.

6. 13-27715-A-7 CALIFORMACY INC. MOTION TO APPROVE COMPENSATION OF DEBTOR'S ATTORNEY
SK-2 2-13-15 [135]

Tentative Ruling: The motion will be denied.

The debtor's counsel during the chapter 11 portion of the case, Sunita Kapoor, has filed her first and final motion for approval of compensation. The requested compensation consists of $6,790 in fees and $0.00 in expenses. This motion covers the period from June 5, 2013 through August 26, 2013. In performing services, the movant charged an hourly rate of $350.

The motion will be denied because the court has denied retroactive approval of Ms. Kapoor's employment as counsel for the debtor during the chapter 11 portion of the case.

Further, the court notes that Ms. Kapoor's time entries for June 5, 2013 reflect work performed prior to the petition filing. For instance, those time entries include preparation of the master address list, which was filed with the skeletal petition on the filing date, June 5, 2013. Docket 138 at 2. The court does not approve compensation for services rendered pre-petition.

Finally, some services for which Ms. Kapoor seeks compensation were rendered after the July 17, 2013 conversion to chapter 7. The court does not approve compensation to counsel for chapter 7 debtors. Attorneys of chapter 7 debtors are compensated pre-petition. If they fail to be compensated pre-petition, they are creditors of the estate, as any other creditor of the estate, given the pre-petition retention agreement between the attorney and chapter 7 debtor.

The court will deny approval of Ms. Kapoor's compensation. This means that she cannot be compensated from estate funds. On the other hand, she may be compensated from non-estate funds. But, she does not need court approval for such compensation. This motion will be denied.

7. 14-30118-A-7 VIRGINIA CHAMBERLAIN — AMENDED MOTION TO AVOID JUDICIAL LIEN O.S.T. 3-9-15 [39]
TMP-1
VS. UNIFUND CCR PARTNERS

Tentative Ruling: The motion will be granted in part and denied in part in accordance with the ruling on the debtor's motion to reconsider the prior dismissal of this motion (DCN TMP-4), also being heard on this calendar.

8. 14-30118-A-7 VIRGINIA CHAMBERLAIN — MOTION TO RECONSIDER 3-9-15 [32]
TMP-4

Tentative Ruling: The motion will be granted in part and denied in part.

Although the debtor is asking the court to reconsider the dismissal "without prejudice" of her motion to avoid the lien of CCR Unifund Partners (Docket 34), this court stated in its March 9, 2015 order: "The court will not reconsider the dismissal of the prior motion to avoid lien[,] [h]owever, if that motion is served correctly by 5:00 p.m. on March 9, the court will considered [*sic*] it anew on March 23." Docket 29.

Turning to the merits of the lien avoidance motion, a judgment was entered against the debtor in favor of Unifund CCR Partners for the sum of $35,714.36 on September 2, 2008. The abstract of judgment was recorded with Siskiyou County on September 23, 2008. That lien attached to the debtor's one-half interest in the a residential real property in Fort Jones, California.

The motion will be granted in part pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of $100,000 as of the petition date. Dockets 17 & 1. The unavoidable liens totaled $63,610 on that same date, consisting of a first mortgage in favor of Ameristar Financial Services in the amount of $59,200 and a second mortgage in favor of CA Rural Home Mortgage in the amount of $4,410. Docket 1, Schedule D.

After accounting for the unavoidable liens, the equity in the property totals $36,390 ($100,000 minus $63,610). The debtor's one-half interest in the equity amounts to $18,195. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(1) in the amount of $18,000 in Schedule C. Docket 1, Schedule C.

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 $195 of equity to support the judicial lien (the debtor's $18,195 equity in the property minus the debtor's $18,000 exemption claim). Therefore, the fixing of this judicial lien fully impairs the debtor's exemption of the real property, except for $195, and its fixing will be avoided subject to 11 U.S.C. § 349(b)(1)(B), except for $195.

9. 14-31019-A-7 MICHAEL ANDRADA — MOTION TO REDEEM 1-20-15 [21]
MPA-1

Tentative Ruling: The motion will be denied with prejudice.

The hearing on this motion was continued from February 23, 2015 in order for the debtor to supplement the record.

The respondent creditor, VW Credit, Inc., has filed opposition to the motion, arguing that: (1) the evidence of value is insufficient and (2) because there

is no longer a stay under 11 U.S.C. § 362(a), given the debtor's failure to comply with section 521(a), the time for redemption has expired.

An amended ruling from February 23 follows below.

The debtor seeks to redeem a 2011 VW Jetta. The vehicle is subject to a claim held by VW Credit, Inc. for approximately $11,808. The debtor seeks to redeem the vehicle for $2,337.

The motion will be denied for two reasons. First, the court does not have admissible evidence, in the form of exhibits authenticated by a declaration, about the value of the vehicle, the condition of the vehicle, the mileage of the vehicle, and the retail value of reconditioning the vehicle.

Further, even if the debtor submits additional evidence of value, as pointed out in the court's ruling posted for the February 23 hearing on the motion, the motion was not served properly on VW Credit, Inc. It was served on National Bankruptcy Services L.L.C. as "authorized agent for VW." Docket 24. But, VW is not the respondent creditor here. According to the motion, the respondent creditor here is VW Credit, Inc. And, according to the California Secretary of State, National Bankruptcy Services L.L.C. is not the agent for service of process for VW Credit, Inc.

Although VW Credit, Inc. has now appeared on the motion, VW Credit, Inc. has not had the opportunity to review and respond to admissible evidence from the debtor in support of the motion.

Second, the time period for redemption of the vehicle has expired. 11 U.S.C. § 521(a)(2)(A) requires an individual chapter 7 debtor to file a statement of intention with reference to property that secures a debt. The statement must be filed within 30 days of the filing of the petition (or within 30 days of a conversion order, when applicable) or by the date of the meeting of creditors, whichever is earlier. The debtor must disclose in the statement whether he or she intends to retain or surrender the property, whether the property is claimed as exempt, and whether the debtor intends to redeem such property or reaffirm the debt it secures. See 11 U.S.C. § 521(a)(2)(A); Fed. R. Bankr. P. 1019(1)(B).

The petition here was filed on November 7, 2014 and a meeting of creditors was first convened on December 17, 2014. Therefore, a statement of intention that refers to the movant's property and debt was due no later than December 7.

The debtor filed a statement of intention on the petition date, indicating an intent to retain the vehicle and reaffirm the debt secured by the vehicle. Docket 1. On December 29, 2014, the filed an amended statement of intention, indicating an intent to retain the vehicle and redeem it. Docket 19.

11 U.S.C. § 521(a)(2)(B) requires that a chapter 7 individual debtor, within 30 days after the first date set for the meeting of creditors, perform his or her intention with respect to such property.

In other words, the debtor here had until January 16, 2015 (30 days after the December 17, 2014 initial meeting of creditors) to file a motion to redeem the vehicle.

The debtor missed this deadline as this motion was not filed until January 20, 2015. Docket 21. The debtor then can no longer seek redemption of the vehicle. Accordingly, this motion will be denied as untimely.

10. 12-40820-A-7 DANNIKA BARNETT
DNL-2

MOTION FOR EXAMINATION
3-2-15 [63]

Tentative Ruling: The motion will be granted in part and denied in part.

The trustee moves for an order permitting it to conduct a Rule 2004 exam of the debtor, Beatrice Williams, Adam Glickman, Travis Credit Union, Fidelity National Title Company, and Michael Rinne, pertaining to the debtor's closing of a sale of her residence, just prior to her conversion of this case from chapter 13 to chapter 7 on December 8, 2014. Upon closing of the sale, the debtor received approximately $118,000, which were used up immediately, to pay off two purported pre-petition obligations to two different persons and pay $12,000 in college tuition for her daughter.

The net proceeds due to the debtor were deposited by the escrow company, Fidelity National Title Company, into a BBVA Compass Bank account. The debtor apparently endorsed the check representing the net sales proceeds to her mother, Beatrice Williams, and the proceeds were then deposited in Ms. Williams' BBVA account. Ms. Williams retained $32,000 on account of a pre-petition obligation by the debtor to her. Ms. Williams used $12,000 to pay college tuition for the debtor's daughter. Ms. Williams then paid approximately $70,000 to a friend, Adam Glickman, on account of another pre-petition obligation of the debtor. The debtor has scheduled as having deposit accounts with Travis Credit Union.

The trustee alleges that the debtor dissipated the net sales proceeds pursuant to the advice of her prior counsel, Michael Rinne.

Fed. R. Bankr. P. 2004(a)-(c) provides that:

"*(a) EXAMINATION ON MOTION. On motion of any party in interest, the court may order the examination of any entity.*

"*(b) SCOPE OF EXAMINATION. The examination of an entity under this rule or of the debtor under §343 of the Code may relate only to the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor's estate, or to the debtor's right to a discharge. In a family farmer's debt adjustment case under chapter 12, an individual's debt adjustment case under chapter 13, or a reorganization case under chapter 11 of the Code, other than for the reorganization of a railroad, the examination may also relate to the operation of any business and the desirability of its continuance, the source of any money or property acquired or to be acquired by the debtor for purposes of consummating a plan and the consideration given or offered therefor, and any other matter relevant to the case or to the formulation of a plan.*

"*(c) COMPELLING ATTENDANCE AND PRODUCTION OF DOCUMENTS. The attendance of an entity for examination and for the production of documents, whether the examination is to be conducted within or without the district in which the case is pending, may be compelled as provided in Rule 9016 for the attendance of a witness at a hearing or trial. As an officer of the court, an attorney may issue and sign a subpoena on behalf of the court for the district in which the examination is to be held if the attorney is admitted to practice in that court or in the court in which the case is pending.*"

The motion will be granted in part. The movant will be permitted to conduct an exam of and request documents from the debtor, Beatrice Williams, Adam Glickman, Travis Credit Union, and Fidelity National Title Company, as they

relate to acts, conduct, or property or to the liabilities and financial condition of the debtor and any matter which may affect the administration of the bankruptcy estate or the debtor's right to a discharge.

However, the court will not authorize the exam of Mr. Rinne, as he was the debtor's prior counsel of record and any of his communications with the debtor are privileged. And, the court does not have admissible evidence that Mr. Rinne advised the debtor to commit a crime or a fraud. See Docket 65. The motion will be granted in part and denied in part.

11. 12-40820-A-7 DANNIKA BARNETT — MOTION TO EXTEND DEADLINE
DNL-3 — 3-2-15 [67]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the chapter 7 trustee, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, 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 trustee requests a 61-day extension, from March 6, 2015 to May 6, 2015, of the deadline for filing complaints objecting to discharge pursuant to 11 U.S.C. § 727. The trustee requests the extension because she needs additional time to investigate the debtor's financial affairs.

Fed. R. Bankr. P. 4004(b) provides that the court may extend the deadline for filing discharge complaints for cause. The motion must be filed before the deadline expires. The deadline for filing such complaints was March 9, 2015. Docket 42. The motion was filed on March 2, 2015. Thus, the motion complies with the temporal requirements of the rule.

The debtor closed a sale of her residence, just prior to her conversion of this case from chapter 13 to chapter 7 on December 8, 2014. Upon closing of the sale, the debtor received approximately $118,000, which were used immediately to pay off two purported pre-petition obligations to two different persons and to pay $12,000 in college tuition for her daughter.

The trustee has propounded discovery from the debtor and other parties, about the disposal of the sales proceeds and about omissions in the debtor's schedules. As the trustee will need time to obtain and examine discovery, and as she is exploring the filing of an objection to the debtor's discharge, there is cause for the requested extension. The court will extend the deadline for objections to discharge to May 6, 2015. The motion will be granted.

12. 12-40820-A-7 DANNIKA BARNETT — MOTION FOR EXAMINATION
DNL-4 — 3-9-15 [72]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the U.S. Small Business Administration, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, 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 trustee moves for an order permitting it to conduct an examination of BBVA Compass Bank. See Fed. R. Bankr. P. 2004(a).

The debtor closed a sale of her residence, just prior to her conversion of this case from chapter 13 to chapter 7 on December 8, 2014. Upon closing of the sale, the debtor received approximately $118,000, which were used up immediately, to pay off two purported pre-petition obligations to two different persons and pay $12,000 in college tuition for her daughter.

The net proceeds due to the debtor were deposited by the escrow company, Fidelity National Title Company, into a BBVA account. Docket 74. The debtor apparently endorsed the check representing the net sales proceeds to her mother, Beatrice Williams, and the proceeds were deposited in Ms. Williams' BBVA account. Ms. Williams retained $32,000 on account of a pre-petition obligation by the debtor to her. Ms. Williams used $12,000 to pay college tuition for the debtor's daughter. Ms. Williams then paid approximately $70,000 to a friend, Adam Glickman, on account of another pre-petition obligation of the debtor.

Fed. R. Bankr. P. 2004(a)-(c) provides that:

"*(a) EXAMINATION ON MOTION. On motion of any party in interest, the court may order the examination of any entity.*

"*(b) SCOPE OF EXAMINATION. The examination of an entity under this rule or of the debtor under §343 of the Code may relate only to the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor's estate, or to the debtor's right to a discharge. In a family farmer's debt adjustment case under chapter 12, an individual's debt adjustment case under chapter 13, or a reorganization case under chapter 11 of the Code, other than for the reorganization of a railroad, the examination may also relate to the operation of any business and the desirability of its continuance, the source of any money or property acquired or to be acquired by the debtor for purposes of consummating a plan and the consideration given or offered therefor, and any other matter relevant to the case or to the formulation of a plan.*

"*(c) COMPELLING ATTENDANCE AND PRODUCTION OF DOCUMENTS. The attendance of an entity for examination and for the production of documents, whether the examination is to be conducted within or without the district in which the case is pending, may be compelled as provided in Rule 9016 for the attendance of a witness at a hearing or trial. As an officer of the court, an attorney may issue and sign a subpoena on behalf of the court for the district in which the examination is to be held if the attorney is admitted to practice in that court or in the court in which the case is pending.*"

The motion will be granted. The movant will be permitted to conduct an exam of

and request documents as they relate to acts, conduct, or property or to the liabilities and financial condition of the debtor and any matter which may affect the administration of the bankruptcy estate or the debtor's right to a discharge. The motion will be granted.

13. 14-31425-A-7 JEANIE WITHERS-BERG — MOTION FOR
MDE-1 — FROM AUTOMATIC STAY
THE BANK OF NEW YORK MELLON VS. — 1-28-15 [19]

Tentative Ruling: The motion will be granted.

The movant, The Bank of New York Mellon, seeks relief from the automatic stay as to a real property in Grass Valley, California.

The debtor opposes the motion, stating that she has filed a motion to convert the case to chapter 13, where she "will provide adequate protection to the moving secured creditor as well as cure of the arrears." Docket 34.

The court is not convinced that a pending motion to convert the case to a chapter 13 is a defense to a stay relief motion. The debtor does not have unequivocal right to convert to chapter 13, meaning that the court may deny conversion to chapter 13.

More, although the debtor has indeed filed a motion for conversion to chapter 13, set for hearing on April 20, 2015, that motion is not supported by any evidence, much less evidence that would warrant conversion. Dockets 32, 33, 37.

And, the debtor has not provided evidence with the opposition to this motion, that she is entitled to conversion to chapter 13. For instance, there is no evidence in the record that the debtor meets the debt limits for chapter 13 relief or that she has regular income with which to fund a plan.

On the other hand, there is ample basis for the granting of the instant motion.

The subject property has a value of $200,000 and it is encumbered by claims totaling approximately $406,572. 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. The court also notes that the trustee filed a report of no distribution on December 31, 2014.

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.

14. 14-26030-A-7 FRANK/ARABELLE JACKSON — MOTION TO AVOID JUDICIAL LIEN
SJS-2
VS. MIDLAND FUNDING, L.L.C. — 3-4-15 [27]

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 Debtor Frank Jackson in favor of Midland Funding, L.L.C. for the sum of $8,731.41 on July 18, 2011. The abstract of judgment was recorded with Placer County on November 16, 2011. That lien attached to the debtor's residential real property in Rocklin, 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 $379,494 as of the petition date. Dockets 25, 29, 30. The unavoidable liens totaled $438,737 on that same date, consisting of a single mortgage in favor of Ocwen. Dockets 24, 29, 30. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of $10,000 in Amended Schedule C. Dockets 25, 29, 30.

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).

15. 14-31432-A-7 CYVETTE FUNCHES — MOTION FOR RELIEF FROM AUTOMATIC STAY
TJS-1
PENNYMAC LOAN SERVICES, L.L.C. VS. — 2-19-15 [25]

Tentative Ruling: The motion will be denied without prejudice.

The movant, Pennymac Loan Services, L.L.C., seeks relief from the automatic stay as to a real property in Vallejo, California. The property has a value of $334,000 and it is encumbered by claims totaling approximately $284,297. The movant's deed is the only encumbrance against the property. This leaves approximately $49,702 of equity in the property. Costs of sale are not an encumbrance and, thus, are not considered in the equity calculation under section 362(d)(2).

Given this equity, relief from stay under 11 U.S.C. § 362(d)(2) is not appropriate.

Further, there is no evidence in the record establishing that the property is

depreciating in value. Under United Sav. Ass'n. Of Tex. v. Timbers of Inwood Forest Assocs., Ltd., 484 U.S. 365, 108 S.Ct. 626, 98 L.Ed.2d 740 (1988), a secured creditor's interest in its collateral is considered to be inadequately protected only if that collateral is depreciating or diminishing in value. The creditor, however, is not entitled to be protected from an erosion of its equity cushion due to the accrual of interest on the secured obligation. In other words, a secured creditor is not entitled to demand, as a measure of adequate protection, that "the ratio of collateral to debt" be perpetuated. See Orix Credit Alliance, Inc. v. Delta Resources, Inc. (In re Delta Resources, Inc., 54 F.3d 1200, 1202 (11th Cir. 1995).

The movant has an equity cushion of approximately $49,702. This equity cushion is sufficient to adequately protect the movant's interest in the property until the debtor obtains a discharge or the case is closed without entry of a discharge. See 11 U.S.C. § 362(c)(1) & (c)(2). At that point, the automatic stay will expire as a matter of law. The debtor is scheduled to obtain a discharge soon after May 31, 2015. Docket 18. Thus, relief from stay under 11 U.S.C. § 362(d)(1) is not appropriate either. The motion will be denied without prejudice.

16. 10-49334-A-7 SALEN LOR AND XONG THAO — MOTION TO AVOID JUDICIAL LIEN
DBJ-3
VS. DISCOVER BANK
3-9-15 [44]

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 Debtor Salen Lor in favor of Discover Bank for the sum of $7,361.37 on February 23, 2010. The abstract of judgment was recorded with Butte County on October 20, 2010. That lien attached to the debtor's residential real property in Chico, 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 $120,000 as of the petition date. Docket 1. The unavoidable liens totaled $276,607 on that same date, consisting of a single mortgage in favor of Bank of America. Docket 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 46 & 36.

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).

17. 14-31747-A-7 JOSE HERNANDEZ — MOTION FOR
TJS-1 — RELIEF FROM AUTOMATIC STAY
PENNYMAC HOLDINGS, L.L.C. VS. — 2-13-15 [22]

Tentative Ruling: The motion will be granted in part and denied in part.

The movant, Pennymac Holdings, L.L.C., seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1), (d)(2) and (d)(4), as to a real property in Murrieta, California. The property has not been disclosed in the debtor's petition documents.

The movant holds a loan totaling $646,801 that is secured by a first deed of trust against the property. A second mortgage on the property held by 123 Loan L.L.C. totals $61,400.

The original borrower on the movant's loan was Rowderick Whitehead. After Mr. Whitehead defaulted under the terms of the loan, the movant sought to foreclose on the property. A foreclosure sale was set for January 15, 2015. Prior to the sale, the movant received a grant deed recorded October 10, 2014, evidencing a transfer of a partial interest in the property from Mr. Whitehead to the debtor. The debtor filed this case on December 1, 2014.

The motion will be denied under section 362(d)(1) and (d)(2) as the court does not have admissible evidence of value for the property and, as a result, it cannot determine whether and to what extent the movant's interest in the property is protected. The movant contends that the value of the property is $400,000 based on a broker's price opinion prepared by Becky Malloy. Docket 25, Ex. 7.

However, the BPO is hearsay and it is not authenticated by a declaration from Ms. Malloy or whoever else may have prepared the BPO. Thus, the movant's BPO valuation is inadmissible. Fed. R. Evid. 802, 901(a).

Nevertheless, the motion will be granted under section 362(d)(4), which prescribes that:

"On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay . . .

"with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real property, if the court finds that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either-

"(A) transfer of all or part ownership of, or other interest in, such real property without the consent of the secured creditor or court approval; or

"(B) multiple bankruptcy filings affecting such real property."

The subject property had been transferred to the debtor pre-petition, approximately two months prior to the filing of this case. Despite this, the debtor did not list the property in his petition documents. The debtor did not list the movant as a creditor in the schedules either. See Docket 1, Schedules D & F.

More, the grant deed evidencing the transfer to the debtor also reflects transfers of partial interest in the property to other grantees besides the debtor, including Juan Gonzales, Jose Gonzales, and Maria Lopez. Docket 25, Ex. 6.

Whether or not the debtor knew of the property transfer before filing this case, the court infers from the foregoing that the instant filing was part of a scheme to delay, hinder, or defraud creditors.

Nothing in section 362(d)(4) requires that the debtor be aware of the property transfer at the time of filing or that the debtor is part of the scheme. As long as the instant filing furthers the purposes of the scheme, based on a prior non-consensual transfer of the property, with or without knowledge of the debtor, the filing becomes part of that scheme.

Accordingly, the court will grant section 362(d)(4) relief. The motion will be granted to permit the movant to conduct a nonjudicial foreclosure sale and to obtain possession of the subject property following sale.

"If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under paragraph (4) shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the court, except that a debtor in a subsequent case under this title may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept any certified copy of an order described in this subsection for indexing and recording."

Because the movant has not established the value of the property, the court cannot determine if the value of the property exceeds the amount of the movant's secured claim. Hence, 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 be waived.

18. 14-32147-A-7 THOMAS/CHERYL BENNETT — MOTION FOR RELIEF FROM AUTOMATIC STAY
HRH-1
COMERICA BANK VS. — 3-5-15 [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, Comerica Bank, seeks relief from the automatic stay as to a real property in Carnelian Bay, California. The property has a value of $429,500 and it is encumbered by claims totaling approximately $631,048. The movant's deed is in first priority position and secures a claim of approximately $387,065.

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. And, in the statement of intention, the debtor has indicated an intent to surrender the property.

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.

The loan documentation contains an attorney's fee provision and the movant is an over-secured creditor. The motion demands payment of fees and costs. The court concludes that a similarly situated creditor would have filed this motion. Under these circumstances, the movant is entitled to recover reasonable fees and costs incurred in connection with prosecuting this motion. See 11 U.S.C. § 506(b). See also Kord Enterprises II v. California Commerce Bank (In re Kord Enterprises II), 139 F.3d 684, 689 (9th Cir. 1998).

Therefore, the movant shall file and serve a separate motion seeking an award of fees and costs. The motion for fees and costs must be filed and served no later than 14 days after the conclusion of the hearing on the underlying motion. If not filed and served within this deadline, or if the movant does not intend to seek fees and costs, the court denies all fees and costs. The order granting the underlying motion shall provide that fees and costs are denied. If denied, the movant and its agents are barred in all events from recovering any fees and costs incurred in connection with the prosecution of the motion.

If a motion for fees and costs is filed, it shall be set for hearing pursuant to Local Bankruptcy Rule 9014-1(f)(1) or (f)(2). It shall be served on the debtor, the debtor's attorney, the trustee, and the United States Trustee. Any motion shall be supported by a declaration explaining the work performed in connection with the motion, the name of the person performing the services and a brief description of that person's relevant professional background, the amount of time billed for the work, the rate charged, and the costs incurred. If fees or costs are being shared, split, or otherwise paid to any person who is not a member, partner, or regular associate of counsel of record for the movant, the declaration shall identify those person(s) and disclose the terms of the arrangement with them.

Alternatively, if the debtor will stipulate to an award of fees and costs not to exceed $750, the court will award such amount. The stipulation of the debtor may be indicated by the debtor's signature, or the debtor's attorney's signature, on the order granting the motion and providing for an award of $750.

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.

19. 14-25451-A-7 JACK TRUJILLO
RCO-2
WELLS FARGO BANK, N.A. VS.

MOTION FOR
RELIEF FROM AUTOMATIC STAY
2-12-15 [51]

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 Orangevale, California.

The debtor opposes the motion because he is seeking to sell the property to realize the equity in it.

But, given the entry of the debtor's discharge on December 9, 2014, 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 trustee filed a report of no distribution on February 3, 2015. This is cause for the granting of relief from stay under section 362(d)(1).

The court concludes that there is no evidence that the trustee can administer the property for the benefit of creditors.

Thus, the motion will be granted as to the estate pursuant to 11 U.S.C. § 362(d)(1) 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.

The property has a value of $275,000 and it is encumbered by claims totaling approximately $230,538. The movant's deed is in first priority position and secures a claim of approximately $224,691.

The loan documentation contains an attorney's fee provision and the movant is an over-secured creditor. The motion demands payment of fees and costs. The court concludes that a similarly situated creditor would have filed this motion. Under these circumstances, the movant is entitled to recover reasonable fees and costs incurred in connection with prosecuting this motion. See 11 U.S.C. § 506(b). See also Kord Enterprises II v. California Commerce Bank (In re Kord Enterprises II), 139 F.3d 684, 689 (9th Cir. 1998).

Therefore, the movant shall file and serve a separate motion seeking an award of fees and costs. The motion for fees and costs must be filed and served no later than 14 days after the conclusion of the hearing on the underlying motion. If not filed and served within this deadline, or if the movant does not intend to seek fees and costs, the court denies all fees and costs. The order granting the underlying motion shall provide that fees and costs are denied. If denied, the movant and its agents are barred in all events from recovering any fees and costs incurred in connection with the prosecution of the motion.

If a motion for fees and costs is filed, it shall be set for hearing pursuant to Local Bankruptcy Rule 9014-1(f)(1) or (f)(2). It shall be served on the debtor, the debtor's attorney, the trustee, and the United States Trustee. Any motion shall be supported by a declaration explaining the work performed in connection with the motion, the name of the person performing the services and

a brief description of that person's relevant professional background, the amount of time billed for the work, the rate charged, and the costs incurred. If fees or costs are being shared, split, or otherwise paid to any person who is not a member, partner, or regular associate of counsel of record for the movant, the declaration shall identify those person(s) and disclose the terms of the arrangement with them.

Alternatively, if the debtor will stipulate to an award of fees and costs not to exceed $750, the court will award such amount. The stipulation of the debtor may be indicated by the debtor's signature, or the debtor's attorney's signature, on the order granting the motion and providing for an award of $750.

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.

20. 14-32552-A-7 THOMAS/TAMILYN STUART — MOTION FOR RELIEF FROM AUTOMATIC STAY
CJO-1 — 2-27-15 [15]
U.S. BANK, N.A. VS.

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, U.S. Bank, seeks relief from the automatic stay as to a real property in El Dorado, California. The property has a value of $250,000 and it is encumbered by claims totaling approximately $397,154. 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. The court also notes that the trustee filed a report of no distribution on February 19, 2015. And, in the statement of intention, the debtor has indicated an intent to surrender the property.

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.

21. 12-33565-A-7 MARK KOLODZIEJ — MOTION TO AVOID JUDICIAL LIEN
TJW-6
VS. JP MORGAN CHASE BANK, N.A.
3-9-15 [100]

Tentative Ruling: The motion will be denied without prejudice.

The debtor seeks to avoid a $49,334.08 judicial lien against a real property in Vallejo, California (Legend Cir.), held by JPMorgan Chase Bank.

However, the motion will be denied because the exhibits to the motion do not include a judicial lien held by JPMorgan Chase Bank. Specifically, the Fidelity National Title Insurance Company Indemnity Agreement attached as Exhibit One to the motion does not contain a reference to the JPMorgan Chase Bank judicial lien. Docket 103. The references to the lien in the motion and supporting declaration are inadmissible hearsay. Fed. R. Evid. 802. In addition, the attached indemnity agreement has not been authenticated by the declaration in support of the motion. Dockets 102 & 103. The court then does not have admissible evidence that the lien even exists.

22. 12-33565-A-7 MARK KOLODZIEJ — MOTION TO AVOID JUDICIAL LIEN
TJW-7
VS. AMERICAN BUILDERS & CONTRACTORS SUPPLY CO., INC.
3-9-15 [105]

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 in favor of American Builders and Contractors Supply Co., Inc. for the sum of $28,270.94. The abstract of judgment was recorded with Solano County on December 30, 2010. Docket 108 at 9. That lien attached to the debtor's residential real property in Vallejo, California on Legend Circle.

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of $200,000 as of the petition date. Dockets 102 & 103. The unavoidable liens totaled $387,799.03 on that same date, consisting of a single mortgage in favor of Bank of America. Dockets 1 & 102. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(1) in the amount of $100.00 in Amended Schedule C. Dockets 99 &

102.

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).

23. 12-33565-A-7 MARK KOLODZIEJ — MOTION TO AVOID JUDICIAL LIEN
TJW-8
VS. CAPITAL ONE BANK (USA), N.A. — 3-9-15 [110]

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 in favor of Capital One Bank for the sum of $10,589.11. The abstract of judgment was recorded with Solano County on March 23, 2011. Docket 113 at 11. That lien attached to the debtor's residential real property in Vallejo, California on Legend Circle.

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of $200,000 as of the petition date. Dockets 102 & 103. The unavoidable liens totaled $387,799.03 on that same date, consisting of a single mortgage in favor of Bank of America. Dockets 1 & 102. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(1) in the amount of $100.00 in Amended Schedule C. Dockets 99 & 102.

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).

24. 12-33565-A-7 MARK KOLODZIEJ — MOTION TO AVOID JUDICIAL LIEN
TJW-9
VS. NAPA BUILDERS SUPPLY CO., INC. — 3-9-15 [115]

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 in favor of Napa Builders Supply Co., Inc. for the sum of $81,842.05. The abstract of judgment was recorded with Solano County on April 6, 2012. Docket 118 at 9. That lien attached to the debtor's residential real property in Vallejo, California on Legend Circle.

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of $200,000 as of the petition date. Dockets 102 & 103. The unavoidable liens totaled $387,799.03 on that same date, consisting of a single mortgage in favor of Bank of America. Dockets 1 & 102. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(1) in the amount of $100.00 in Amended Schedule C. Dockets 99 & 102.

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).

25. 15-20475-A-7 GENE SHAWN GROUP L.L.C.
TES-1
BANC OF AMERICA LEASING & CAPITAL, L.L.C. VS.

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-4-15 [14]

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 in part.

The movant, Banc of America Leasing & Capital, L.L.C., seeks relief from the automatic stay with respect to all real property of the debtor in Sacramento, San Joaquin, Alameda, and Los Angeles Counties, as well as all personal property of the debtor, scheduled and valued by the debtor in the aggregate amount of $64,819. Docket 1, Schedule B. The movant is the holder of a pre-petition state court judgment against the debtor for $237,066.82.

The movant has filed a notice of judgment lien with the California Secretary of State and has recorded abstracts of judgment in Sacramento, San Joaquin, Alameda, and Los Angeles Counties.

With respect to the real property, the motion will be denied because the court has no evidence that the debtor owns any real property in any of the respective counties where the movant recorded judgment abstracts.

As to the personal property, the court notes that the trustee filed a report of no distribution on March 17, 2015. This is cause for the granting of relief from stay as to the estate, with respect to the personal property. See 11 U.S.C. § 362(d)(1).

As to the debtor, the court concludes that there is no equity in that property and no evidence exists that it is necessary to a reorganization.

Accordingly, with respect to the personal property, the motion will be granted as to the debtor under 11 U.S.C. § 362(d)(2) to permit the movant to repossess its collateral, dispose of it pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

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 be ordered waived.

26. 12-29776-A-7 DEUCES WILD, INC. MOTION TO APPROVE COMPENSATION OF ACCOUNTANT
JRR-2 2-25-15 [125]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the trustee's account, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the 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 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.

Gonzales & Sisto, accountant for the estate, has filed what appears to be a first and final motion for approval of compensation. The requested compensation consists of $6,578.50 in fees and $6.20 in expenses, for a total of $6,584.70. This motion covers the period from December 31, 2013 through February 28, 2015. The court approved the movant's employment as the estate's accountant on December 17, 2013. The movant spent 27 hours performing the services pertaining to this motion.

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." The movant's services included the preparation of estate tax returns.

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

27. 14-28593-A-7 WILLIAM NAHORN
HSM-4

MOTION TO ABANDON
3-2-15 [43]

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.

The trustee wishes to abandon the estate's interest in a real property in Stockton, California. The property is over-encumbered.

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

The property has an approximate value of between $109,000 and $113,000, whereas its encumbrances exceed $457,000, including a $67,300 mortgage, a $114,253 tax lien in favor of the California Franchise Board, and a $275,802 tax lien in favor of the IRS. Given this, the court concludes that the property is of inconsequential value to the estate. The motion will be granted.

FINAL RULINGS BEGIN HERE

28. 15-20604-A-7 DANIELL HENDRICKS — ORDER TO SHOW CAUSE 2-25-15 [19]

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 verification and master address list on February 11, 2015, but he did not pay the $30 filing fee. However, the debtor paid the fee on March 17, 2015. No prejudice has resulted from the delay.

29. 15-21507-A-7 KENNETH DALPHE
PRK-1
SOCORRO TRUST #1168 VS. — MOTION FOR RELIEF FROM AUTOMATIC STAY 3-4-15 [13]

Final Ruling: The motion will be dismissed as moot because the case was dismissed on March 17, 2015, automatically dissolving the stay. See 11 U.S.C. § 362(c)(2)(B). The court notes that the motion is not seeking retroactive relief from stay or relief under 11 U.S.C. § 362(d)(4).

30. 14-24810-A-7 BLANE/JENETTE PARROTT
PPR-1
FIRST HORIZON HOME LOANS VS. — MOTION FOR RELIEF FROM AUTOMATIC STAY 2-19-15 [40]

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 (9th 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 (9th 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 in part and dismissed as moot in part.

The movant, First Horizon Home Loans, seeks relief from the automatic stay as to a real property in Paradise, California.

Given the entry of the debtor's discharge on August 8, 2014, 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 $289,000 and it is encumbered by claims totaling approximately $349,316. 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 as to the estate 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.

31. 13-27715-A-7 CALIFORMACY INC. MOTION TO APPROVE COMPENSATION OF TRUSTEE'S ATTORNEY
WFH-4 2-18-15 [140]

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 trustee, 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 (9th 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 (9th 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.

Wilke, Fleury, Hoffelt, Gould & Birney, LLP attorney for the trustee, has filed its first and final motion for approval of compensation. The requested compensation consists of $38,218 in fees and $268.78 in expenses, for a total of $38,486.78. This motion covers the period from July 22, 2013 through the present. The court approved the movant's employment as the trustee's attorney on January 27, 2015, effective July 22, 2013. In performing its services, the movant charged hourly rates of $280, $285, $330, $340 and $390.

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." The movant's services included, without limitation: (1) assisting the trustee with analyzing estate assets and formulating strategies about administration, (2) researching health laws pertaining to the disposable of the debtor's drug inventory, (3) assisting the trustee with pharmacy law compliance, (4) preparing, filing and prosecuting a motion to operate the debtor's pharmacy business, (5) negotiating with Walgreens for the sale of the debtor's pharmacy business, (6) negotiating with the creditors secured by the debtor's pharmacy business assets to obtain their consent for a sale, (7) preparing, filing and prosecuting a motion to sell the debtor's pharmacy assets, (8) monitoring the fulfillment of the clawback and bonus provision terms of the asset purchase agreement, (9) analyzing claims, (10), assisting the trustee with the general administration of the estate, and (11) preparing and filing employment and compensation motions.

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

To the extent applicable, the movant shall deduct from the allowed compensation any fees or costs that have been estimated but not incurred.

32. 13-27715-A-7 CALIFORMACY INC. MOTION TO APPROVE COMPENSATION OF ACCOUNTANTS
WFH-5 2-18-15 [145]

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 trustee, 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 (9th 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 (9th 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.

Grimbleby Coleman, accountant for the estate, has filed its first and final application for approval of compensation. The requested compensation consists of $7,740.50 in fees and $0.00 in expenses. This motion covers the period from July 24, 2013 through October 24, 2014. The court approved the movant's employment as the estate's accountant on August 23, 2013. In performing its services, the movant charged hourly rates of $65, $95, $165, $190, $200, and $290.

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." The movant's services included: (1) preparing estate tax returns, (2) assisting in the preparation and submission of California State Board of Equalization notices and quarterly returns during the time the estate operated the debtor's pharmacy business, (3) providing the estate with general bookkeeping services, and (4) assisting with the preparation of the employment and compensation motions of Grimbleby Coleman.

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

33. 13-27715-A-7 CALIFORMACY INC. MOTION TO APPROVE COMPENSATION OF TRUSTEE
WFH-6 2-18-15 [150]

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 (9th 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 (9th

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, Michael McGranahan, has filed his first and final motion for approval of compensation. The requested compensation consists of $29,870.32 in fees and $497.35 in expenses, for a total of $30,367.97. The services for the sought compensation were provided from July 19, 2013 through November 18, 2014. The compensation is based on a $532,406.40 distribution to creditors.

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

The movant made $532,406.40 in distributions to creditors. This means that the cap under section 326(a) on the movant's compensation is $29,870.32 ($1,250 (25% of the first $5,000) + $4,500 (10% of the next $45,000) + $24,120.32 (5% of the next $482,406.37). Hence, the requested trustee fees of $29,870.32 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. 9th Cir. 2012).

The movant's services included, without limitation: (1) analyzing the debtor's pharmacy business assets, (2) retaining professionals to assist in the administration of the estate, (3) addressing pharmacy and patient confidentiality legal issues, (4) operating the pharmacy business while it can be sold, (5) preparing operating reports, (6) analyzing an offer for the purchase of the business, (7) communicating with the estate's accountant about tax issues, (8) communicating with United States Trustee and the estate's professionals about various issues, and (9) assisting in the preparation of employment and compensation motions.

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

34. 15-20629-A-7 ROBERT SACHER — MOTION FOR RELIEF FROM AUTOMATIC STAY
PP-1 — 2-23-15 [17]
JANET ZABISH VS.

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 (9th 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 (9th 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, Janet Zabish, trustee of the William J. Zabish Family Trust, seeks relief from the automatic stay as to a real property in Wilton, California. The property has a value of $250,000 and it is encumbered by claims totaling approximately $373,803. The movant's deed is in first priority position and secures a claim of approximately $352,466.

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.

35. 15-20437-A-7 RONALD/KATHLEEN LININGER — MOTION FOR EXEMPTION FROM CREDIT COUNSELING AND FINANCIAL MANAGEMENT COURSE
DBJ-1 — 2-10-15 [11]

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 trustee, 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 (9th 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 (9th 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 debtors ask that Debtor Ronald Lininger be exempted from the requirement that he receives a credit counseling briefing and a personal financial management course as a condition to his eligibility for bankruptcy relief. See

11 U.S.C. § 109(h). They ask for this exemption on the ground that the debtor is disabled due to a stroke and does not have the mental capacity to take the required credit counseling and personal financial management course.

11 U.S.C. § 109(h) prohibits an individual from being a debtor under any chapter unless that individual received a "briefing" from an "approved non-profit budget and credit counseling agency" before the petition is filed.

A debtor can apply for an exception of the counseling requirement under section 109(h)(4), in the event of incapacity, disability, or service in the military.

Given that the debtor suffered a debilitating stroke sometime pre-petition, the court will waive the requirement for credit counseling under section 109(h)(4) and will waive the requirement for a personal financial management course. The motion will be granted.

36. 09-32444-A-7 DOUGLAS/CARLA CARR — MOTION TO AVOID JUDICIAL LIEN
TGC-2 — 1-30-15 [29]
VS. DENNIS SPIELBAUER

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 (9th 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 (9th 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 debtors in favor of Dennis Spielbauer for the sum of $36,900 on May 11, 2009. The abstract of judgment was recorded with Contra Costa County on June 8, 2009. That lien attached to the debtor's residential real property in Byron, 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 $547,500 as of the petition date. Dockets 1, 31, 32. The unavoidable liens totaled $706,279.06 on that same date, consisting of a property tax lien in the amount of $6,145.06, a first mortgage in favor of Citimortgage for $407,087, and a second mortgage in favor of CitiBank for $293,047. Docket 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 1 & 32.

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).

37. 13-34845-A-7 SHARON SMITH — MOTION TO APPROVE COMPENSATION OF TRUSTEE'S ATTORNEY
HCS-6 — 2-19-15 [87]

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 trustee, 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 (9th 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 (9th 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.

Herum\Crabtree\Suntag, attorney for the trustee, has filed its first interim motion for approval of compensation. The requested compensation consists of $16,501.94 in fees and expenses, reduced from $18,774 in fees and $501.94 in expenses. This motion covers the period from January 21, 2014 through December 3, 2014. The court approved the movant's employment as the trustee's attorney on February 26, 2014. In performing its services, the movant charged hourly rates of $225, $250, $275, $295, $305, and $325.

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." The movant's services included, without limitation: (1) analyzing assets of the estate, (2) preparing and filing an opposition to the debtor's motion to dismiss the case, (3) preparing, filing and prosecuting an objection to the debtor's homestead exemption claims, (4) assisting the trustee with the sale of the estate's fractional interest in a real property, (5) negotiating with the debtor's mother for the sale of that real property interest, (6) preparing the purchase and sale agreement associated with the sale, (7) preparing, filing and prosecuting a motion to sell, (8) addressing deed recordation issues raised by the debtor's mother, after the sale had closed, (9) advising the trustee about the general administration of the estate, and (10) preparing and filing employment and compensation motions.

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

38. 14-31946-A-7 DWIGHT GINN AND JOHN DELK — MOTION FOR RELIEF FROM AUTOMATIC STAY
SMR-1 — 2-23-15 [17]
CAPITOL AREA DEVELOPMENT AUTHORITY VS.

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 (9th 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 (9th 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, Capitol Area Development Authority, seeks relief from the automatic stay as to real property in Sacramento, California.

The movant is the legal owner of the property and the debtors leased it from the movant. The debtors defaulted under the lease agreement in December 2014. They filed this bankruptcy case on December 9, 2015.

The movant seeks relief from stay to proceed with an unlawful detainer action against the debtors and exercise rights under state law to obtain possession of the property.

This is a liquidation proceeding and the debtors have no ownership interest in the property as the movant is the legal owner of it. And, even though the debtors are tenants at the property, they have defaulted under the lease agreement by failing to pay the rent due from December onward.

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) to permit the movant to seek possession of the property under applicable state law.

If the movant prevails in any action to recover possession of the property, no monetary claim may be collected from the debtors. The movant is limited to recovering possession of the property to the extent permitted by the state court. No other relief will be awarded.

No fees and costs will be 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 waived.

39.	12-36347-A-7 CJO-1 BANK OF AMERICA, N.A. VS.	ARNOLD THREETS AND TESSA BANUELOS-THREETS	MOTION FOR RELIEF FROM AUTOMATIC STAY 3-5-15 [242]

Final Ruling: The motion will be dismissed without prejudice because the attorney for the trustee has not been served with the motion. Docket 248 at 2.

40.	11-28263-A-7 ADJ-2	HAYWOOD BEAIRD	MOTION TO COMPROMISE CONTROVERSY 2-20-15 [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 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 (9th 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 (9th 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 Sonia Beaird, the debtor's former wife, resolving a $13,313 judgment awarded to the debtor in connection with the couple's dissolution proceeding. Under the terms of the compromise, Ms. Beaird will pay $6,500 to the estate in full satisfaction of the judgment.

Ms. Beaird's monthly disposable income, after taking into account reasonable expenses, is approximately $118. She also has no substantial nonexemptible assets. All her major assets, including a $30,135 retirement account and a

2011 Toyota Camry (encumbered by a $5,200 claim), are exemptible.

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 (9th 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 (9th Cir. 1988).

The court concludes that the Woodson factors balance in favor of approving the compromise. That is, given the small amount at stake, given Ms. Beaird's limited disposable income to pay off the judgment in full, given her lack of other assets that could be used to satisfy the judgment in full, 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 (9th Cir. 1976). Furthermore, the law favors compromise and not litigation for its own sake. Id. Accordingly, the motion will be granted.

41. 14-32070-A-7 CAPITOL AIR SYSTEMS, INC.
MOTION FOR ADMINISTRATIVE EXPENSES
2-17-15 [73]

Final Ruling: The motion will be dismissed without prejudice.

The motion does not comply with Local Bankruptcy Rule 9014-1 because when it was filed it was not accompanied by a separate proof of service. See Local Bankruptcy Rule 9014-1(e)(3). Appending a proof of service to one of the supporting documents (assuming such was done) does not satisfy the local rule. The proof of service must be a separate document so that it will be docketed on the electronic record. This permits anyone examining the docket to determine if service has been accomplished without examining every document filed in support of the matter on calendar.

In addition, the motion violates Local Bankruptcy Rule 9014-1(c) because the motion does not contain a unique docket control number. This requirement avoids any confusion in locating and identifying papers filed in connection with the motion.

42. 14-31871-A-7 DOMINIQUE BOUZA
JHW-1
FORD MOTOR CREDIT COMPANY, L.L.C. VS.
MOTION FOR RELIEF FROM AUTOMATIC STAY
2-12-15 [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 (9th 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 (9th 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, Ford Motor Credit Company, seeks relief from the automatic stay with respect to a 2014 Ford Fiesta. In the schedules, the vehicle has been identified as a 2012 Ford Fiesta. The vehicle has a value of $10,000 and its secured claim is approximately $24,414.

The court concludes that there is no equity in the vehicle and no evidence exists that it is necessary to a reorganization or that the trustee can administer it for the benefit of the creditors. The court also notes that the trustee filed a report of no distribution on January 15, 2015. And, the movant has possession of the vehicle already.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

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 be ordered waived due to the fact that the movant has possession of the vehicle and it is depreciating in value.

43. 14-31474-A-7 JOHN/JUDY STAGNO — AMENDED MOTION FOR RELIEF FROM AUTOMATIC STAY
CJO-1 — 2-25-15 [26]
BANK OF AMERICA, N.A. VS.

Final Ruling: The motion will be dismissed without prejudice because the debtors were served at an incorrect address in Janesville, California. Docket 32 at 2. The debtors filed a change of address notice on January 13, 2015, listing a new address in Merced, California. Docket 18.

44. 14-23576-A-7 GSO ENTERPRICES, INC. — MOTION FOR RELIEF FROM AUTOMATIC STAY
WFH-1 — 2-23-15 [24]
JENNIFER BETTENCOURT VS.

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 (9th 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 (9th 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, Jennifer Bettencourt, seeks relief from the automatic stay to initiate and proceed in state court with her negligence, negligent misrepresentation, breach of contract, breach of fiduciary duty, and constructive fraud claims, among others, against the debtor. Recovery will be limited to available insurance coverage, if any.

Given that the movant would not seek to enforce any judgments against the

debtor or the estate and will proceed against the debtor only to the extent its claims can be satisfied from the debtor's insurance proceeds, the court concludes that cause exists for the granting of relief from the automatic stay. The motion will be granted pursuant to 11 U.S.C. § 362(d)(1) to allow the movant to prosecute the claims against the debtor, but not to enforce any judgments against the debtor or the estate other than against available insurance coverage, if any.

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.

45. 14-27980-A-7 GKUBI SMART — MOTION FOR RELIEF FROM AUTOMATIC STAY
APN-1 — 2-10-15 [107]
SANTANDER CONSUMER USA, INC. VS.

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 (9th 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 (9th 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, Santander Consumer U.S.A., seeks relief from the automatic stay with respect to a 2014 Hyundai Tuscon. The movant has produced evidence that the vehicle has a value of $20,225 and its secured claim is approximately $25,402. Docket 109 at 3.

The court concludes that there is no equity in the vehicle and no evidence exists that it is necessary to a reorganization or that the trustee can administer it for the benefit of the creditors. And, in the amended statement of intention, the debtor has indicated an intent to surrender the vehicle. Docket 67.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to repossess its collateral, dispose of it pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

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 be ordered waived due to the fact that the movant's vehicle is being used by the debtor without compensation and it is depreciating in value.

46. 15-20388-A-7 GERALD/WANDA GREENE — MOTION FOR RELIEF FROM AUTOMATIC STAY
MDE-1 — 2-16-15 [12]
HARLEY-DAVIDSON CREDIT CORP. VS.

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 (9th 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 (9th 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, Harley-Davidson Credit Corp., seeks relief from the automatic stay with respect to a 2010 Harley-Davidson motorcycle. The vehicle has a value of $10,000 and its secured claim is approximately $10,846.

The court concludes that there is no equity in the vehicle and no evidence exists that it is necessary to a reorganization or that the trustee can administer it for the benefit of the creditors. The court also notes that the trustee filed a report of no distribution on March 10, 2015.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to repossess its collateral, dispose of it pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

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 be ordered waived due to the fact that the movant's vehicle is being used by the debtor without compensation and it is depreciating in value.

47. 12-32093-A-7 DAVID/SUZANNE BURKHART — MOTION TO AVOID JUDICIAL LIEN
DRE-12
VS. OPERATING ENGINEERS HEALTH & WELFARE TRUST FUND
1-21-15 [137]

Final Ruling: The motion will be dismissed without prejudice because the court cannot tell whether the respondent creditor, Operating Engineers Health & Welfare Trust Fund, has been properly served with the motion.

First, while the motion has been served on Saltzman & Johnson Law Corp., unless the attorney agreed to accept service on behalf of the respondent, service was improper. 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 been unable to locate on the docket a request for special notice by Saltzman & Johnson on behalf of the respondent either. Docket 141 at 2.

Second, although the motion was served on someone named "Greg Trento ATPA," the court cannot tell whether this person is in any way associated with the respondent. Docket 141 at 2.

Finally, while the motion was also served on "Operating Engineers Financial Services, L.L.C." as well, the court cannot tell whether, why and in what capacity this entity is associated with the respondent. Docket 141 at 2.

48. 13-34696-A-7 JEFFREY JOHNSON MOTION TO SET ASIDE
JBJ-4 3-13-14 [81]

Final Ruling: The hearing on this motion has been continued to April 20, 2015 at 10:00 a.m. Docket 127.

49. 13-20898-A-7 CORNEL/TINA VANCEA MOTION TO APPROVE COMPENSATION OF ACCOUNTANT
KJH-2 2-23-15 [184]

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 trustee, 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 (9th 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 (9th 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.

Gabrielson & Company, accountant for the estate, has filed its first and final application for approval of compensation. The requested compensation consists of $3,971 in fees and $252.93 in expenses, for a total of $4,223.93. This motion covers the period from August 4, 2013 through February 19, 2015. The court approved the movant's employment as the estate's accountant on August 15, 2013. In performing its services, the movant charged hourly rates of $325 and $345.

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." The movant's services included: analyzing tax consequences from the sale of estate assets and preparing estate tax returns.

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