UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

April 9, 2018 at 10:00 a.m.

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1. 08-37910-A-7 MARK JOCOY — MOTION TO SELL, FOR COMPENSATION OF REALTOR AND FOR WAIVER OF 14 DAY STAY
DNL-15 — 3-12-18 [177]

Tentative Ruling: The motion will be granted.

The chapter 7 trustee requests authority to sell for $90,000 the estate's unencumbered 50% interest in a real property in San Felipe, Baja California, Mexico to Clark and Company S. de R. L. de C.V. Creditor Jonathan Brickner owns the other 50% interest in the property. The property was listed for sale with an asking price of $119,000 and aggressively marketed. The highest offer received was $90,000. The trustee asks for waiver of the 14-day period of Fed. R. Bankr. P. 6004(h) and asks for approval of the payment of the real estate commission (8% of the gross sale price + 16% Mexican VAT tax on the commission amount).

The trustee also seeks to use the sale proceeds to pay HOA arrears in the amount of $16,327, golf fees, taxes, and professional fees. The sale will generate proceeds in the amount of $30,010.17 to the estate (after splitting the net proceeds with the other 50% owner).

11 U.S.C. § 363(b) allows the trustee to sell property of the estate, other than in the ordinary course of business. The sale will generate some proceeds for distribution to creditors of the estate. Hence, the sale will be approved pursuant to 11 U.S.C. § 363(b), as it is in the best interests of the creditors and the estate. The court will waive the 14-day period of Rule 6004(h) and will authorize payment of the real estate commission, consistent with the estate's broker's court-approved terms of employment.

2. 18-20017-A-7 LILIA COOK — MOTION TO DISMISS CASE
UST-1 — 2-28-18 [20]

Tentative Ruling: The motion will be granted and the case will be dismissed.

The U.S. Trustee moves for dismissal of this case pursuant to 11 U.S.C. § 707(b)(1) and (3)(B).

As the debtor's response to this motion is unsupported by a declaration establishing her factual assertions, the assertions are not evidence, and are at best hearsay and inadmissible. Fed. R. Evid. 802; Local Bankruptcy Rule 9014-1(d)(3)(D).

11 U.S.C. § 707(b)(1) provides for dismissal of a chapter 7 case upon a finding

of "abuse" by an individual debtor with "primarily consumer debts."

11 U.S.C. § 707(b)(3) provides: "*In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter in a case in which the presumption in paragraph (2)(A)(i) does not arise or is rebutted, the court shall consider--*

"*(A) whether the debtor filed the petition in bad faith; or*

"*(B) the totality of the circumstances (including whether the debtor seeks to reject a personal services contract and the financial need for such rejection as sought by the debtor) of the debtor's financial situation demonstrates abuse.*"

When evaluating the totality of the circumstances, courts apply the following nonexclusive factors:

(1) Whether the debtor has a likelihood of sufficient future income to fund a Chapter 11, 12, or 13 plan which would pay a substantial portion of the unsecured claims;

(2) Whether the debtor's petition was filed as a consequence of illness, disability, unemployment, or some other calamity;

(3) Whether the schedules suggest the debtor obtained cash advancements and consumer goods on credit exceeding his or her ability to repay them;

(4) Whether the debtor's proposed family budget is excessive or extravagant;

(5) Whether the debtor's statement of income and expenses is misrepresentative of the debtor's financial condition; and

(6) Whether the debtor has engaged in eve-of-bankruptcy purchases.

Ng. v. Farmer (In re Ng), 477 B.R. 118, 126 (B.A.P. 9th Cir. 2012) (citing In re Price, 353 F.3d 1135, 1139-40 (9th Cir. 2004)).

This motion is based on 11 U.S.C. § 707(b)(3)(B).

"*The rule adopted by the overwhelming majority of the courts considering the issue appears to be that a debtor's ability to pay his debts will, standing alone, justify a section 707(b) dismissal. See Cord, 68 B.R. at 7 (debtors who are able to pay their debts neither need nor deserve protection of chapter 7); Hudson, 56 B.R. at 419 (substantial abuse occurs whenever debtor has ability to repay substantial portion of his debts under chapter 13); Edwards, 50 B.R. at 937 (ability to pay principal amount of debts in three years is per se substantial abuse). We find this approach fully in keeping with Congress's intent in enacting section 707(b), and accordingly adopt it.*"

Zolg v. Kelly (In re Kelly), 841 F.2d 908, 914-15 (9th Cir. 1988); see also In re Lamug, 403 B.R. 47, 55 (Bankr. N.D. Cal. 2009) (agreeing with Kelly).

Consumer debts are defined as "debt incurred by an individual primarily for a personal, family, or household purpose." 11 U.S.C. § 101(8). "[A] debtor is considered to have "primarily consumer debts" under § 707(b) when consumer debts constitute more than half of the total debt." Price v. United States Trustee (In re Price), 353 F.3d 1135, 1139 (9th Cir. 2004).

The debtor has admitted in the petition that her debts are primarily consumer debts for purposes of 11 U.S.C. § 101(8). The debtor checked the "Yes" box as pertaining to question 16a, asking "Are your debts primarily consumer debts?" Docket 1 at 6.

The totality of the circumstances of the debtor's financial situation demonstrates abuse.

The debtor obtained a high paying job as an IT Compliance Analyst one month prior to filing this case on January 2, 2018. The debtor has admitted to receiving monthly net disposal income of $7,855.30. Docket 13; Docket 23, Ex. 5. Her gross income is $22,360 a month. Docket 1, Schedule I; Docket 23, Ex. 4. The court also notes that the debtor has answered "No" on Schedule I to the question "Do you expect an increase or decrease within the year after you file this form?" Docket 1, Schedule I; Docket 23, Ex. 4.

In other words, the debtor has the ability to pay off her $31,092 in unsecured claims over a four month period ($31,092 debt/$7,855.30 net income a month = 3.95 months). Given the debtor's monthly net income and her total unsecured debt and given that she has indicated no decrease in income for 2018, the debtor's financial situation demonstrates abuse and warrants dismissal of the case under section 707(b)(1) and (b)(3)(B).

The debtor's contention that she has no stability in her field of work and is likely to lose her job at any time are unsupported by evidence. There is no evidence – any evidence – with the opposition.

Nor does the court believe that such assertion is relevant or probative to the determination here. The court evaluates what is at hand, not what could happen or may happen. At the present, the debtor is employed as indicated above. Her employment enables her to pay off her unsecured debt in four months. The court will not engage in speculation.

Moreover, work stability is shaky with virtually every private sector profession. The court has been given no reason to prefer one profession over another in its abuse adjudications.

The court also rejects the assertion that the debtor must be allowed to save the money she could use to pay off her creditors. The debtor cites no legal authority for the proposition that her saving money should be factored into abuse analysis.

The motion will be granted and the case will be dismissed, unless the debtor wishes to convert to a chapter 13 proceeding.

3. 13-20550-A-7 DIANE/WILLIAM HORTON — AMENDED MOTION TO APPROVE COMPROMISE AND TO APPROVE COMPENSATION OF SPECIAL COUNSEL
BHS-2 — 2-12-18 [46]

Tentative Ruling: The motion will be granted.

The trustee requests approval of two settlement agreements in two medical device litigations, one with Boston Scientific MDL and another with Medical Device Manufacturer. The trustee is also asking for approval of the compensation of the estate's special counsel prosecuting the subject claims. The court entered an order on July 19, 2017 approving the estate's employment

of special counsel, consisting of three law firms, including Ford & Associates (formerly Steigerwalt & Associates), Burke, Harvey & Frankowski, and Mueller Law Firm. Docket 30. The terms of compensation are a 40% contingency fee agreement. Id.

Under the terms of the compromise with Boston Scientific, the defendant will pay $70,000 in exchange for full settlement of the estate's claims. From that amount:

- $3,500 will be paid pursuant to a court-ordered medical device litigation assessment,

- $5,320 will be paid as fees to Burke, Harvey & Frankowski,

- $174.38 will be paid as expenses to Burke, Harvey & Frankowski,

- $7,980 will be paid as fees to Ford & Associates,

- $12,950 will be paid as fees to Mueller Law Firm (reduced by $350),

- $1,594.87 will be paid as expenses to Mueller Law Firm,

- $961 will be paid as miscellaneous fees to an unidentified person, and

- $3,554.85 will be paid on account of a medical lien.

The estate will receive a net of proceeds in the amount of $33,964.90.

Under the terms of the compromise with Medical Device Manufacturer, the defendant will pay $104,800.06 in exchange for full settlement of the estate's claims. From that amount:

- $5,240 will be paid pursuant to a court-ordered medical device litigation assessment,

- $11,947.21 will be paid as fees to Burke, Harvey & Frankowski,

- $7,964.80 will be paid as fees to Ford & Associates,

- $19,912.01 will be paid as fees to Mueller Law Firm,

- $1,594.87 will be paid as expenses to Mueller Law Firm,

- $611 will be paid as miscellaneous fees to an unidentified person, and

- $931.81 will be paid on account of a medical lien.

The estate will receive net of proceeds in the amount of $56,598.35. In total, the estate will receive net proceeds from the settlements in the amount of $90,563.25. This will be sufficient to pay "[a]ll timely proofs of claim" filed against the estate, totaling $12,197.08.

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 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.

The attorneys representing the estate in the litigation were not aware of the bankruptcy case. They were retained by the debtors in February 2011. The debtors filed this case on January 16, 2013 and received their chapter 7 discharge on May 2, 2013. Once the attorneys discovered the bankruptcy case, they contacted the United States Trustee in early 2017 to apprise the estate of the litigation. The court entered an order reopening the case on March 15, 2017, pursuant to a motion brought by the U.S. Trustee. In July 2017, the trustee obtained court approval to retain the attorneys to represent the estate in the litigation. The attorneys have been providing services in the litigation since approximately February 2011. The foregoing is a satisfactory explanation of why the attorneys were not employed prior to July 2017.

Given their contingency compensation arrangement, the court perceives no prejudice to anyone due to the lateness of employment of the attorneys by the estate.

The services provided by the attorneys included, without limitation: consulting medical and legal staff to gather evidence pertaining to the medical devices involved; preparing and filing complaints; engaging in discovery, including preparing extensive debtor fact sheets pertaining to injury and medical records; reviewing documents from the defendants; preparing and prosecuting various motions; defending motions brought by the defendants; negotiating settlement agreements; preparing settlement agreements and a master settlement agreement; obtaining further medical and legal evaluation of the case to implement the settlements; and developing argument and documentation to support settlement category recommendations vis-avis the special master.

The court concludes that the compensation is for actual and necessary services rendered in the administration of this estate. The court is satisfied that the THC Financial prongs have been met. Satisfactory explanation for the failure of the estate to obtain prior court approval has been provided. A showing that the attorneys have benefitted the estate has been made. The employment of the attorneys will be approved retroactively to February 2011, when they were retained by the debtors. The requested compensation will be approved.

The court concludes that the Woodson factors balance in favor of approving the settlements. That is, given the multi district litigation procedure in place

to resolve claims such as those being resolved by these settlements, given the special master procedures for vetting claims against the defendants, given the litigation conducted by the estate's attorneys, given the inherent costs, risks, delay and inconvenience of further litigation, and that the settlement proceeds will pay all timely estate claims in full, the settlements are equitable and fair.

Therefore, the court concludes the compromises 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.

4. 17-23853-A-7 ELIZABETH SETTLES — OBJECTION TO EXEMPTIONS
HSM-4 — 3-9-18 [101]

Tentative Ruling: The objection will be sustained.

The trustee objects to the debtor's $50,478 claim of exemption in the Amended Schedule C filed on November 30, 2017 (Docket 75), in a real property located in Blaine, Washington. The exemption has been claimed under Wash. Rev. Code §§ 6.13.010, 6.13.020, and 6.13.030.

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

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

This objection is timely as it was filed on March 9, 2018, within 30 days after the February 9, 2018 conclusion of the meeting of creditors. Docket 101.

The objection will be sustained. The opposition to the objection will be stricken as untimely. Oppositions to the objection were due on March 26, 14 days prior to the April 9 hearing on the objection. Docket 102. This objection was brought pursuant to Local Bankruptcy Rule 9014-1(f)(1), which requires written oppositions to be filed at least 14 days prior to the hearing.

The opposition was filed late, on March 27, without leave from the court to be filed late. Docket 106. As such, the opposition will be stricken.

Even if the court were not to strike the opposition, the objection would still be sustained.

Under 11 U.S.C. § 522(b)(3), "*Property listed in this paragraph is--(A) subject to subsections (o) and (p), any property that is exempt under Federal law, other than subsection (d) of this section, or State or local law that is applicable on the date of the filing of the petition to the place in which the debtor's domicile has been located for the 730 days immediately preceding the date of the filing of the petition or if the debtor's domicile has not been located in a single State for such 730-day period, the place in which the debtor's domicile was located for 180 days immediately preceding the 730-day period or for a longer portion of such 180-day period than in any other place.*"

The debtor does not meet the 730-day requirement for applicability of the California exemptions. The debtor lived in the subject property, in Washington, from 2008 through June 13, 2015. Docket 76 at 2. She filed this bankruptcy case on June 8, 2017, less than 730 days after vacating the subject property. As the debtor was in Washington 180 days immediately preceding the 730-day period of section 522(b)(3), she may claim Washington exemptions.

Rights to exemptions of property are determined as of the date the bankruptcy petition is filed. Cisneros v. Kim (In re Kim), 257 B.R. 680, 685-87 (B.A.P. 9th Cir. 2000) (citing White v. Stump, 266 U.S. 310, 313 (1924)("*When the law speaks of property which is exempt and of rights to exemptions, it, of course, refers to some point of time. In our opinion this point of time is the one as of which the general estate passes out of the bankrupt's control, and with respect to which the status and rights of the bankrupt, the creditors, and the trustee in other particulars are fixed*"); D.A.N. Joint Venture III, L.P. v. Richey (In re Richey), Case No. 10-1306, 2011 WL 4485900 at *10 (B.A.P. 9th Cir., Aug. 8, 2011); In re Kolsch, 58 B.R. 67, 68 (Bankr. D. Nev. 1986).

Wash. Rev. Code § 6.13.010 provides that:

"*(1) The homestead consists of real or personal property that the owner uses as a residence[,] . . . . the homestead consists of the dwelling house or the mobile home in which the owner resides or intends to reside . . . . Property included in the homestead must be actually intended or used as the principal home for the owner.*"

Wash. Rev. Code § 6.13.020 provides:

"*If the owner is married or in a state registered domestic partnership, the homestead may consist of the community or jointly owned property of the spouses or the domestic partners or the separate property of either spouse or either domestic partner: PROVIDED, That the same premises may not be claimed separately by the spouses or domestic partners with the effect of increasing the net value of the homestead available to the marital community or state registered domestic partnership beyond the amount specified in RCW 6.13.030 as now or hereafter amended. When the owner is not married or not in a state registered domestic partnership, the homestead may consist of any of his or her property.*"

Wash. Rev. Code § 6.13.030 provides:

"*A homestead may consist of lands, as described in RCW 6.13.010, regardless of area, but the homestead exemption amount shall not exceed the lesser of (1) the total net value of the lands, manufactured homes, mobile home, improvements, and other personal property, as described in RCW 6.13.010, or (2) the sum of one hundred twenty-five thousand dollars [$125,000] in the case of lands, manufactured homes, mobile home, and improvements, or the sum of fifteen thousand dollars in the case of other personal property described in RCW 6.13.010 . . . .*"

Under Wash. Rev. Code § 6.13.040(1), "*Property described in RCW 6.13.010 constitutes a homestead and is automatically protected by the exemption described in RCW 6.13.070 from and after the time the real or personal property is occupied as a principal residence by the owner . . . .*"

Under Wash. Rev. Code § 6.13.050:

"*A homestead is presumed abandoned if the owner vacates the property for a continuous period of at least six months. However, if an owner is going to be absent from the homestead for more than six months but does not intend to abandon the homestead, and has no other principal residence, the owner may execute and acknowledge, in the same manner as a grant of real property is acknowledged, a declaration of nonabandonment of homestead and file the declaration for record in the office of the recording officer of the county in which the property is situated.*"

The "mere absence from the property for six months constitutes a presumption of abandonment." Wells Fargo Bank v. Brown (In re Tr.'s Sale of Real Prop. of Brown), 161 Wash. App. 412, 416 (2011). "Abandonment of a legal right is generally a question of fact." Tr.'s Sale of Real Prop. of Brown at 415 (citing Moore v. Nw. Fabricators, Inc., 51 Wash. 2d 26, 27 (1957))

The debtor is not entitled to the exemption she has claimed in the property.

First, the debtor's entitlement to an exemption is the petition date.

Second, the debtor has not lived in the subject property since June 13, 2015. Docket 76 at 2. As of the June 8, 2017 petition date, the debtor lived at 100 Old Airport Road in Auburn, California. Docket 1 at 2; Docket 66 at 2.

This means that, as of the petition date, the debtor had not lived on the property for almost exactly two years. This is nearly four times the six-month presumptive abandonment period specified in Wash. Rev. Code § 6.13.050(1). As such, as of the petition date, there is a presumption of abandonment of the debtor's homestead exemption in the subject property. As discussed below, the debtor has not overcome this presumption. She has not established an intent to reside at the property as of the petition date. Wash. Rev. Code § 6.13.010.

The subject property is listed in the amended statement of financial affairs filed on November 30, 2017 under the "prior address" category. Docket 76 at 2.

On the petition date, the debtor resided in Auburn, California, where she owned and ran a veterinary practice, and had not resided at the subject property for almost exactly two years. Docket 1 at 2; Docket 66 at 2; Docket 76 at 2. The debtor has admitted that after she left Washington in June 2015, she has been going back and forth between Auburn, California and New Mexico, where she owned another veterinary practice, purchased in 2014. Docket 103 at 3, 4, 7; Docket 107 at 2-3. After the debtor closed her New Mexico practice in December 2016, she started working at a practice in Reno, Nevada, while continuing to run and work at the Auburn, California practice, and continuing to live in Auburn, California. Docket 103. After she filed this case on June 8, 2017, the debtor moved to St. Kitts, Carribean, where she teaches. Docket 103.

Further, the debtor was renting and receiving rental income from the property, on the petition date. Docket 103 at 4-8. She had been doing it for nearly two years from August 2015 until July 2017. Docket 104, Ex. C. For example, in June 2017, the debtor received $710 in rental income from the property. In July 2017, the debtor received $700 in rental income from the property. Docket 104, Ex. C. From 2015, when she vacated the property, until this case was filed, the debtor acknowledges receiving approximately $16,000 in rental income from the property. Docket 103 at 8. In light of the debtor's failure to file a declaration of nonabandonment during this time and given the six-month abandonment period referenced by Wash. Rev. Code § 6.13.050, this is indicative of abandonment of the homestead. Docket 103 at 7.

The fact that the debtor has allowed people she knows to stay at the house — her former partner's niece and nephew — does not make her arrangement any less a rental of the house. As of the petition date, her former partner's niece and nephew were making payments to her on account of their sole use and occupation of the property. Docket 104, Ex. C.

Additionally, the debtor's late-filed declaration of nonabandonment cannot be a defense to the presumed abandonment under Wash. Rev. Code § 6.13.050(1). The declaration was recorded nearly seven months post-petition, on January 24, 2018. Docket 104, Ex. B. As there was no declaration of nonabandonment as of the petition date, its post-petition filing is not relevant to the court's determination of the exemption.

Yet, even if the court were to consider the nonabandonment declaration, it is tardy and ineffective under the plain meaning of Wash. Rev. Code § 6.13.050. The debtor's filing of the nonabandonment declaration was an afterthought, in conjunction with the debtor's shift in exemptions from the California statutory scheme to the Washington one. The declaration is untimely as it violates the forward-looking language of Wash. Rev. Code § 6.13.050, which states that "if an owner is *going to be absent* from the homestead for more than six months . . . the owner may execute and acknowledge . . . a declaration of nonabandonment of homestead and file the declaration." This language looks prospectively, from the point of prior to or at least within the six-month period for abandonment of the homestead, essentially prescribing when the declaration of nonabandonment of homestead must be filed — before the end of the homestead abandonment six-month period. Wash. Rev. Code § 6.13.050.

In other words, the filing of a nonabandonment declaration of homestead cannot negate the presumption of abandonment, when the declaration is filed after the presumption has been triggered. In this case, the six months after the debtor vacated the property ended in December 2015. The declaration was not filed until January 24, 2018. The filing took place over two years after the six-month period ended and over 2.5 years after the debtor vacated the subject property (*i.e.*, the start of the six-month period).

If the debtor had an intent not to abandon her homestead of the property, she would have recorded the declaration of nonabandonment prior to the six month period. She did not.

The contention that the mortgage payments and utilities on the property remain in her name are unhelpful. The court concludes that the debtor abandoned only her homestead interest in the property. Notably, the presumption of abandonment under Wash. Rev. Code § 6.13.050 focuses on actual presence on the property and not on the name in which are the mortgage and utilities. Keeping the mortgage and utilities current and in her name is consistent with an intent to continue to own the property, not necessarily with an intent to make the property her principal place of abode.

The last time the debtor was at the subject property was in September 2016, for "little over a week." Docket 103 at 5. This was a year and seven months ago. So, not only that did the debtor vacate the property two years before filing this case, she had not even visited within the prior nine months.

Next, as noted above, after she filed this case on June 8, 2017, the debtor moved to in St. Kitts, in the Carribean, where she teaches and also tele-works at a veterinary practice in Reno, Nevada. Docket 103. The debtor has no stated prospects of returning to Washington. Docket 103 at 5, 7. She has

proffered no evidence of efforts to search for employment in Washington around the time this case was filed. She references only a recent invitation to apply for a job in Washington. This is far from convincing proof that the debtor was actively searching for work in Washington as of the petition date.

Moreover, neither her veterinary, nor law license is active in Washington. Docket 107 at 4. "*I am also working on my Continuing Education credits for both my veterinary and law licenses in the state of Washington while I am in St. Kitts. Both licenses are about 2 years behind in CE and dues payments due to my financial difficulties.*" Id. The court does not understand what the debtor means by "working on my Continuing Education." Is the debtor actively taking courses? How much continuing education is required for the debtor to reinstate her veterinary license? How much has she completed.

From the foregoing, it is clear that as of the petition date the debtor was unable to practice veterinary medicine or law in Washington. Yet, the debtor was doing nothing on the petition date to change this and there is evidence to the contrary. Only now, as an afterthought, after working in California, New Mexico, Nevada, and St. Kitts, and after moving to St. Kitts, is the debtor contemplating the possibility of activating her licenses in Washington.

While the debtor claims to have always had the intent to return to Washington and reside at the subject property, none of her actions are consistent with such intent. The totality of the foregoing indicates that her intent has been to be anywhere but Washington. If the debtor indeed had the intent to reside at the property in Washington, she would not have worked at practices in three different states other than Washington (California, New Mexico, and Nevada), over a two-year period.

Her move to St. Kitts further demonstrates the lack of such intent. The court has difficulty believing that the debtor could not find a veterinary job anywhere on the West Coast or the United States at large and was compelled to accept a job in St. Kitts. If she indeed had an intent to reside at the property as of the petition date, she would have at the least maintained the currentness of her veterinary or law license in Washington.

The fact that he debtor holds a Washington driver's license, pays taxes in Washington, had a bank account in Washington immediately prior to filing this case, has some personal belongings stored at the subject property, and pays bills and utilities for the property, do not outweigh her nearly two-year absence from the property, her ineligibility to practice veterinary medicine or law in Washington, and her use of Auburn, California as a base to work in California, New Mexico, and Nevada.

The debtor has not attested that she does not hold a California driver's license, paid taxes in California, has bank accounts in California, New Mexico, and Nevada, has personal belongings in California, paid bills in California (such as property taxes, insurance, utilities).

On the petition date, the debtor lived in California, operated a business in California, and owned real property in California. From this, the court infers that the debtor had personal belongings in California, paid taxes in California, and paid bills in California (such as mortgages and utilities). Docket 1 at 2; Docket 66 at 2; Docket 14, Schedule A/B; Docket 66, Schedule E/F. The factors the debtor urges the court to consider in connection with the subject property are not persuasive of her intent to reside in the subject property. They also are consistent with the debtor's life and residency in

California.

The court further notes that the debtor's mailing address as of the petition date was in Auburn, California and not in Washington at the property's address. Docket 1 at 2. The debtor changed her mailing address to the subject property only about the time she decided to shift her exemptions to the Washington statutory scheme. Docket 64.

The debtor abandoned her homestead in the subject property and she is not entitled to claim the exemptions against the property. The objection will be sustained.

5. 16-22163-A-7 SYLVIA KINERSON — MOTION TO SELL
ADJ-4 — 3-8-18 [119]

Tentative Ruling: The motion will be granted.

The chapter 7 trustee requests authority to sell for $305,550 the unencumbered 100% interest, including the estate's 50% interest and Stanley G. Laffranchini's 50% interest, in a real property in Manteca, California to Michael Edward Baziuk and Roxanne Baziuk, or their IRC 1031 intermediary. On January 25, 2018, this court entered a final judgment against the debtor and her son, Stanley Laffranchini, giving the estate the authority to market and sell both Mr. Laffranchini and the estate's respective undivided one-half interests in the property. Adv. Pro. Case No. 17-02220, Docket 23. The buyers plan to purchase the property through an intermediary for a tax deferred exchange pursuant to Internal Revenue Code section 1031, at no costs to the estate. The property has a value of $315,000. The trustee also asks for waiver of the 14-day period of Fed. R. Bankr. P. 6004(h) and asks for approval of the payment of the real estate commission of 3% to ReMax Executive.

11 U.S.C. § 363(b) allows the trustee to sell property of the estate, other than in the ordinary course of business. The sale will generate some proceeds for distribution to creditors of the estate. Hence, the sale will be approved pursuant to 11 U.S.C. § 363(b), as it is in the best interests of the creditors and the estate. The court will waive the 14-day period of Rule 6004(h) and will authorize payment of the real estate commission, consistent with the estate's broker's court-approved terms of employment.

6. 12-41591-A-7 MATTHEW/KAREN AMARO — MOTION TO AVOID JUDICIAL LIEN
MJD-2
VS. PORTFOLIO RECOVERY ASSOC., L.L.C. — 3-14-18 [28]

Tentative Ruling: The motion will be denied without prejudice.

A judgment was entered against the debtor in favor of Portfolio Recovery Associates, L.L.C. for the sum of $5,744.02. The abstract of judgment was recorded with Sacramento County on October 16, 2012. That lien attached to the debtor's interest in a residential real property in Rancho Cordova, California.

The subject real property had an approximate value of $307,236 as of the petition date. Docket 25. The unavoidable liens totaled $462,805.02 on that same date, consisting of (1) a first mortgage for $366,854 in favor of Wells Fargo, (2) a second mortgage for $89,907 in favor of Franklin Credit Management, and (3) an HOA lien for $300 in favor of HOA Anatolia. Docket 26. The debtor claimed an exemption pursuant to Cal. Civ. Pro. Code § 703.140(b)(1)

in the amount of $1,000 in Amended Schedule C. Docket 25.

The motion will be denied because the debtor amended her Schedule C on March 12, 2018, to add an exemption in the subject property, but she did not serve the Amended Schedule C on any of the creditors and the trustee, informing them of the added exemption. Docket 25. Parties in interest have 30 days from an exemption amendment to object to any added or altered exemptions. Fed. R. Bankr. P. 4003(b)(1). Because the debtor has not afforded parties in interest such an opportunity, the motion will be denied. Further, the declaration and notice accompanying the motion indicate that exhibits including a copy of the recorded abstract of judgment and copies of the amended schedules were filed and served as exhibits concurrently with the motion, but a review of the docket does not reflect that the exhibits were filed.

7. 18-20892-A-7 NENG/MARIE VUE — MOTION TO AVOID JUDICIAL LIEN, ETC.
MJD-1 — 3-23-18 [15]

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 debtor, the creditors, 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.

A pre-petition judgment was entered against the debtor Marie Vue in favor of Nationwide West L.L.C. Pursuant to the judgment, a writ of execution and an wage garnishment was executed, resulting in the Los Angeles County Sheriff's Department garnishing $530.68 from the debtor's employer prior to the petition filing date of February 16, 2018. Those funds are currently held by the Los Angeles County Sheriff.

The debtors seek to avoid the lien that led to the levy of the funds.

The lien will be avoided pursuant to 11 U.S.C. § 522(f)(1)(A). The debtors listed the funds, $2,000, in their Schedule B. Dockets 1 & 17. The debtors claimed an exemption of $2,000 in the garnished funds pursuant to Cal. Code Civ. Pro. § 703.140(b)(5) in their Schedule C. Dockets 1 & 17.

The respondent holds a judicial lien created by the issuance of a writ of execution for the levy of the funds. 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 funds and its fixing will be avoided subject to 11 U.S.C. § 349(b)(1)(B).

8. 17-21995-A-7 JASVINDER CHAHAL
SCB-16

MOTION FOR ADMINISTRATIVE EXPENSES
2-26-18 [179]

Tentative Ruling: The motion will be granted.

The court continued the hearing on this motion from March 26, 2018, in order for the movant to supplement the record. The movant has filed additional pleadings in support of the motion. An amended ruling from March 26 follows.

The trustee moves for the allowance and payment of $20,000 in post-petition rent and approximately $2,100 in post-petition property taxes, as administrative expense claims, for the rent of a truck yard in Stockton, California, where the estate stored personal property (principally vehicles) prior to the court's authorization of sale of that property. The lease for the yard is a triple net lease, requiring the debtor-tenant to pay property taxes, among other things. The landlord is J.B. and Bonnie Phillips as trustees of the Phillips Charitable Remainder Trust Dated 12/18/15. The rent represents four rent payments for four months, from March 27, 2017 through August 2, 2017, at the rate of $5,000 a month.

11 U.S.C. § 503(b) provides that after notice and a hearing, there shall be allowed administrative expenses, other than claims allowed under section 502(f) of this title, including- (1) (A) the actual, necessary costs and expenses of preserving the estate.

The debtor filed this chapter 7 case on March 27, 2017. The property sold by the trustee was not removed from the truck yard until July 12, 2017, well into the fourth month post-petition.

The storage of the estate's assets until their sale and removal benefitted the estate and the estate's creditors because it gave time to the trustee to market and sell the assets, generating proceeds for distribution to creditors of the estate. See Docket 112.

The trustee has sufficient funds on hand to pay the administrative expenses. He is holding $34,484.14 in funds from which to satisfy the administrative expenses.

The court is satisfied that the claims represent actual and necessary costs and expenses of preserving the estate, namely, preserving valuable personal property pending the trustee's sale of that property. While some of the funds generated from the sale of the personal property are encumbered by tax claims, the trustee anticipates to have the tax claims reduced in order to make more funds available to unsecured creditors. The motion will be granted and the rent and property taxes approved as administrative expenses.

FINAL RULINGS BEGIN HERE

9. 17-27800-A-7 WILLIAM/LYNNE CARDWELL — MOTION TO APPROVE COMPROMISE
DMW-1 — 2-26-18 [17]

Final Ruling: The motion will be dismissed without prejudice.

The notice does not comply with the court's local rules, including Local Bankruptcy Rule 9014-1(f)(1). The notice provides conflicting hearing dates. The heading of the notice references the correct hearing date of April 9, 2018. Paragraph three of the body of the notice, however, states that the hearing is "scheduled to be held on December 9, 2014 at 9:32 A.M." Docket 8. This error is especially misleading given that the incorrect date is underlined. In light of this discrepancy, notice is improper, and the motion is dismissed without prejudice.

10. 18-21202-A-7 RUTH MANLEY — ORDER TO SHOW CAUSE
3-15-18 [14]

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

Debtor did not pay its petition filing fee and did not apply to pay the fee in installments. The filing fee of $335 was due on March 1, 2018. Although late, debtor paid the filing in fee in full on March 19, 2018.

11. 17-27804-A-7 CHYNNA HOLLAND — MOTION FOR RELIEF FROM AUTOMATIC STAY
AP-1
U.S. BANK, N.A. VS. — 2-28-18 [15]

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 in part.

Movant Bank One, N.A. seeks relief from the automatic stay with respect to real property located at 3301 North Park Drive 1413, Sacramento, California. Movant alleges that cause exists to grant the motion given that debtor has failed to make two post-petition payments and the property lacks sufficient equity to protect movant's interest.

Given the entry of debtor's discharge on February 28, 2018, the automatic stay has expired as to debtor and any interest debtor may have in the property. See 11 U.S.C. § 362(c). Thus, the motion is dismissed as to debtor.

As to the trustee, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) to permit movant to conduct a nonjudicial foreclosure sale and to obtain

possession of the subject property following sale. No other relief is awarded. Debtor has not made two post-petition payments to movant and a review of the case docket indicates that the trustee has filed a statement of nonopposition on March 12, 2018. Based on this, the court finds cause for the granting of relief from stay.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) is not waived.

12. 13-30212-A-7 ARMANDO/NORA COTA — MOTION TO APPROVE COMPENSATION OF ACCOUNTANT
DMW-6 — 3-5-18 [85]

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 motion for approval of compensation. The requested compensation consists of $2,887.50 in fees and $116.05 in expenses, for a total of $3,003.55. This motion covers the period from January 15, 2018 through March 5, 2018. The court approved the movant's employment as the estate's accountant on January 17, 2018. In performing its services, the movant charged an hourly rate of $375.

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 review of prior tax returns and the preparation of 2017 estate tax returns. The movant also discussed tax issues with the trustee.

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

13. 13-23517-A-7 TRACY GATEWAY, L.L.C. — MOTION TO APPROVE COMPROMISE AND TO APPROVE COMPENSATION OF SPECIAL COUNSEL
HCS-10 — 3-12-18 [268]

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 on one hand and the defendant Sutter Central Valley Hospitals on the other, over fraudulent conveyance and turnover claims trustee filed against the defendant. The claims were precipitated by debtor's transfer of its interest in 38 acres of real property to the defendant for $6,738,731. The trustee alleges that, at the time of the transfer, the fair market value of the property was really $17.6 and the debtor was insolvent. The adversary proceeding seeks to avoid the transfer and recover $10.860 million. Under the terms of the compromise, the defendant will pay $700,000 in exchange for a dismissal of the adversary proceeding with prejudice.

On June 8, 2016, the court approved the employment of special counsel to represent the estate in the adversary proceeding under terms that entitled counsel to a contingency fee of 33% of the net recover of any settlement. This works out to fees of $207,723.91 and costs of $29,089.60, for a total of $236,813.51, which the trustee seeks authority to pay from the settlement proceeds.

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."

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, the probability of success is tenuous given that (1) the defendant's expert valued the subject property at less than the price paid, (2) the defendant argues that the debtor received a benefit from the transaction as it provided the debtor a high profile anchor tenant, which also provided the debtor an opportunity for future economic benefit, (3) the defendant paid the debtor $6 million in additional fees and reimbursements in addition to the purchase price, and (4) the defendant provides multiple arguments for the solvency of the debtor at the time of the transaction. Further, there is significant delay, cost, and inconvenience of further litigation given that there is no trial date set and that any judgment would likely lead to appeal. Finally, the settlement amount is significant and will allow the trustee to pay estate claims. In sum, 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 settlement will be approved.

As for compensation of special counsel, 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.

The motion will be granted.

14. 18-20520-A-7 TERRY/TINA SMITH — MOTION TO AVOID JUDICIAL LIEN
GTB-1
VS. BANK OF AMERICA, N.A. — 3-7-18 [23]

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 debtor in favor of Bank of America for the sum of $3,959.62 on October 6, 2017. The abstract of judgment was recorded with Sacramento County on January 23, 2018. That lien attached to the debtor's interest in a residential real property in Sacramento, California.

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of $250,000 as of the petition date. Dockets 25 & 13. The unavoidable liens totaled $199,332 on that same date, consisting of a single mortgage in favor of Wells Fargo. Dockets 25 & 13. The debtor claimed an exemption pursuant to Cal. Civ. Pro. Code § 704.730 in the amount of $51,000 in Schedule C. Dockets 25 & 13.

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. 18-20520-A-7 TERRY/TINA SMITH — MOTION TO AVOID JUDICIAL LIEN
GTB-2
VS. CITIBANK, N.A. — 3-7-18 [18]

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 debtor in favor of Citibank for the sum of $6,532.24 on September 21, 2017. The abstract of judgment was recorded with Sacramento County on November 28, 2017. That lien attached to the debtor's interest in a residential real property in Sacramento, California.

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of $250,000 as of the petition date. Dockets 21 & 13. The unavoidable liens totaled $199,332 on that same date, consisting of a single mortgage in favor of Wells Fargo. Dockets 21 & 13. The debtor claimed an exemption pursuant to Cal. Civ. Pro. Code § 704.730 in the amount of $51,000 in Schedule C. Dockets 21 & 13.

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

16. 17-28324-A-7 MORTIMER/ARLENE JARVIS — MOTION FOR RELIEF FROM AUTOMATIC STAY
JHW-1 — 3-1-18 [53]
CAB WEST, L.L.C. 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, Cab West, L.L.C., seeks relief from the automatic stay with respect to a leased 2017 Ford Fusion. The vehicle has a value of $16,600 and the outstanding debt under the lease agreement totals approximately $8,327.61. The debtors also have not made one post-petition payment under the lease agreement. And, the debtors indicated an intent to surrender the vehicle under the statement of intention. The court also notes that the trustee filed a statement of nonopposition on March 12, 2018.

The court concludes that the above is cause for the granting of relief from stay.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) to permit the movant to repossess its vehicle, to dispose of it pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

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

17. 17-27525-A-7 SUKHWINDER BIHALA — MOTION TO AVOID JUDICIAL LIEN
RSG-2
VS. BMO HARRIS BANK, N.A. — 2-22-18 [21]

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 debtor in favor of BMO Harris Bank for the sum of $229,863.89 on April 20, 2017. The abstract of judgment was recorded with Sutter County on May 22, 2017. That lien attached to the debtor's interest in a residential real property in Yuba City, 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 $380,000 as of the petition date. Docket 1. The unavoidable liens totaled $362,500 on that same date, consisting of (1) a first mortgage for $210,000 in favor of Ditech Financial L.L.C., (2) a second mortgage for $125,500 in favor of Bank of America, and (3) a secured loan for 27,000 in favor of Suncrest Solar. Docket 1. The debtor claimed an exemption pursuant to Cal. Civ. Pro. Code § 704.730 in the amount of $17,500 in Schedule C. Docket 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).

18. 13-31341-A-7 ROBERT/DOLORES KYLE — MOTION TO AVOID JUDICIAL LIEN
BB-1
VS. BUTTE COUNTY CREDIT BUREAU AND STANISLAUS CREDIT CONTROL SERVICES, INC. — 3-5-18 [24]

Final Ruling: The motion will be dismissed without prejudice.

The notice language is inaccurate. The movant has provided 35 days' notice of the hearing on this motion. The notice of hearing for the motion states that the motion is being noticed under Local Bankruptcy Rule 9014 generally. Local Bankruptcy Rule 9014-1(f)(1) requires at least 28 days' notice, and this rule requires written oppositions to be filed with the court. The notice of hearing states that written oppositions are required and that the court could resolve the matter without oral argument, if written opposition is not timely filed.

The notice then states that written oppositions are due five days prior to the hearing. Local Bankruptcy Rule 9014-1(f)(1), however, requires written opposition to be filed 14 days prior to the hearing. Accordingly, notice is defective.

19. 18-21147-A-7 TIALISA FERNANDEZ — ORDER TO SHOW CAUSE 3-14-18 [13]

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

Debtor did not pay its petition filing fee and did not apply to pay the fee in installments. The filing fee of $335 was due on February 28, 2018. Although late, debtor paid the filing in fee in full on March 19, 2018.

20. 18-21154-A-7 VERONICA HENDERSON — ORDER TO SHOW CAUSE 3-14-18 [12]

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

Debtor did not pay its petition filing fee and did not apply to pay the fee in installments. The filing fee of $335 was due on February 28, 2018. Although late, debtor paid the filing in fee in full on March 19, 2018.

21. 18-21158-A-7 PAMELA ROBINSON — ORDER TO SHOW CAUSE 3-14-18 [12]

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

Debtor did not pay its petition filing fee and did not apply to pay the fee in installments. The filing fee of $335 was due on February 28, 2018. Although late, debtor paid the filing in fee in full on March 19, 2018.

22. 18-21161-A-7 SANDRA WASHINGTON — ORDER TO SHOW CAUSE 3-14-18 [13]

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

Debtor did not pay its petition filing fee and did not apply to pay the fee in installments. The filing fee of $335 was due on February 28, 2018. Although late, debtor paid the filing in fee in full on March 19, 2018.

23. 11-26667-A-7 MITCHELL/DEANNA ALLEN — MOTION TO AVOID JUDICIAL LIEN 3-3-18 [30]
FF-1
VS. WELLS FARGO BANK

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 debtor in favor of Wells Fargo Bank for the sum of $49,971.35 on November 22, 2010. The abstract of judgment was recorded with Solano County on December 29, 2010. That lien attached to the debtor's interest in a residential real property in Vacaville, 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 $89,500 as of the petition date. Dockets 33 & 1. The unavoidable liens totaled $270,000 on that same date, consisting of a single mortgage in favor of Chase. Dockets 33 & 1. The debtor claimed an exemption pursuant to Cal. Civ. Pro. Code § 704.730 in the amount of $1 in Schedule C. Dockets 33 & 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).

24. 18-20269-A-7 BUBBIE'S LOVE DELI & CATERING L.L.C. MOTION TO COMPEL ABANDONMENT
BHS-1 3-2-18 [10]

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.

Creditors Jahashir and Gayle Javanifard seek an order compelling the trustee to abandon the estate's interest in its lease of real property, located at 7800 Sunrise Boulevard, Suite 11 in Citrus Heights, California. The debtor leased the property in 2016 from the creditors to operate its business, but the debtor abandoned the property prior to the petition date. Further, rent is in arrears in the amount of $10,288.11 through January, 2018. No opposition has been filed. The trustee filed a statement of nonopposition.

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

Given the arrears in the amount of $10,288.11, the monthly rent rate of $1,2688.75, the debtor's abandonment of the property, and the trustee's report of no distribution filed on February 27, 2018, the court concludes that the property lease is of inconsequential value to the estate. The motion will be granted.

25. 16-26175-A-7 JEFFERY NUXOLL — MOTION TO APPROVE COMPENSATION OF ACCOUNTANT
DMW-5 — 3-9-18 [49]

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 motion for approval of compensation. The requested compensation consists of $1,612.50 in fees and $72.43 in expenses, for a total of $1,684.93. This motion covers the period from January 30, 2018 through February 5, 2018. The court approved the movant's employment as the estate's accountant on February 1, 2018. In performing its services, the movant charged an hourly rate of $375.

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 review of prior tax returns and the preparation of 2017 estate tax returns. The movant also discussed tax issues with the trustee.

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

26. 17-22588-A-7 JAY/SUZANNE DYER — MOTION TO APPROVE COMPENSATION OF ACCOUNTANT
KJH-2 — 2-28-18 [68]

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 motion for approval of compensation. The requested compensation consists of $2,662.50 in fees and $115.55 in expenses, for a total of $2,778.05. This motion covers the period from October 27, 2017 through February 22, 2018. The court approved the movant's employment as the estate's accountant on November 2, 2017. In performing its services, the movant charged an hourly rate of $375.

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 review of prior tax returns and the preparation of 2018 estate tax returns. The movant also discussed tax issues with the trustee.

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. 17-28388-A-7 KATHRYN WILEY — MOTION FOR RELIEF FROM AUTOMATIC STAY
BDA-1 — 2-28-18 [17]
BMW BANK OF NORTH AMERICA 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, BMW Bank of North America, seeks relief from the automatic stay with respect to a 2015 BMW 2 Series Coupe 2D M235i. The vehicle has a value of $33,525, and its secured claim is approximately $43,776.

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 debtor has not made one pre-petition and one post-petition payments to the movant. The docket does not reflect that the trustee has filed a motion to sell the vehicle or filed a response to the motion. There is no indication that the vehicle is of benefit to the estate. This is cause for the granting of relief from stay.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (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.

28. 16-27489-A-7 PALMER COOKE — MOTION TO APPROVE COMPENSATION OF ACCOUNTANT
KJH-2 — 3-12-18 [147]

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 motion for approval of compensation. The requested compensation consists of $1,837.50 in fees and $86.45 in expenses, for a total of $1,923.95. This motion covers the period from September 6, 2017 through March 9, 2018. The court approved the movant's employment as the estate's accountant on September 12, 2017. In performing its services, the movant charged an hourly rate of $375.

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 review of prior tax returns and the preparation of 2018 estate tax returns. The movant also discussed tax issues with the trustee.

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

29. 18-21397-A-7 CAMERON/KARA BLEVINS — MOTION FOR RELIEF FROM AUTOMATIC STAY
BPE-1 — 3-26-18 [10]
TOWN & COUNTRY MANAGEMENT GROUP, INC. VS.

Final Ruling: The motion will be dismissed without prejudice.

The proof of service indicates that the debtors' attorney was served at an incorrect address, 1800 Howe Avenue. The correct address is 1860 Howe Avenue. Further, the submitted proof of service does not show that the movant served the debtors. Accordingly, notice is defective.

Second, the notice of hearing indicates that a written response had to be filed 14 days prior to the hearing. If not filed, relief could be awarded without hearing. However, the motion was served 14 days prior to the hearing. Consequently, the movant informed the debtor that a response was due the very

day the motion was dropped into the mailbox. Because on 14 days' notice was given, the notice of hearing should have informed the debtor that no written response was required. See Local Bankruptcy Rule 9014-1(f)(2).

30. 15-27399-A-7 DALJIT/HARMANDEEP SIDHU — MOTION TO APPROVE COMPENSATION OF CHAPTER 7 TRUSTEE
JMH-1 — 3-10-18 [115]

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, J. Michael Hopper, has filed a first and final motion for approval of compensation. The requested compensation consists of $12,517.95 in fees and $0.00 in expenses, for a total of $12,517.95. The services for the sought compensation were provided from September 21, 2015 through the present. The sought compensation represents 30 hours of services.

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

The movant will make or has made $185,359 in distributions to creditors. This means that the cap under section 326(a) on the movant's compensation is $12,517.95 ($1,250 (25% of the first $5,000) + $4,500 (10% of the next $45,000) + $6,767.95 (5% of the next $950,000 ($135,359)) + $0.00 (3% on anything above $1 million). Hence, the requested trustee fees of $12,517.95 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 L.L.C. (In re Salgado-Nava), 473 B.R. 911, 921 (B.A.P. 9th Cir. 2012).

The movant's services did not involve extraordinary circumstances and included, without limitation:

(1) reviewing petition documents and analyzing assets,

(2) conducting the meeting of creditors,

(3) evaluating the debtor's interest in real property,

(4) employing professionals to assist the trustee with the administration of the estate,

(5) communicating with the estate's professionals about various issues,

(6) reviewing claims,

(7) reviewing various pleadings and documents,

(8) addressing tax issues,

(9) pursuing preference actions to avoid judgment liens,

(10) negotiating a sale of a real property,

(11) preparing final report, and

(12) preparing compensation motion.

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