UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

May 4, 2015 at 10:00 a.m.

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

4, 5, 6, 8, 15, 16

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 JUNE 2, 2015 AT 10:00 A.M. OPPOSITION MUST BE FILED AND SERVED BY MAY 18, 2015, AND ANY REPLY MUST BE FILED AND SERVED BY MAY 25, 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. 14-24810-A-7 BLANE/JENETTE PARROTT — OBJECTION TO DEBTORS' DISCHARGE 3-23-15 [50]

Tentative Ruling: Although styled as an objection to the debtors' discharge, the creditor is objecting to the trustee's final account and report because the creditor also has objected to the debtors' discharge. The objection to the final report and account will be overruled.

On February 25, 2015, the trustee filed his final account and report in this case. Docket 47. Creditor Karl Brune filed an opposition to the account and report on March 23, 2015, objecting to the "[t]rustee's application for discharge" as he is the plaintiff in a pending 11 U.S.C. §§ 727 and/or 523 proceeding against the debtors.

The trustee's account and report is not an application for a bankruptcy discharge. It has nothing to do with the debtors' bankruptcy discharge. It is only accounting of the administration of the bankruptcy estate.

Further, the trustee's final account and report has no impact on Mr. Brune's pending complaint under 11 U.S.C. §§ 523 and 727 against the debtors. A pending objection to the debtors' discharge is not a basis for disapproving the trustee's final account and report.

The objection to the trustee's final account and report will be overruled.

2. 15-21910-A-7 THANHA HILL — ORDER TO SHOW CAUSE 4-9-15 [24]

Tentative Ruling: The case will be dismissed.

The debtor filed an amended master address list on March 26, 2015, but did not pay the $30 filing fee. The payment of the fee is mandatory and failure to pay the fee is cause for dismissal of the case. See 11 U.S.C. § 707(a)(2).

3. 09-39713-A-7 SCOTT DINSDALE
TJW-6
VS. THOMAS/KATHLEEN HALASZYSKI — AMENDED MOTION TO AVOID JUDICIAL LIEN 3-25-15 [60]

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

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 (2009 Clearview).

The debtor is seeking to have the lien avoided and an award of attorney's fees and costs for the respondents' purported violation of the discharge injunction.

Thomas Halaszynski opposes the motion, contending that: "1) the bad acts of Debtor prevent any discharge of Creditor's judgment lien; 2) Creditor's judgment lien was in a first position prior to obtaining any financing on the Secured Property; 3) Creditor's judgment lien is still a valid claim; and 4) Creditor's judgment lien cannot be discharged through bankruptcy as it was not

properly included in the bankruptcy petition." Docket 63.

First, the lien was disclosed in the debtor's Schedule D, filed on the petition date, September 15, 2009. The respondents' lien is identified as a "Second Mortgage" on the property. "Tom & Kathleen Halaszynski c/o National Collection Agency 1620 School St., Ste 105 Moraga, CA 94556" is identified in Schedule D. Docket 1. In addition, the respondents are listed in the master address list as in Schedule D. Docket 3 at 4.

Second, even if the respondents' lien was not properly listed in the schedules and the respondents did not receive notice of this bankruptcy proceeding, this may impact dischargeability of the respondents' claim. See 11 U.S.C. § 523(a)(3). Yet, it does not impact the debtor's ability to avoid the lien under section 522(f).

Section 522(c) prescribes that:

"*Unless the case is dismissed, property exempted under this section is not liable during or after the case for any debt of the debtor that arose, or that is determined under section 502 of this title as if such debt had arisen, before the commencement of the case, except--*

"*(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) (in which case, notwithstanding any provision of applicable nonbankruptcy law to the contrary, such property shall be liable for a debt of a kind specified in such paragraph);*

"*(2) a debt secured by a lien that is--*

"*(A)(I) not avoided under subsection (f) or (g) of this section or under section 544, 545, 547, 548, 549, or 724(a) of this title; and*

"*(ii) not void under section 506(d) of this title; or*

"*(B) a tax lien, notice of which is properly filed;*

"*(3) a debt of a kind specified in section 523(a)(4) or 523(a)(6) of this title owed by an institution-affiliated party of an insured depository institution to a Federal depository institutions regulatory agency acting in its capacity as conservator, receiver, or liquidating agent for such institution; or*

"*(4) a debt in connection with fraud in the obtaining or providing of any scholarship, grant, loan, tuition, discount, award, or other financial assistance for purposes of financing an education at an institution of higher education (as that term is defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)).*"

Even if the respondents' claim is nondischargeable, the debtor is not precluded from avoiding the lien. The respondents' lien is not securing a tax, customs duty, or domestic support obligation. See 11 U.S.C. § 523(a)(1), (5). The respondents are not "a Federal depository institutions regulatory agency." See 11 U.S.C. § 522(c)(3). And, the court has no evidence in the record that the debt owed to the respondent was incurred in connection with "financing an education at an institution of higher education." See 11 U.S.C. § 522(c)(4).

Section 522(c), which makes exempt property liable for the above debts, makes

no reference to debts made nondischargeable by section 523(a)(2), (a)(3), (a)(4), or (a)(6). The "bad acts" referred to by the respondents would fall within section 523(a)(2), (a)(3), (a)(4), or (a)(6) and hence the lien securing this debt is avoidable under section 522(f).

Third, the debtor's rights to avoid a judicial lien on exemption-impairment grounds is determined as of the petition date. Culver, L.L.C. v. Chiu (In re Chiu), 266 B.R. 743, 751 (B.A.P. 9th Cir. 2001) (citing In re Dodge, 138 B.R. 602, 607 (Bankr. E.D. Cal. 1992)); see also In re Kim, 257 B.R. 680, 685 (B.A.P. 9th Cir. 2000).

This means that both the debtor and the respondents are wrong about the effect of this motion on after-acquired property and on the subject property. The court rejects the debtor's contention that he can avoid a lien on after-acquired property under section 522(f). As the debtor's avoidance rights are determined as of the petition date, he can avoid only what he owned on the petition date, *i.e.*, the subject property, which was listed as owned in Schedule A, as of the petition date. Docket 1. The court is unaware of and the debtor has not cited to legal authority for the avoidance of the lien on after-acquired property.

The court also rejects the respondents' contention that because the debtor no longer owns the property, the debtor cannot seek avoidance of the lien on the property. As the debtor owned the property as of the petition date, he can seek avoidance of the lien as of the petition date, September 15, 2009. Docket 1, Schedule A.

Finally, as lien avoidance on exemption-impairment grounds is determined as of the petition date, the court must consider the value of and encumbrances on the property as they existed on the petition date.

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 senior liens totaled $407,000 on that same date, consisting of a mortgage in favor of JPMorgan Chase Bank that was incurred in 2004. Docket 1, Schedule D.

While the respondents challenge the value of the property and its encumbrances as presently in existence, the respondents have not challenged the property's value and encumbrances as of the petition date, September 15, 2009.

As the subject lien was recorded on December 18, 2005 and JPMorgan Chase Bank's $407,000 mortgage was recorded in 2004, it is not necessary to speculate about the priorities of the mortgage held by Bank of America (for $38,300) and the HOA lien in favor of Terrace Townhome Association (for $5,200), relative to the subject judicial lien. 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).

The court will not avoid the lien against after-acquired property and will not award any damages for violation of the discharge injunction. The only property owned by the debtor as of the petition date was the property on Clearview in Benicia, California. And, this motion presents no evidence of violation of the discharge injunction. Nothing requires creditors holding judicial liens to remove an abstract of judgment from recordation, when the debtor obtains a bankruptcy discharge. There is no evidence in the record of attempts by the respondents to collect on their claim personally from the debtor.

This ruling makes no determination about the dischargeability of the respondents' claim. The motion will be granted in part and denied in part.

4. 15-20828-A-7 KINETH URANS — MOTION FOR
JMA-7 — RELIEF FROM AUTOMATIC STAY
COLFIN AI-CA 1, L.L.C. VS. — 4-20-15 [15]

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, Colfin AI-CA 1, L.L.C., seeks both retroactive and prospective relief from the automatic stay as to real property in Sacramento, California.

The movant is the legal owner of the property and the debtor leased it from the movant. The debtor defaulted under the lease agreement in January 2015. The movant served the debtor with a three-day notice to pay or quit on January 10, 2015. After expiration of the notice, the movant filed an unlawful detainer action against the debtor on January 23, 2015.

The debtor filed this case on February 3, 2015.

Unaware of the bankruptcy filing, the movant obtained a default unlawful detainer judgment against the debtor on March 9, 2015. The movant discovered the bankruptcy filing only on March 19, 2015, when it made an attempt to obtain possession of the property.

In determining whether to grant retroactive relief from stay, the court must engage in a case-by-case analysis and balance the equities between the parties. Some of the factors courts have considered are whether the creditor knew of the bankruptcy filing, whether the debtor was involved in unreasonable or inequitable conduct, whether prejudice would result to the creditor, and whether the court could have granted relief from the automatic stay had the creditor applied in time. Nat'l Envtl. Water Corp. v. City of Riverside (In re Nat'l Envtl. Water Corp.), 129 F.3d 1052, 1055 (9th Cir. 1997).

The Bankruptcy Appellate Panel approved additional factors for consideration in

In re Fjeldsted, 293 B.R. 12 (9th Cir. B.A.P. 2003). The Fjeldsted factors are employed to further examine the debtor's and creditor's good faith, the prejudice to the parties, and the judicial or practical efficacy of annulling the stay.

This is a liquidation proceeding and the debtor has no ownership interest in the property as the movant is the legal owner of it. And, even though the debtor is a tenant at the property, he has defaulted under the lease agreement by failing to pay the rent due from January 2015 onward. Also, the debtor's tenancy interest in the property terminated upon expiration of the 3-day notice served on the debtor pre-petition. See In re Windmill Farms, Inc., 841 F.2d 1467 (9th Cir. 1988); In re Smith, 105 B.R. 50, 53 (Bankr. C.D. Cal. 1989).

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 exercise its state law remedies in accordance with the orders and judgments of the state court in the unlawful detainer action.

The court will grant retroactive relief from stay as of February 3, 2015, given that the movant was not aware of the bankruptcy filing until March 19. If the movant had applied as of February 3, the court would have granted relief from stay, given the termination of the tenancy due to the expiration of the three-day notice pre-petition. Also, unless the court grants retroactive stay relief, the movant would be prejudiced by having once again to apply for a default judgment with the state court.

No monetary claim may be collected from the debtor. 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.

5.	15-21441-A-7 MET-1 BANK OF THE WEST VS.	ARTHUR ALLEN AND SUSAN BERTHOLD-ALLEN	MOTION FOR RELIEF FROM AUTOMATIC STAY 4-16-15 [11]

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, Bank of the West, seeks relief from the automatic stay with respect to a 2004 Centurion Boat, motor and trailer. The property has a value of $17,101 (per Schedule B) and its secured claim is approximately $17,546.

Docket 14 at 2.

The court concludes that there is no equity in the property 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 April 22, 2015. And, the movant has possession of the property already. Docket 14 at 2.

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 property and it is depreciating in value.

6. 15-21342-A-7 AL/JIMMIE TURNAGE — MOTION FOR RELIEF FROM AUTOMATIC STAY
RJM-1
WILLIAM LINGARD VS. — 4-18-15 [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 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 movants, William and Karen Lingard, seek relief from the automatic stay to proceed in state court with their personal injury, property damage and loss of consortium claims against the debtor. Recovery will be limited to available insurance coverage, if any.

Given that the movants would not seek to enforce any judgments against the debtor or the estate and will proceed against the debtor only to the extent their 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 movants 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 movants are not over-secured creditors. See 11 U.S.C. § 506.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived.

7. 14-32147-A-7 THOMAS/CHERYL BENNETT — MOTION TO SELL
JRR-1 — 4-1-15 [37]

Tentative Ruling: The motion will be granted.

The chapter 7 trustee requests authority to sell as is and without warranty for $27,500 the estate's partial interest in a timeshare in Cabo San Lucas, Mexico to John Masterman, a co-owner of the timeshare. The property has a scheduled value of unknown and a purchase price of $50,000. The trustee also asks for waiver of the 14-day period of Fed. R. Bankr. P. 6004(h). The motion reveals no encumbrances against the asset. This is not a free and clear sale.

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).

8. 14-29161-A-7 RICHARD/HWA STOWERS — MOTION FOR RELIEF FROM AUTOMATIC STAY
MET-2 — 4-20-15 [57]
BANK OF THE WEST 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 in part and dismissed as moot in part.

The movant, Bank of the West, seeks relief from the automatic stay as to a real property in Stockton, California.

Given the entry of the debtor's discharge on December 30, 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 $334,000 and it is encumbered by claims totaling approximately $388,740. The movant's deed is in second priority position and secures a claim of approximately $184,275.

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.

9. 15-20364-A-7 CHRISTOPHER/MARIA CARTER — MOTION TO REDEEM
HDR-1 — 3-4-15 [12]

Tentative Ruling: The motion will be denied without prejudice.

The debtor seeks to redeem a 2007 Nissan Murano with approximately 189,000 miles in an unspecified condition. The vehicle is subject to a claim held by Patelco Credit Union for approximately $13,374. The debtor asserts in his supporting declaration that in his opinion the "as is" value of the vehicle is $2,634. Docket 14 at 2.

Patelco opposes the motion, pointing out that the redeemable value of the vehicle is replacement value as defined by 11 U.S.C. § 506(a)(2). Docket 23.

Pursuant to 11 U.S.C. § 722, the debtor is allowed to redeem tangible personal property intended for personal use from a lien securing a dischargeable consumer debt if the property was exempted under 11 U.S.C. § 522.

The court agrees with Patelco. The vehicle must be valued at its replacement value. In the chapter 7 case of an individual, the replacement value of personal property used by a debtor for personal, household or family purposes is "the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined." See 11 U.S.C. § 506(a)(2).

However, the value asserted by the debtor is not based on the price a retail merchant would charge for a vehicle of that kind, considering the age and condition of the vehicle. The debtor's valuation is based on his opinion of value, rather than what a retail merchant would charge. Also, the debtor states nothing definite about the condition of the vehicle. Thus, even if the court could use the debtor's opinion of value, his opinion has no foundation. The debtor has not carried his burden of persuasion in establishing the replacement value of the vehicle. Accordingly, the motion will be denied

without prejudice.

10. 15-20364-A-7 CHRISTOPHER/MARIA CARTER — MOTION TO REDEEM
HDR-2 — 3-4-15 [16]

Tentative Ruling: The motion will be denied without prejudice.

The debtor seeks to redeem a 2003 VW Beetle with approximately 125,000 miles in an unspecified condition. The vehicle is subject to a claim held by Patelco Credit Union for approximately $6,609. The debtor asserts in his supporting declaration that in his opinion the "as is" value of the vehicle is $100. Docket 18 at 2.

Patelco opposes the motion, pointing out that the redeemable value of the vehicle is replacement value as defined by 11 U.S.C. § 506(a)(2). Docket 20.

Pursuant to 11 U.S.C. § 722, the debtor is allowed to redeem tangible personal property intended for personal use from a lien securing a dischargeable consumer debt if the property was exempted under 11 U.S.C. § 522.

The court agrees with Patelco. The vehicle must be valued at its replacement value. In the chapter 7 case of an individual, the replacement value of personal property used by a debtor for personal, household or family purposes is "the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined." See 11 U.S.C. § 506(a)(2).

However, the value asserted by the debtor is not based on the price a retail merchant would charge for a vehicle of that kind, considering the age and condition of the vehicle. The debtor's valuation is based on his opinion of value, rather than what a retail merchant would charge. Also, the debtor states nothing definite about the condition of the vehicle. Thus, even if the court could use the debtor's opinion of value, his opinion has no foundation. The debtor has not carried his burden of persuasion in establishing the replacement value of the vehicle. Accordingly, the motion will be denied without prejudice.

11. 14-32070-A-7 CAPITOL AIR SYSTEMS, INC. — MOTION TO SELL
JRR-1 — 4-2-15 [122]

Tentative Ruling: The motion will be granted.

The chapter 7 trustee requests authority to sell as is and without warranty for $3,000 the estate's interest in two Internet domain names, capitolair.com and capitolair.net, and two telephone numbers, used by the debtor pre-petition, to Cisco Air Systems, Inc. The trustee also asks for waiver of the 14-day period of Fed. R. Bankr. P. 6004(h). The motion reveals no encumbrances against the assets. This is not a free and clear sale.

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).

12. 14-31973-A-7 STEVEN SNYDER — MOTION TO DISMISS
JWR-1 — 4-1-15 [17]

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

The trustee moves for dismissal because the debtor did not attend the meeting of creditors held on April 1, 2015.

The debtor responds that he has not been getting his mail at the post office box because of changes that have been happening within his local post office.

However, the mailing address given by the debtor to the court is not a post office box. Rather, it is a street address on Bosworth Lane. In any event, it is the responsibility of the debtor to provide the court with an accurate and reliable mailing address.

Moreover, this is the fifth time the debtor has not appeared at the meeting of creditors. He did not appear at the initial meeting on January 14, 2015, and did not appear at the continued meetings on February 11, March 4 and March 11.

The debtor states nothing in his response to the motion that he did not receive notice of those meetings. And, he does not explain his failure to appear at those prior meetings.

13. 14-23576-A-7 GSO ENTERPRICES, INC. — MOTION TO COMPROMISE
PGM-2 — 3-25-15 [37]

Tentative Ruling: The motion will be denied.

The debtor has filed this motion on behalf of the trustee, seeking approval of a settlement between the estate and the debtor's principal, Brodie Stephens, apparently settling that Mr. Stephens owes $30,000 to the estate and that such debt will be repaid via Mr. Stephens' pending chapter 13 case, as "administrative or priority claim." Docket 37 at 2.

However, the motion will be denied because it makes no effort to address the Woodson factors. The court cannot tell whether and to what extent this compromise is fair and equitable. For instance, the motion says nothing about what the estate is giving up in this settlement. Further, the court cannot accord administrative or priority status to a claim unless it actually qualifies for such status. There is no evidence establishing entitlement to such status.

14. 15-21576-A-7 JEREMY/KAREE HARRISON — MOTION TO CONVERT CASE TO CHAPTER 13
EWG-1 — 4-6-15 [17]

Tentative Ruling: The motion will be denied without prejudice.

The debtors request conversion from chapter 7 to chapter 13.

Given the Supreme Court's decision in Marrama v. Citizens Bank of Massachusetts, 127 S. Ct. 1105 (2007), before the conversion of a case from chapter 7 to chapter 13, the court must determine that the debtor is eligible for chapter 13 relief. This entails examining whether the debtor is seeking

the conversion for an improper purpose or in bad faith, whether the debtor is eligible for chapter 13 relief under 11 U.S.C. § 109(e), and whether there is any cause that might warrant dismissal or conversion to chapter 7 under 11 U.S.C. § 1307(c). See Marrama, 127 S. Ct. at 1112.

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

However, while the debtors have established that they are within the eligibility debt limits for chapter 13 relief, the motion states nothing about whether the debtors have regular income to fund a chapter 13 plan.

More important, the debtors' Schedule J (Docket 1) reflects a negative income of $25.32, meaning that the debtors do not have any disposable income to fund a chapter 13 plan. Accordingly, the motion will be denied.

15. 15-20979-A-7 FEATHER MAIN — MOTION FOR RELIEF FROM AUTOMATIC STAY
CJO-1 — 4-20-15 [12]
JPMORGAN CHASE 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, JPMorgan Chase Bank, seeks relief from the automatic stay as to a real property in Paradise, California. The property has a value of $131,256 and it is encumbered by claims totaling approximately $138,941. The movant's deed is in first priority position and secures a claim of approximately $92,849.

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 April 7, 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.

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.

16. 12-36987-A-7 LAWRENCE/LINDA HANSEN — MOTION TO APPROVE COMPENSATION OF TRUSTEE
JRR-4 — 4-13-15 [72]

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 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 chapter 7 trustee, John Roberts, has filed his first and final motion for approval of compensation. The requested compensation consists of $11,475 in fees and $649.27 in expenses, for a total of $12,124.27. The services for the sought compensation were provided from September 24, 2012 through April 8, 2015. The sought compensation represents 45.2 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 $391,500 in distributions to creditors. This means that the cap under section 326(a) on the movant's compensation is $22,825 ($1,250 (25% of the first $5,000) + $4,500 (10% of the next $45,000) + $17,075 (5% of the next $950,000 (or $341,500)). Hence, the requested trustee fees of $11,475 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." The movant's services included, without limitation: (1) reviewing petition documents and analyzing assets, (2) negotiating with the debtors for short sale of their real property, (3) retaining a professional to assist in the marketing and sale of the property, (4) reviewing purchase offers, (5) preparing and filing a sales motion, and (6) preparing a 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.

17. 15-21594-A-7 GAIL NESBIT — MOTION TO CONVERT CASE TO CHAPTER 13
SJS-1 — 4-2-15 [16]

Tentative Ruling: The motion will be denied without prejudice.

The debtor requests conversion from chapter 7 to chapter 13.

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

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

However, while the debtor has established that he is within the eligibility debt limits for chapter 13 relief, the motion states nothing about whether the debtor has regular income to fund a chapter 13 plan.

More important, the debtor's Schedule J (Docket 1) reflects a negative income of $39.28, meaning that the debtor does not have any disposable income to fund a chapter 13 plan. Accordingly, the motion will be denied.

FINAL RULINGS BEGIN HERE

18.	14-29312-A-7 TAA-2	GORDON CUFFE AND LAURA CANAVERO-CUFFE	MOTION TO COMPROMISE 4-2-15 [26]

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 the debtors, resolving the trustee's objections to the following exemptions:

- a $65,000 exemption in the debtors' Roseville, California real property under Cal. Civ. Proc. Code § 704.140(b);

- a $19,206.26 exemption in a Coverdell ESA College Fund (scheduled as "property of another") under each of Cal. Civ. Proc. Code § 704.140(b) and § 704.115(a)(1), (2), and (b);

- a $12,811.64 exemption in a VCSP CollegeAmerica Fund (scheduled as "property of another") under each of Cal. Civ. Proc. Code § 704.140(b) and § 704.115(a)(1), (2), and (b); and

- a $40,000 exemption in a 2012 Lexus ES 350 vehicle (valued at $24,650) under Cal. Civ. Proc. Code § 704.140(b).

Cal. Civ. Proc. Code § 704.140(b) provides that:

"(b) Except as provided in subdivisions (c) and (d), an award of damages or a settlement arising out of personal injury is exempt to the extent necessary for the support of the judgment debtor and the spouse and dependents of the judgment debtor."

Cal. Civ. Proc. Code § 704.115(a)(1), (2) & (b) prescribes that:

"(a) As used in this section, 'private retirement plan' means:

"(1) Private retirement plans, including, but not limited to, union retirement plans.

"(2) Profit-sharing plans designed and used for retirement purposes.

. . .

"(b) All amounts held, controlled, or in process of distribution by a private retirement plan, for the payment of benefits as an annuity, pension, retirement allowance, disability payment, or death benefit from a private retirement plan

are exempt."

The grounds of the trustee's objections were that "the assets listed do not constitute an 'award of damages or a settlement arising out of personal injury' as required by California Code of Civil Procedure Section 704.140(b) or a 'private pension plan' as defined by California Code of Civil Procedure Section 704.115(a)." Docket 26 at 2.

Under the terms of the compromise, the debtors will pay $15,000 to the estate in full satisfaction of the estate's exemption objections. As part of the settlement, the assets subject to the exemptions will be deemed abandoned back to the debtors.

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 that there is no equity in the real property - after accounting for the encumbrances and the debtors' other $100,000 exemption claim, given that the vehicle has a scheduled value of only $24,650, given that the college funds are scheduled as being the "property of another," 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.

19. 12-34317-A-7 JACK/SUSAN WHITE — MOTION TO COMPROMISE
CWC-2 — 4-6-15 [26]

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 Rose Medford, the sister of Debtor Jack White, resolving a section 363(h)

action for the sale of Ms. Medford's partial interests in two real properties in Manteca, California, as well as claims by Ms. Medford asserting that the debtors hold only record title in the properties in a resulting trust for the benefit of Ms. Medford.

Under the terms of the compromise, Ms. Medford will pay $10,000 to the estate in full satisfaction of the claims against her in the pending litigation. In addition, the parties have exchanged mutual releases and all pending litigation will be dismissed, consisting of two adversary proceedings, one for each property.

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 that Ms. Medford has been paying the costs associated with both properties (taxes, utilities, etc.), given that the debtors have paid nothing for the costs associated with the properties, given that Ms. Medford lives in one of the properties while the debtors have never lived in either of the properties, 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.

20. 11-41338-A-7 ERNESTO CABALLERO — MOTION TO APPROVE COMPENSATION OF TRUSTEE
HMS-3 — 4-2-15 [143]

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, Hank Spacone, has filed his first and final motion for approval of compensation. The requested compensation consists of $12,109.10 in fees and $0.00 in expenses. The services for the sought compensation were provided from September 9, 2011 through the present. The sought compensation

represents 35 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 $177,181.91 in distributions to creditors. This means that the cap under section 326(a) on the movant's compensation is $12,109.10 ($1,250 (25% of the first $5,000) + $4,500 (10% of the next $45,000) + $6,359.10 (5% of the next $950,000 (or $127,181.91)). Hence, the requested trustee fees of $12,109.10 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 included, without limitation: (1) reviewing petition documents and analyzing assets, (2) preparing for and conducting the meeting of creditors, (3) employing professionals to assist the estate in the sale of assets, (4) negotiating with the debtor about the sale of the estate's interest in two real properties, (5) preparing sale reports, (6) reviewing and analyzing filed claims, (7) preparing final report, and (8) 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.

21.	09-20140-A-7 JJD-1	SHASTA REGIONAL MEDICAL CENTER, L.L.C.	MOTION TO APPROVE ADMINISTRATIVE EXPENSE 3-17-15 [735]

Final Ruling: The motion will be dismissed without prejudice because the notice of hearing violates Local Bankruptcy Rule 9014-1(d)(3), which requires the notice of hearing to indicate when written opposition must be filed. The subject notice of hearing does not indicate when written oppositions must be filed. It states only that written opposition must be filed. Docket 736; see also Local Bankruptcy Rule 9014-1(f)(1) (requiring written opposition at least 14 days prior to the hearing on the motion).

The motion will be dismissed also because there is no evidence that the motion was served on all creditors. While the movant has served 14 parties with the motion, the credit matrix is 58 pages long. Dockets 739 & 89. Accordingly, the motion will be dismissed.

22. 11-33847-A-7 HI TEC AUTOMOTIVE — MOTION TO APPROVE COMPENSATION OF ACCOUNTANT
JRR-3 — 3-26-15 [55]

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.

Gonzales & Sisto, accountant for the estate, has filed what appears to be its second and final motion for approval of compensation. The requested interim compensation consists of $3,108 in fees and $0.00 in expenses. This motion covers the period from October 27, 2014 through February 7, 2015. The court approved the movant's employment as the estate's accountant on December 6, 2013. In performing its services, the movant charged hourly rates of $95, $195, 200, $325, $330.

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 assisting the trustee with the preparation of tax returns, payroll tax returns, and wage claims.

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

23. 11-48358-A-7 ROBERTA SAUCEDO AND ROY DOMINGUEZ — MOTION TO AVOID JUDICIAL LIEN
GJS-2 — 3-25-15 [22]
VS. MAIN STREET ACQUISITION CORP.

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 Debtor Roberta Saucedo in favor of Main Street Acquisition Corp. for the sum of $3,285.65 on January 4, 2011. The abstract of judgment was recorded with Sacramento County on August 23, 2011. That lien attached to the debtor's residential real property in North Highlands,

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 $65,000 as of the petition date. Dockets 24 & 21. The unavoidable liens totaled $81,820 on that same date, consisting of a first and second mortgages in favor of Sierra Central Credit Union, for $46,952 and $34,868 respectively. Dockets 24 & 1, Schedule D. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of $5,000 in Amended Schedule C. Dockets 24 & 21.

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. 11-48358-A-7 ROBERTA SAUCEDO AND ROY — MOTION TO
GJS-3 DOMINGUEZ — AVOID JUDICIAL LIEN
VS. GE MONEY BANK — 3-25-15 [25]

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 Debtor Roy Dominguez in favor of GE Money Bank for the sum of $6,563.20 on October 8, 2010. The abstract of judgment was recorded with Sacramento County on May 17, 2011. That lien attached to the debtor's residential real property in North Highlands, 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 $65,000 as of the petition date. Dockets 27 & 21. The unavoidable liens totaled $81,820 on that same date, consisting of a first and second mortgages in favor of Sierra Central Credit Union, for $46,952 and $34,868 respectively. Dockets 27 & 1, Schedule D. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of $5,000 in Amended Schedule C. Dockets 27 & 21.

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. 14-32460-A-7 JON/CINDY MARKHAM — MOTION TO AVOID JUDICIAL LIEN
CAH-1
VS. CITIBANK, N.A. — 3-31-15 [12]

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 Debtor Cindy Markham in favor of Citibank for the sum of $20,484.84 on January 5, 2009. The abstract of judgment was recorded with Butte County on January 27, 2009. That lien attached to the debtor's residential real property in Chico, California.

The debtor is seeking only a partial avoidance of this lien.

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of $260,000 as of the petition date. Dockets 14 & 1. The unavoidable liens totaled $250,088 on that same date, consisting of a first mortgage in favor of Green Tree Servicing for $98,263 and a second mortgage in favor of Bank of America for $151,825. Dockets 14 & 1. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of $3,825 in Schedule C. Dockets 14 & 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 $6,087 of equity in the property to satisfy the judicial lien ($260,000 - ($250,088 + $3,825)).

Therefore, the fixing of this judicial lien partially impairs the debtor's exemption of the real property. The lien impairs the exemption, except for $6,087. Accordingly, the lien's fixing will be avoided subject to 11 U.S.C. § 349(b)(1)(B), except for $6,087.

26. 14-32460-A-7 JON/CINDY MARKHAM — MOTION TO AVOID JUDICIAL LIEN
CAH-2
VS. UNIFUND CCR PARTNERS — 3-31-15 [19]

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 Debtor Jon Markham in favor of Unifund CCR Partners for the sum of $10,281.80 on September 22, 2009. The abstract of judgment was recorded with Butte County on October 23, 2009. 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 $260,000 as of the petition date. Dockets 21 & 1. The unavoidable liens totaled $250,088 on that same date, consisting of a first mortgage in favor of Green Tree Servicing for $98,263 and a second mortgage in favor of Bank of America for $151,825. Dockets 21 & 1. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of $3,825 in Schedule C. Dockets 21 & 1.

In addition, there is at least one senior judicial lien ahead of the respondent's lien, consisting of a judgment for $20,484.84 in favor of Citibank, whose abstract was recorded on January 27, 2009. Docket 15, Ex. D.

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).

27. 14-32460-A-7 JON/CINDY MARKHAM — MOTION TO AVOID JUDICIAL LIEN
CAH-3
VS. CAPITAL ONE BANK (USA), N.A. — 3-31-15 [25]

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 Capital One Bank for the sum of $13,715.82 on April 11, 2011. The abstract of judgment was recorded with Butte County on October 12, 2011. 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 $260,000 as of the petition date. Dockets 27 & 1. The unavoidable liens totaled $250,088 on that same date, consisting of a first mortgage in favor of Green Tree Servicing for $98,263 and a second mortgage in favor of Bank of America for $151,825. Dockets 27 & 1. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of $3,825 in Schedule C. Dockets 27 & 1.

In addition, there is at least one senior judicial lien ahead of the

respondent's lien, consisting of a judgment for $20,484.84 in favor of Citibank, whose abstract was recorded on January 27, 2009. Docket 15, Ex. D.

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).

28. 14-32460-A-7 JON/CINDY MARKHAM — MOTION TO AVOID JUDICIAL LIEN
CAH-4
VS. HARVEST CREDIT MANAGEMENT VII, L.L.C. — 3-31-15 [31]

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 Debtor Cindy Markham in favor of Harvest Credit Management VII L.L.C. for the sum of $20,441.39 on October 11, 2011. The abstract of judgment was recorded with Butte County on December 8, 2011. 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 $260,000 as of the petition date. Dockets 33 & 1. The unavoidable liens totaled $250,088 on that same date, consisting of a first mortgage in favor of Green Tree Servicing for $98,263 and a second mortgage in favor of Bank of America for $151,825. Dockets 33 & 1. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of $3,825 in Schedule C. Dockets 33 & 1.

In addition, there is at least one senior judicial lien ahead of the respondent's lien, consisting of a judgment for $20,484.84 in favor of Citibank, whose abstract was recorded on January 27, 2009. Docket 15, Ex. D.

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).

29. 14-32460-A-7 JON/CINDY MARKHAM — MOTION TO AVOID JUDICIAL LIEN
CAH-5
VS. ASSET ACCEPTANCE, L.L.C. — 3-31-15 [37]

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 Debtor Jon Markham in favor of Asset Acceptance, L.L.C. for the sum of $36,716.55 on September 23, 2011. The abstract of judgment was recorded with Butte County on January 24, 2012. 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 $260,000 as of the petition date. Dockets 39 & 1. The unavoidable liens totaled $250,088 on that same date, consisting of a first mortgage in favor of Green Tree Servicing for $98,263 and a second mortgage in favor of Bank of America for $151,825. Dockets 39 & 1. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of $3,825 in Schedule C. Dockets 39 & 1.

In addition, there is at least one senior judicial lien ahead of the respondent's lien, consisting of a judgment for $20,484.84 in favor of Citibank, whose abstract was recorded on January 27, 2009. Docket 15, Ex. D.

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).

30. 15-22160-A-7 BRIAN THOMPSON — MOTION FOR RELIEF FROM AUTOMATIC STAY
APN-1 — 4-6-15 [11]
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 Chrysler 200. The movant has produced evidence that the vehicle has a value of $16,125 ($12,494 per Amended Schedule B - Docket 19) and its secured claim is approximately $32,596. Docket 13 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. The court also notes that the trustee filed a report of no distribution on April 16, 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.

31.	14-32070-A-7 JRR-2	CAPITOL AIR SYSTEMS, INC.	MOTION TO APPROVE COMPENSATION OF AUCTIONEER 4-2-15 [129]

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.

Industrial Assets Corporation, auctioneer for the trustee, has filed its first and final motion for approval of compensation. The requested compensation consists of $0.00 in commission and $20,000 in expenses. The court approved the movant's employment as the trustee's auctioneer on February 19, 2015. The requested compensation is based on a 0% commission and $20,000 reimbursement of expenses, in accordance with IAC's employment terms. IAC also charged a buyer's premium, which was disclosed in the request for its employment.

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." IAC's services included the sale of numerous air conditioning equipment, machinery, parts, and inventory items. IAC generated $110,292.50 in gross sales proceeds. The estate is netting $90,292.50 from the sale.

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

32. 15-21576-A-7 JEREMY/KAREE HARRISON
UST-1

MOTION FOR DENIAL OF DISCHARGE OF JOINT DEBTOR
3-19-15 [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 debtor, the 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 U.S. Trustee moves for denial of the joint debtor's (Karee Harrison a.k.a. Karee Dotson) discharge pursuant to 11 U.S.C. § 727(a)(8), which provides that the court shall grant the debtor a discharge unless the debtor has been granted discharge under this section in a case commenced within eight years before the date of the filing of the instant petition.

An objection to discharge pursuant to section 727(a)(8) does not require an adversary proceeding. See Fed. R. Bankr. P. 7001(4).

Mrs. Harrison (a.k.a. Dotson) filed a chapter 7 case, Case No. 09-31292-C-7, on June 3, 2009 and she received a discharge in that case on September 23, 2009. Mrs. Harrison filed the subject bankruptcy case, Case No. 15-21576, with her spouse, on February 27, 2015, approximately five years and five months after the filing of Case No. 09-31292. Docket 15, Morgan Decl.; Docket 14, Exs. A & B. As Mrs. Harrison filed the instant bankruptcy case less than eight years after the filing of the bankruptcy case in which she received a discharge, she is not eligible to receive a discharge in the instant bankruptcy case. Accordingly, the motion will be granted.

33. 15-21594-A-7 GAIL NESBIT
UST-1

MOTION FOR DENIAL OF DISCHARGE OF DEBTOR
3-18-15 [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 debtor, the 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 U.S. Trustee moves for denial of the debtor's discharge pursuant to 11 U.S.C. § 727(a)(8), which provides that the court shall grant the debtor a discharge unless the debtor has been granted discharge under this section in a

case commenced within eight years before the date of the filing of the instant petition.

An objection to discharge pursuant to section 727(a)(8) does not require an adversary proceeding. See Fed. R. Bankr. P. 7001(4).

The debtor filed a chapter 7 case, Case No. 08-35689-A-7, on October 29, 2008 and he received a discharge in that case on February 9, 2009. The debtor filed the subject bankruptcy case, Case No. 15-21594, on February 27, 2015, approximately six years and four months after the filing of Case No. 08-35689. Docket 13, Morgan Decl.; Docket 14, Exs. A & B. As the debtor filed the instant bankruptcy case less than eight years after the filing of the bankruptcy case in which he received a discharge, he is not eligible to receive a discharge in the instant bankruptcy case. Accordingly, the motion will be granted.