

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Michael S. McManus

Bankruptcy Judge

Sacramento, California

June 6, 2016 at 10:00 a.m.

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

2, 3, 5, 7, 11, 12, 13, 14, 15

When Judge McManus convenes court, he will ask whether anyone wishes to oppose this motion. If you wish to oppose the 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

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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 JULY 5, 2016 AT 10:00 A.M. OPPOSITION MUST BE FILED AND SERVED BY JUNE 20, 2016, AND ANY REPLY MUST BE FILED AND SERVED BY JUNE 27, 2016. 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. 12-30911-A-7 VILLAGE CONCEPTS, INC. MOTION TO
DNL-14 SELL
5-16-16 [293]

Tentative Ruling: The motion will be granted.

The chapter 7 trustee requests authority to sell "as is" for \$10,000 to Village Concepts, L.L.C. the estate's interest in the following assets:

(1) The following unimproved real property: 3093 Dyer Way Placerville, California, 3005 Dyer Way Placerville, California, 3124 Dyer Way Placerville, California, and 3025 Buck Board Road Placerville, California (valued at \$80,000 and subject to encumbrances totaling approximately \$232,234);

(2) Fuqua two-story manufactured home (valued at \$130,000 and subject to encumbrances totaling approximately \$175,000);

(3) CVV 13 manufactured home (valued at \$59,000 and subject to encumbrances totaling approximately \$57,630);

(4) 2000 Forest River RV (valued at \$7,500 and subject to no encumbrances); and

(5) The estate's interest in easements in gross, granted to the debtor by Nancy Weiner, G. Chris Larson, trustee of the Floyd H. Pettit Trust dated January 4, 1994 and Noram Pettit Loudon, along with all related water use agreements for a real property in El Dorado County, California; the trustee has been receiving \$180 a month on account of the estate's interest in the water use agreements.

The assets are being sold subject to all encumbrances.

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.

2. 16-21831-A-7 DEBBIE MILANOVA MOTION FOR
SW-1 RELIEF FROM AUTOMATIC STAY
ALLY FINANCIAL VS. 5-18-16 [14]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the creditor, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the other creditors, the debtor, the trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted.

The movant, Ally Financial, seeks relief from the automatic stay with respect to a 2011 Dodge Challenger. The movant has produced evidence that the vehicle has a value of \$14,300 and its secured claim is approximately \$16,703.

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 May 4, 2016. And, the vehicle has been surrendered to the movant.

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

Because the movant has not established that the value of its collateral exceeds the amount of its secured claim, the court awards no fees and costs in connection with the movant's secured claim as a result of the filing and prosecution of this motion. 11 U.S.C. § 506(b).

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived due to the fact that the movant has possession of the vehicle and it is depreciating in value.

3. 15-20034-A-7 C & N LANDSCAPE MOTION FOR
RPM-1 MAINTENANCE, INC. RELIEF FROM AUTOMATIC STAY
FORD MOTOR CREDIT COMPANY, L.L.C. VS. 10-28-15 [82]

Tentative Ruling: The motion will be granted.

The movant, Ford Motor Credit Company, seeks relief from the automatic stay with respect to a 2013 Ford F150. The movant has produced evidence that the vehicle has a value of approximately \$21,900 and its secured claim is approximately \$18,781. Docket 169.

As this leaves \$3,119 of equity in the vehicle and the trustee has filed a notice of assets, the court is unprepared to grant relief from stay as to the vehicle. Given the equity in the vehicle, relief under section 362(d)(2) is unavailable.

However, the court notes that this motion was filed on October 28, 2015 and the movant's claim amount in the motion is as of that date. Seven months have elapsed since the filing of the motion and the payments for five of those months, in the amount of \$613.52, have not been made. Docket 161. In total, then, the movant's claim has probably increased by another approximately \$3,067.60, swallowing nearly all of the \$3,119 of equity in the vehicle as of when the motion was filed. This does not take into account any attorney's fees incurred by the movant, which should easily increase the movant's claim beyond the value of the vehicle.

While the court would typically consider the movant's claim amount only as of the date the motion was filed, this motion has been pending for nearly seven months, during which the debtor defaulted on an adequate protection stipulation with the movant and the case was converted to chapter 7. Therefore, will consider the current amount owed to the movant. This means there is no equity in the vehicle.

The motion will be granted pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to repossess and to obtain possession of its personal property security, and to dispose of it in accordance with applicable nonbankruptcy law.

4. 14-24449-A-7 ROBERT/KATHLEEN BRANSON MOTION FOR
EAT-1 RELIEF FROM AUTOMATIC STAY
WELLS FARGO BANK, N.A. VS. 7-28-15 [71]

Tentative Ruling: The motion will be denied in part and dismissed as moot in part.

The movant, Wells Fargo Bank, seeks relief from stay as to a real property in Sonoma, California.

Given the entry of the debtor's discharge on August 7, 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 movant had provided the trustee with time to market and sell the property. As the court has not heard from the parties about the outcome of the estate's efforts to sell the property, however, the court infers that the movant is not interested in prosecuting the motion with respect to the estate. Accordingly, the court is inclined to deny the motion as to the estate.

5. 14-28852-A-7 JOHN LIVINGSTON MOTION TO
MAC-1 COMPEL ABANDONMENT
5-19-16 [53]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the debtor, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the creditors, 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 debtor seeks an order compelling the trustee to abandon the estate's interest in a real property in Fairfield, California.

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.

The property is over-encumbered. The court has evidence that the property has a value of \$244,000, whereas it is encumbered by outstanding property taxes in the approximate amount of \$2,894, a first deed of trust in the approximate amount of \$269,212, and a second mortgage in the approximate amount of \$30,483, for a total of \$302,589.

Given the property's value and encumbrances, the court concludes that the property is of inconsequential value to the estate. The motion will be granted.

6. 15-27053-A-7 TARLOCHAN/HARPREET MOTION TO
MPD-4 DHALIWAL SELL, TO APPROVE COMPENSATION FOR
BROKER'S COMMISSION ETC
5-4-16 [83]

Tentative Ruling: The motion will be granted.

The chapter 7 trustee requests authority to sell for \$7,500 in cash the estate's unencumbered interest in a mobile home in Palermo, California to Charanvir Singh and Rupinder Kaur. The trustee also asks for waiver of the 14-day period of Fed. R. Bankr. P. 6004(h) and asks for approval of payment of the real estate commission. The estate's broker, Rinehart & England Enterprises, Inc., has agreed to accept a reduced (from \$3,000) commission of \$1,000.

The buyer will pay all closing and transfer costs, as well as all unpaid property taxes.

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.

7. 16-20862-A-7 MERINDA HASKINS MOTION FOR
JFL-40 RELIEF FROM AUTOMATIC STAY
DEUTSCHE BANK TRUST COMPANY AMERICAS VS. 5-10-16 [12]

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, Deutsche Bank Trust Company Americas, seeks relief from the automatic stay as to a real property in Garden Valley, Sacramento, California.

Given the entry of the debtor's discharge on May 24, 2016, 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

\$240,000 and it is encumbered by claims totaling approximately \$296,722. The movant's deed is the only encumbrance against the property.

The court concludes that there is no equity in the property and there is no evidence that it is necessary to a reorganization or that the trustee can administer it for the benefit of creditors. The court also notes that the trustee filed a report of no distribution on March 23, 2016.

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.

8. 07-24263-A-7 PAUL/ERIKA GRUENBERG MOTION TO
DLM-2 AVOID JUDICIAL LIEN
VS. GENERAL MOTORS ACCEPTANCE CORP. 4-29-16 [32]

Tentative Ruling: The motion will be dismissed without prejudice because service of the motion did not comply with Fed. R. Bankr. P. 7004(b)(3), which requires service "[u]pon a domestic or foreign corporation or upon a partnership or other unincorporated association . . . to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant."

The debtor served the motion on General Motors Acceptance Corporation without addressing it "to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process."

And, while the debtor served CT Corporation as an apparent agent for service of process, in California for GMAC the California Secretary of State's website indicates that GMAC has surrendered its right to transact business in California and thus there is no reliable publically-available information about who is GMAC's agent for service of process in California.

Lastly, although the debtor served GMAC's attorney, unless the attorney agreed to accept service, service was improper. See, e.g., Beneficial California,

9. 15-29268-A-7 JOANNE GODREAU MOTION TO
DNL-4 SELL AND TO APPROVE COMPENSATION
FOR REAL ESTATE BROKER
5-16-16 [45]

Tentative Ruling: The motion will be conditionally granted.

The chapter 7 trustee requests authority to sell for \$220,000 the estate's interest in a real property in Fairfield, California to Seth Custis. The property has a scheduled value of \$183,237. The trustee also asks for approval of the payment of the real estate commission. The property is encumbered by two mortgages, in favor of Bank of America and Travis Credit Union, totaling approximately \$125,000.

11 U.S.C. § 363(b) allows the trustee to sell property of the estate, other than in the ordinary course of business.

The court has seen no mention of tax consequences in the motion. Assuming no negative tax consequences, the sale will generate some proceeds for distribution to creditors of the estate.

Hence, subject to the trustee addressing what tax consequences, if any, will follow from the sale, the sale will be approved pursuant to 11 U.S.C. § 363(b).

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.

10. 16-22872-A-7 RAVINDER GILL MOTION TO
BLC-1 COMPEL ABANDONMENT
5-23-16 [13]

Tentative Ruling: The motion will be denied without prejudice.

The debtor requests an order compelling the trustee to abandon the estate's interest in his 7 Eleven business, including the following specific assets:

- gas pumps and tanks,
- business bank deposit in the amount of \$35,000,
- an EVR upgraded gas tank, and
- the 7 Eleven franchise agreement.

The debtor contends that the above business assets have a total value of \$48,000 and that such assets are over-encumbered.

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.

The motion will be denied because it does not provide a breakdown of the value for each asset and does not identify the encumbrance(s) against the business. Based on the motion record, the court cannot ascertain that the business assets are over-encumbered, as claimed by the debtor.

And, to the extent the motion refers the court to the schedules, that is not admissible or probative evidence in support of the motion. See, e.g., Fed. R. Evid. 802. The court decides motions based on the record included within the motion.

11. 15-26985-A-7 SCOTT HOMES
CDH-2

MOTION TO
APPROVE COMPROMISE
5-12-16 [47]

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 trustee requests approval of a settlement agreement between the estate and Jodi Chiappari, resolving a fraudulent transfer claim and the collection of a receivable. The avoidance claim involves the debtor's transfer of 10% of Green Systems, Inc. to Ms. Chiappari approximately eight months pre-petition and the receivable, in the amount of \$20,000, involves professional services provided by the debtor to Ms. Chiappari pre-petition.

The estate owns the remaining 90% interest in Green Systems and, in preparation for a sale of 100% interest in Green Systems, seeks approval of this compromise.

Under the terms of the compromise, Ms. Chiappari will transfer the 10% interest in Green Systems to the estate. In exchange, the estate will release Ms. Chiappari from the avoidance claim and the receivable.

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 Ms. Chiappari's potential defenses, including asserted adequate consideration defense, to the avoidance claim, given Ms. Chiappari's denial that she owes anything on account of the receivable, given the estate's anticipated and desired sale of 100% interest in Green Systems, 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.

12. 11-42492-A-7 JEFFREY/GAYE WILSON MOTION TO
MAC-10 AVOID JUDICIAL LIEN
VS. UNIFUND CCR PARTNERS 5-23-16 [84]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the debtor, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the respondent creditor and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted.

A judgment was entered against the debtor Jeffrey Wilson in favor of Unifund CCR Partners for the sum of \$8,357.75 on December 11, 2009. The abstract of judgment was recorded with Sacramento County on March 5, 2010. That lien attached to the debtor's residential real property in Wilton, 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 \$288,500 as of the petition date. Dockets 86 & 87. The unavoidable liens totaled \$314,830 on that same date, consisting of a single mortgage in favor of BAC Home Loans Servicing. Dockets 86 & 87. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of \$1.00 in Amended Schedule C. Dockets 38, 86, 87.

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).

13. 11-42492-A-7 JEFFREY/GAYE WILSON MOTION TO
MAC-11 AVOID JUDICIAL LIEN
VS. UNIFUND CCR PARTNERS 5-23-16 [99]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the debtor, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the respondent creditor and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Below is the court's tentative ruling, rendered on the assumption that

there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted.

A judgment was entered against the debtor Gaye Wilson in favor of Unifund CCR Partners for the sum of \$1,736.35 on April 4, 2008. The abstract of judgment was recorded with Sacramento County on October 8, 2008. That lien attached to the debtor's residential real property in Wilton, 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 \$288,500 as of the petition date. Dockets 101 & 102. The unavoidable liens totaled \$314,830 on that same date, consisting of a single mortgage in favor of BAC Home Loans Servicing. Dockets 101 & 102. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of \$1.00 in Amended Schedule C. Dockets 38, 101, 102.

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

14. 11-42492-A-7 JEFFREY/GAYE WILSON MOTION TO
MAC-7 AVOID JUDICIAL LIEN
VS. ARROW FINANCIAL SERVICES L.L.C. 5-23-16 [69]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the debtor, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the respondent creditor and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted.

A judgment was entered against the debtor Gaye Wilson in favor of Arrow Financial Services, L.L.C. for the sum of \$7,873.13 on October 5, 2006. The abstract of judgment was recorded with Sacramento County on November 27, 2008. That lien attached to the debtor's residential real property in Wilton, 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 \$288,500 as of the petition date. Dockets 71 & 72. The unavoidable liens totaled \$314,830 on that same date, consisting of a single mortgage in favor of BAC Home Loans Servicing. Dockets 71 & 72. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of \$1.00 in Amended Schedule C. Dockets 38, 71, 72.

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. 11-42492-A-7 JEFFREY/GAYE WILSON MOTION TO
MAC-8 AVOID JUDICIAL LIEN
VS. CACV OF COLORADO, L.L.C. 5-23-16 [74]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the debtor, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the respondent creditor and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted.

A judgment was entered against the debtor Jeffrey Wilson in favor of CACV of Colorado, L.L.C. for the sum of \$30,888.39 on August 19, 2008. The abstract of judgment was recorded with Sacramento County on March 31, 2009. That lien attached to the debtor's residential real property in Wilton, 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 \$288,500 as of the petition date. Dockets 76 & 77. The unavoidable liens totaled \$314,830 on that same date, consisting of a single mortgage in favor of BAC Home Loans Servicing. Dockets 76 & 77. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of \$1.00 in Amended Schedule C. Dockets 38, 76, 77.

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).

FINAL RULINGS BEGIN HERE

16. 16-22415-A-7 ROBERTO MENDOZA MOTION FOR
VVF-1 RELIEF FROM AUTOMATIC STAY
AMERICAN HONDA FINANCE CORP. VS. 5-2-16 [9]

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, American Honda Finance Corporation, seeks relief from the automatic stay with respect to a 2014 Honda Civic. The movant has produced evidence that the vehicle has a value of \$13,500 and its secured claim is approximately \$21,663.

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 May 25 2016.

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.

17. 15-22719-A-7 LARRY COONCE MOTION FOR
RCO-1 RELIEF FROM AUTOMATIC STAY
U.S. BANK N.A. VS. 4-27-16 [35]

Final Ruling: This motion for relief from the automatic stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the debtor and the trustee, to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted in part and dismissed as moot in part.

The movant, U.S. Bank, seeks relief from the automatic stay as to a real property in Cottonwood, California.

Given the entry of the debtor's discharge on July 13, 2015, the automatic stay has expired as to the debtor and any interest the debtor may have in the property. See 11 U.S.C. § 362(c). Hence, as to the debtor, the motion will be dismissed as moot.

As to the estate, the analysis is different. The trustee has concluded his administration of the estate. He filed his final account and distribution report on May 23, 2016, indicating that he will not be administering the subject property. Docket 41.

There is no evidence that the property is necessary to a reorganization or that the trustee will be administering it.

Thus, the motion will be granted as to the estate pursuant to 11 U.S.C. § 362(d)(1) to permit the movant to conduct a nonjudicial foreclosure sale and to obtain possession of the subject property following sale. No other relief is awarded.

The court determines that this bankruptcy proceeding has been finalized for purposes of Cal. Civil Code § 2923.5 and the enforcement of the note and deed of trust described in the motion against the subject real property. Further, upon entry of the order granting relief from the automatic stay, the movant and its successors, assigns, principals, and agents shall comply with Cal. Civil Code § 2923.52 et seq., the California Foreclosure Prevention Act, to the extent it is otherwise applicable.

The movant has produced evidence that the property has a value of \$196,000, whereas it is subject to encumbrances totaling \$175,901, consisting solely of the movant's mortgage.

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.

18. 14-26623-A-7 ROBERT/NICHOLA DANIEL MOTION FOR
JHW-1 RELIEF FROM AUTOMATIC STAY
AMERICREDIT FINANCIAL SERVICES, INC. VS. 5-2-16 [130]

Final Ruling: The motion will be dismissed without prejudice because it was served on the debtor's counsel at an incorrect address, 300 Harding Blvd., Suite 115 Roseville, CA 95678. The correct address for the debtor's counsel is 3300 Douglas Blvd., Ste 100 Roseville, CA 95661.

19. 15-29734-A-7 DARIN/MELISSA ANASTASIO MOTION TO
SCR-1 AVOID JUDICIAL LIEN
VS. RANCHO MURIETA ASSOCIATION 5-5-16 [38]

Final Ruling: The motion will be dismissed without prejudice because service of the motion did not comply with Fed. R. Bankr. P. 7004(b)(3), which requires service "[u]pon a domestic or foreign corporation or upon a partnership or other *unincorporated association* . . . to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant."

The debtor served the motion on Rancho Murieta Association without addressing it "to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process." Docket 42.

20. 15-29734-A-7 DARIN/MELISSA ANASTASIO MOTION TO
SCR-2 AVOID JUDICIAL LIEN
VS. COLLECTIBLES MANAGEMENT RESOURCES 5-5-16 [24]

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 Collectibles Management Resources, a general partnership, for the sum of \$32,899.73 on February 27, 2013. The abstract of judgment was recorded with El Dorado County on April 18, 2013. That lien attached to the debtors' residential real property in Shingle Springs, 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 \$644,597 as of the petition date. Dockets 26, 1, 7. The unavoidable liens totaled \$742,506.50 on that same date, consisting of a single mortgage for \$740,432.50 in favor of OneWest Bank and a California Employment and Development Department tax lien for \$2,074. Dockets 26 & 1. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(1) in the amount of \$100 in Schedule C. Dockets 26, 1, 7.

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).

21. 15-29734-A-7 DARIN/MELISSA ANASTASIO MOTION TO
SCR-3 AVOID JUDICIAL LIEN
VS. DEERE & COMPANY 5-5-16 [27]

Final Ruling: The motion will be dismissed without prejudice because it was not served on the respondent creditor, Deere & Company. Docket 31.

And, while the debtor served Deere's attorney, unless the attorney agreed to accept service, service was improper. See, e.g., Beneficial California, Inc. v. Villar (In re Villar), 317 B.R. 88, 92-94 (B.A.P. 9th Cir. 2004).

22. 15-29734-A-7 DARIN/MELISSA ANASTASIO MOTION TO
SCR-4 AVOID JUDICIAL LIEN
VS. KELKRIS ASSOCIATES, INC. 5-5-16 [32]

Final Ruling: The motion will be dismissed without prejudice because it was not served on the respondent creditor, Kelkris & Associates, Inc. Docket 37.

And, while the debtor served Kelkris' attorney, unless the attorney agreed to accept service, service was improper. See, e.g., Beneficial California, Inc. v. Villar (In re Villar), 317 B.R. 88, 92-94 (B.A.P. 9th Cir. 2004).

The debtor should also note that the abstract of judgment that is part of the instant motion record is unrecorded, meaning that there is no admissible evidence of a judicial lien on the subject real property in favor of Kelkris.

23. 15-29846-A-7 KEVIN/KIMBERLY BRIGGS MOTION TO
SLC-2 APPROVE COMPENSATION OF AUCTIONEER
4-26-16 [34]

Final Ruling: This motion has been set for hearing on the notice required by

25. 10-40550-A-7 SABRINA BARNES
EJS-4
VS. HOUSEHOLD FINANCE CORP.

MOTION TO
AVOID JUDICIAL LIEN
4-28-16 [61]

Final Ruling: The motion will be denied without prejudice because it is not supported by admissible evidence. The purported declaration from the debtor in support of the motion has not been signed by the debtor under the penalty of perjury. Docket 63. Her statements in the declaration then are inadmissible hearsay. Fed. R. Evid. 802.

26. 16-22753-A-7 KATHERINE HOOKANO
SMR-1
SAHIB HASSAN VS.

MOTION FOR
RELIEF FROM AUTOMATIC STAY
5-6-16 [17]

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, Sahib Hassan, seeks relief from the automatic stay as to a real property in Roseville, 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 April 2015. The movant served the debtor with a three-day notice to pay or quit on March 4, 2016. After expiration of the notice, the movant filed an unlawful detainer action against the debtor on March 10, 2015. The debtor filed this bankruptcy case on April 29, 2016.

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, the debtor has defaulted under the lease agreement by failing to pay the rent due from April 2015 onward. Also, the debtor's tenancy interest in the property terminated upon expiration of the three-day notice served on them pre-petition. See In re Windmill Farms, Inc., 841 F.2d 1467, 1470 (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 proceed with his unlawful detainer action in 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.

27. 16-20591-A-7 ANTHONY/DELILAH SIMPSON MOTION TO
FF-4 AVOID JUDICIAL LIEN
VS. EQUABLE ASCENT FINANCIAL, L.L.C. 4-27-16 [35]

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 Delilah Simpson in favor of Equable Ascent Financial, LLC for the sum of \$11,574.60 December 10, 2010. The abstract of judgment was recorded with Sacramento County on November 24, 2015. That lien attached to the debtor's 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 \$162,878 as of the petition date. Dockets 37 & 38. The unavoidable liens totaled \$105,833.45 on that same date, consisting of a single mortgage in favor of Ocwen. Dockets 37 & 38. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730 in the amount of \$57,044.55 in Amended Schedule C. Dockets 37 & 38.

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. 11-42492-A-7 JEFFREY/GAYE WILSON MOTION TO
MAC-9 AVOID JUDICIAL LIEN
VS. DISCOVER BANK 5-23-16 [79]

Final Ruling: The motion will be dismissed without prejudice because it was not served on the respondent creditor, Discover Bank, in accordance with Fed. R. Bankr. P. 7004(h), which requires service on insured depository institutions (as defined by section 3 of the Federal Deposit Insurance Act) to be made by certified mail and addressed solely to an officer of the institution.

The proof of service accompanying the motion indicates that the notice was not addressed solely to an officer of the creditor. It was addressed to "Officer, Managing or General Agent" and "Officer or Managing Agent." Docket 83. This does not satisfy Rule 7004(h).

Rule 7004(h) requires service solely to the attention of an officer. Nothing in the rule or its legislative history suggests that Congress intended the term "officer" to include anything other than officer of the respondent creditor. Hamlett v. Amsouth Bank (In re Hamlett), 322 F.3d 342, 345-46 (4th Cir. 2003) (examining the legislative history of Rule 7004(h), comparing it to Rule

7004(b)(3), and concluding that the term "officer" in Rule 7004(h) does not include other posts with the respondent creditor, such as "registered agent").