UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

June 29, 2015 at 10:00 a.m.

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

1, 2, 3, 4, 5, 10, 11

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 AUGUST 3, 2015 AT 10:00 A.M. OPPOSITION MUST BE FILED AND SERVED BY JULY 20, 2015, AND ANY REPLY MUST BE FILED AND SERVED BY JULY 27, 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. 15-22903-A-7 MICHELE COX — MOTION FOR
MBW-1 — RELIEF FROM AUTOMATIC STAY
SAFE CREDIT UNION VS. — 6-10-15 [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 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 dismissed as moot.

The movant, Safe Credit Union, seeks retroactive relief from the automatic stay with respect to the May 19, 2015 post-petition sale of the debtor's 2013 Kia vehicle, which was voluntarily surrendered on March 13, 2015 to the movant, before the instant April 9, 2015 petition filing.

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

The petition here was filed on April 9, 2015 and a meeting of creditors was first convened on May 18, 2015. Therefore, a statement of intention that refers to the movant's property and debt was due no later than May 9. The debtor filed a statement of intention on the petition date, but did not list the vehicle in it.

If the property securing the debt is personal property and an individual chapter 7 debtor fails to file a statement of intention, or fails to indicate in the statement that he or she either will redeem the property or enter into a reaffirmation agreement, or fails to timely surrender, redeem, or reaffirm, the automatic stay is automatically terminated and the property is no longer property of the bankruptcy estate. See 11 U.S.C. § 362(h).

Here, although the debtor filed a statement of intention, the vehicle was not listed in the statement. And, no reaffirmation agreement or motion to redeem has been filed, nor has the debtor requested an extension of the 30-day period. As a result, the automatic stay automatically terminated on May 9, 2015, 30 days after the petition date.

The trustee may avoid automatic termination of the automatic stay by filing a motion within whichever of the two 30-day periods set by section 521(a)(2) is

applicable, and proving that such property is of consequential value or benefit to the estate. If proven, the court must order appropriate adequate protection of the creditor's interest in its collateral and order the debtor to deliver possession of the property to the trustee. If not proven, the automatic stay terminates upon the conclusion of the hearing on the trustee's motion. See 11 U.S.C. § 362(h)(2).

The trustee in this case has filed no such motion and the time to do so has expired. The court also notes that the trustee filed a "no-asset" report on May 18, 2015, indicating an intent not to administer the vehicle or any other assets.

Therefore, without this motion being filed, the automatic stay terminated on May 9, 2015. Thus, there was no stay as of the May 19 sale of the vehicle.

Nothing in section 362(h)(1), however, permits the court to issue an order confirming the automatic stay's termination. 11 U.S.C. § 362(j) authorizes the court to issue an order confirming that the automatic stay has terminated under 11 U.S.C. § 362(c). See also 11 U.S.C. § 362(c)(4)(A)(ii). But, this case does not implicate section 362(c). Section 362(h) is applicable and it does not provide for the issuance of an order confirming the termination of the automatic stay. Therefore, if the movant needs a declaration of rights under section 362(h), an adversary proceeding seeking such declaration is necessary. See Fed. R. Bankr. P. 7001.

2. 15-23007-A-7 ROMAN POSTOENKO — MOTION FOR RELIEF FROM AUTOMATIC STAY
JCW-1 — 6-4-15 [20]
DEUTSCHE BANK NATIONAL TRUST CO. 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, Deutsche Bank National Trust Company, seeks relief from the automatic stay as to a real property in Orangevale, California. The property has a value of $250,000 and it is encumbered by claims totaling approximately $315,613. The movant's deed is the only encumbrance against the property.

The court concludes that there is no equity in the property and there is no evidence that it is necessary to a reorganization or that the trustee can administer it for the benefit of creditors.

Thus, the motion will be granted 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.

3. 15-22216-A-7 MARY SMITH — MOTION FOR RELIEF FROM AUTOMATIC STAY
JCW-1
WELLS FARGO BANK, N.A. VS. — 6-2-15 [16]

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, Wells Fargo Bank, seeks relief from the automatic stay as to a real property in Stockton, California. The property has a value of $342,000 and it is encumbered by claims totaling approximately $361,121. 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 May 19, 2015.

Thus, the motion will be granted pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to conduct a nonjudicial foreclosure sale and to obtain possession of the subject property following sale. No other relief is awarded.

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

extent it is otherwise applicable.

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

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will not be waived. That period, however, shall run concurrently with the 7-day period specified in Cal. Civ. Code § 2924g(d) to the extent section 2924g(d) is applicable to orders terminating the automatic stay.

4. 11-45717-A-7 BLAIR/JAMIE MCLEOD — MOTION TO AVOID JUDICIAL LIEN
VS. PATRICIA LANGLIE — 6-15-15 [57]

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 Blair McLeod in favor of Patricia Langlie for the sum of $155,375.10 on May 24, 2010. The abstract of judgment was recorded with El Dorado County on June 18, 2010. That lien attached to the debtor's residential real property in South Lake Tahoe, 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 $331,900 as of the petition date. Dockets 59 & 1. The unavoidable liens totaled $502,910.47 on that same date, consisting of a first mortgage for $340,211.68 in favor of Bank of America and a second mortgage for $162,698.79 in favor of Wells Fargo Bank. Dockets 59, 60, 1. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of $1.00 in Schedule C. Dockets 59, 60, 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).

5. 15-22924-A-7 JOHN MOORE — MOTION FOR RELIEF FROM AUTOMATIC STAY
TMG-1 — 6-9-15 [27]
VULGARA TILE, HARDWOOD AND CARPETING, INC. 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, Vulgara Tile, Hardwood and Carpet, Inc., seeks relief from the automatic stay as to real property in Sacramento, California.

The movant purchased the property at a pre-petition foreclosure sale, on December 12, 2014. On March 3, 2015, the movant commenced an unlawful detainer proceeding. A judgment for possession was entered on April 1, 2015. A writ of possession was issued on April 1, 2015. The debtor filed the instant petition on April 10, 2015.

This is a liquidation proceeding and the debtor has no interest in the property as the movant purchased it pre-petition. 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) in order to permit the movant to proceed with its unlawful detainer action against the debtor in state court. No monetary claim may be collected from the debtor. The movant is limited to recovering possession of the property as permitted by the state court.

No fees and costs are awarded because the movant is not an over-secured creditor. See 11 U.S.C. § 506.

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

6. 15-22931-A-7 MABEL BANGURA — MOTION TO DISMISS 5-21-15 [9]

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 May 20, 2015. In addition the debtor did not appear at a continued meeting of creditors held on June 17, 2015.

Although the debtor has prompted the hearing on the trustee's dismissal motion, the debtor has given no reason in her opposition to dismissal as to why she did not attend the meeting of creditors. Hence, the debtor's failure to appear at the two meetings of creditors has caused unreasonable delay that is prejudicial to creditors. This is cause for dismissal. See 11 U.S.C. § 707(a)(1).

7. 15-22933-A-7 CAROLEE HENRY
JMH-1

MOTION TO DISMISS CASE
5-20-15 [28]

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 May 20, 2015.

Although the debtor has prompted the hearing on the trustee's dismissal motion, the debtor has given no reason in her opposition to dismissal as to why she did not attend the meeting of creditors. Hence, the debtor's failure to appear at the meeting of creditors has caused unreasonable delay that is prejudicial to creditors. This is cause for dismissal. See 11 U.S.C. § 707(a)(1).

8. 14-31876-A-7 JACQUELINE MASON-GRAY

MOTION TO VALUE COLLATERAL
5-26-15 [47]

VS. GM FINANCIAL

Tentative Ruling: The motion will be denied without prejudice.

The debtor seeks to redeem a 2003 Mercedes Benz C240 vehicle, identified as having 130,000 miles and being in fair condition. The vehicle secures a claim held by Americredit Financial Services, Inc., dba GM Financial.

GM opposes the motion, based on the lack of supporting admissible evidence, yet it seeks to have the vehicle valued for redemption purposes at $6,500, without giving the debtor credit for her vehicle retrieval expenses.

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 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).

The motion will be denied without prejudice. The motion does not state the proffered value of the vehicle. Although it states that a "Quotation of Value from an Independent Valuator" is attached, there is no such valuation with the motion. While the debtor has attached an edmunds.com printout to the proof of service for the motion, that printout has not been authenticated by a declaration. Docket 48.

Even if the court were to consider the edmunds.com printout, on the printout, the vehicle is identified as average, whereas in the motion the vehicle is identified as being in "fair condition." The court then is unable to reconcile the actual condition of the vehicle with the condition of the vehicle in the appraisal.

The court cannot credit $2,100 to the debtor for her vehicle retrieval expenses. The debtor offers no reason why the court should discount any redemption payment for the vehicle. The motion will be denied without prejudice.

9. 15-20485-A-7 JOSEPH/MALOURDES SPINALI — OBJECTION TO EXEMPTIONS
SLC-1 — 4-29-15 [15]

Tentative Ruling: The objection will be overruled.

The hearing on this objection was continued from June 1, 2015 in order for the debtors to supplement the record. The trustee had until June 15 to file a reply. The debtors filed their supplemental evidence but the trustee has filed no reply.

The trustee objects to the debtors' exemption of a 2013 Honda Accord vehicle under Cal. Civ. Proc. Code § 703.140(b)(11)(D), which provides for the exemption of:

"The debtor's right to receive, or property that is traceable to, any of the following:

. . .

(D) A payment, not to exceed twenty-four thousand sixty dollars ($24,060), on account of personal bodily injury of the debtor or an individual of whom the debtor is a dependent."

The court disagrees with the trustee that Cal. Civ. Proc. Code § 703.080 applies. Under that statute:

"(a) Subject to any limitation provided in the particular exemption, a fund that is exempt remains exempt to the extent that it can be traced into deposit accounts or in the form of cash or its equivalent.

(b) The exemption claimant has the burden of tracing an exempt fund.

(c) The tracing of exempt funds in a deposit account shall be by application of the lowest intermediate balance principle unless the exemption claimant or the judgment creditor shows that some other method of tracing would better serve the interests of justice and equity under the circumstances of the case."

The statute is "[s]ubject to any limitation provided in the particular exemption." This means that the "property that is traceable to" language of section 703.140(b)(11)(D) supercedes the tracing rules of section 703.080.

Lastly, the debtors have produced evidence that the funds used to purchase the subject vehicle are traceable to the personal injury settlement proceeds.

The debtors received $153,902.41 from the personal injury settlement on May 9, 2013. Dockets 24 & 28. The debtors purchased the vehicle using the funds they received from the settlement on May 14, 2013. No additional funds were deposited in the bank account between May 9 and May 14. Docket 28. Accordingly, the exemption will be allowed and this objection will be overruled.

10. 13-28491-A-7 JAMES ENGLISH — MOTION TO AVOID JUDICIAL LIEN
TJW-3
VS. VAN DE POL ENTERPRISES INC. — 6-15-15 [157]

Tentative Ruling: Because less than 28 days' notice of the hearing was given

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

The motion will be granted.

A judgment was entered against the debtor in favor of Van De Pol Enterprises, Inc. for the sum of $222,696.93 on October 16, 2012. The abstract of judgment was recorded with Placer County on February 11, 2013. That lien attached to the debtor's two real properties in Rocklin, California, on Wild Horse Court and Tripp Court.

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A) as to the Wild Horse property. That property had an approximate value of $600,000 as of the petition date. Dockets 148, 159. The unavoidable liens totaled $760,000 on that same date, consisting of a single mortgage in favor of Nationstar Mortgage. Dockets 148, 159. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(1) in the amount of $100.00 in Schedule C. Dockets 148, 159.

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A) as to the Tripp property. That property had an approximate value of $325,000 as of the petition date. Docket 148. The unavoidable liens totaled $435,089.37 on that same date, consisting of a single mortgage in favor of Bank of America. Dockets 148, 159. 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 148, 159.

The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of both properties. 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 as to either property. Therefore, the fixing of this judicial lien impairs the debtor's exemptions in both properties and its fixing will be avoided as to both properties subject to 11 U.S.C. § 349(b)(1)(B).

11. 11-45394-A-7 TIM/RENEE COMPTON — MOTION TO AVOID JUDICIAL LIEN
CAH-5
VS. AMERICAN EXPRESS CENTURION BANK — 6-5-15 [81]

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 Renee Compton in favor of American Express Centurion Bank for the sum of $27,650.94 on June 3, 2011. The abstract of judgment was recorded with Placer County on July 22, 2011. That lien attached to the debtor's residential real property in Citrus Heights, 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 $223,000 as of the petition date. Dockets 83 & 1. The unavoidable liens totaled $303,089 on that same date, consisting of a mortgage for $274,768 in favor of BAC Home Loans Servicing and a mortgage for $28,321 in favor of U.S. Bank. Dockets 83, 84, 1. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(1) in the amount of $1.00 in Schedule C. Dockets 83, 84, 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).

FINAL RULINGS BEGIN HERE

12. 12-28413-A-7 F. RODGERS CORPORATION — MOTION FOR RELIEF FROM AUTOMATIC STAY
SAR-1 — 5-28-15 [814]
SCS DEVELOPMENT COMPANY VS.

Final Ruling: The motion will be dismissed without prejudice because the notice of hearing for the motion is confusing as it contains contradictory language. On one hand, it tells parties in interest to file written opposition no less than 14 days before the hearing. On the other hand, it states that the 14-day deadline is June 1, 2015. Docket 815 at 2. This is impossible because the hearing for the motion is set for June 29, 2015. Given this, the motion will be dismissed without prejudice.

13. 15-21717-A-7 JACLYN KONG — MOTION FOR RELIEF FROM AUTOMATIC STAY
BHT-1 — 5-27-15 [13]
DEUTSCHE BANK TRUST COMPANY AMERICAS 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, Deutsche Bank Trust Company Americas, seeks relief from the automatic stay as to a real property in Redding, California. The property has a value of $174,191 and it is encumbered by claims totaling approximately $252,894. The movant's deed is in first priority position and secures a claim of approximately $206,640.

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 29, 2015. And, in the statement of intention, the debtor has indicated an intent to surrender the property.

Thus, the motion will be granted pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to conduct a nonjudicial foreclosure sale and to obtain possession of the subject property following sale. No other relief is awarded.

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

Because the movant has not established that the value of its collateral exceeds

the amount of its secured claim, the court awards no fees and costs in connection with the movant's secured claim as a result of the filing and prosecution of this motion. 11 U.S.C. § 506(b).

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will not be waived. That period, however, shall run concurrently with the 7-day period specified in Cal. Civ. Code § 2924g(d) to the extent section 2924g(d) is applicable to orders terminating the automatic stay.

14. 11-44723-A-7 ROBERT BROWN — MOTION TO APPROVE COMPENSATION OF ACCOUNTANT
DNL-10 — 6-1-15 [387]

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 its first and final motion for approval of compensation. The requested compensation consists of $3,245.50 in fees and $0.00 in expenses. This motion covers the period from December 10, 2014 through May 21, 2015. The court approved the movant's employment as the estate's accountant on January 12, 2015. In performing its services, the movant charged hourly rates of $195, $200, $325 and $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 tax reporting issues, with the preparation of tax returns, with the review of shareholder draws, and with preparation of a 505(b) letter.

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

15. 11-44723-A-7 ROBERT BROWN — MOTION FOR AUTHORITY TO RELEASE FUNDS
DNL-11 — 6-1-15 [384]

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.

The trustee is seeking an order permitting her to disburse funds held from the sale of business assets, commonly known as the Cardroom assets, given that there are no claims encumbering the assets or corresponding sales proceeds any longer. On September 19, 2012, this court approved the sale of the assets free and clear of claims held by the IRS, Philip and Linda Hawkins, and John and Jamey Robinson. Docket 304.

The IRS entered into a court approved stipulation for avoidance of its claim to the extent it secured penalties, making the claim unsecured as to the assets and corresponding sales proceeds. The Robinsons have admitted in this case that their claim is not secured by the proceeds, despite claiming otherwise previously. Docket 242 at 7, lns. 16-17. And, the trustee entered into a court approved settlement with the Hawkins, pursuant to which they released any security interest in the assets or corresponding sales proceeds.

Given the foregoing, the court will permit the trustee to administer the sales proceeds in accordance with applicable bankruptcy law. The motion will be granted.

16. 11-44723-A-7 ROBERT BROWN
DNL-12

MOTION TO APPROVE COMPENSATION OF TRUSTEE'S ATTORNEY
6-1-15 [394]

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.

Desmond, Nolan, Livaich & Cunningham, special counsel for the trustee, has filed its second interim and final motion for approval of compensation.

The movant's services were limited to the representation of this estate and the related Deuces Wild, Inc. bankruptcy estate in the settlement of claims asserted by creditors Philip and Linda Hawkins and the estates' joint sale of assets.

The requested compensation in this motion is $15,914.75 in fees and $166.03 in expenses, for a total of $16,080.78. The subject fees can be broken down as follows:

(a) fees being split evenly between this estate and the Deuces Wild estate, for

services rendered during the period of October 6, 2014 through May 27, 2015, totaling $4,072.50; the services included the preservation of assets of both estates, resolving claims secured by those assets, and preparing first interim motion for compensation.

(b) fees that are sole responsibility of this estate, for services rendered during the period of October 6, 2014 through May 27, 2015, totaling $4,606; the services included preparing motion for disbursal of funds, preparing employment and compensation motions for the trustee's accountant, and researching issues pertaining to a real property in Auburn, California.

(c) $6,512.50 in fees for services rendered during the period of April 1, 2012 through May 20, 2012 (part of the prior interim motion period), which were responsibility of the Deuces Wild estate, but were denied by the court as to the Deuces Wild estate because the Deuces Wild case had not been filed yet; the services included reviewing the Deuces Wild books and records, preparing agreement for the sale of the Cardroom asset, responding to a stay relief motion by the Hawkins in this case, and negotiating with the Hawkins about their claim(s) and proposed purchase of the Cardroom.

(d) fees that are sole responsibility of this estate, for services rendered during the period of April 1, 2012 through October 5, 2014 (representing the prior interim motion period), which fees were mistakenly left our from the movant's prior interim motion; the services included resolving the claims secured by the business assets sold on behalf of this and the Deuces Wild estates.

The court approved the movant's employment as the trustee's special counsel on April 11, 2012. In performing its services, the movant charged hourly rates of $175, $195, $225, $275, $300, $350, $375 and $400.

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 court concludes that the compensation is for actual and necessary services rendered in the administration of this estate. As the Deuces Wild case was not filed until May 21, 2012, the court concludes that all services by the movant from April 1, 2012 through May 20, 2012, pertaining to the sale of the assets and the resolution of the Hawkins' claim(s), benefitted this estate. The requested compensation will be approved and the prior interim award will be ratified on final basis.

17. 12-34733-A-7 THOMAS FERRIE — MOTION TO APPROVE COMPENSATION OF TRUSTEE'S ATTORNEY
BHS-2 — 5-20-15 [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 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.

Law Office of Barry Spitzer, attorney for the trustee, has filed its first and final motion for approval of compensation. The requested compensation consists of $4,897.50 in fees and $17.06 in expenses, for a total of $4,914.56. This motion covers the period from December 10, 2012 through the present. The court approved the movant's employment as the trustee's attorney on December 13, 2012. In performing its services, the movant charged hourly rates of $325 and $350.

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 estate assets, (2) advising the trustee about the recovery of an inheritance, (3) assisting the estate with the recovery of the inheritance, including communicating with the debtor, his siblings and probate counsel, and (4) preparing and filing employment and compensation motions.

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

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

18. 13-21637-A-7 KMR-1 J.P. MORGAN MTG ACQUISITION CORP. VS. LES FUJITANI AND GERALDINE XIMENEZ — MOTION FOR RELIEF FROM AUTOMATIC STAY 5-29-15 [27]

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, JP Morgan Mortgage Acquisition Corp., seeks relief from the automatic stay as to a real property in Elk Grove, California.

Given the entry of the debtor's discharge on July 23, 2013, 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 $315,000 and it is encumbered by claims totaling approximately $641,588. The movant's deed is in first priority position and secures a claim of

approximately $513,021.

The court concludes that there is no equity in the property and there is no evidence that it is necessary to a reorganization or that the trustee can administer it for the benefit of creditors.

Thus, the motion will be granted pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to conduct a nonjudicial foreclosure sale and to obtain possession of the subject property following sale. No other relief is awarded.

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

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

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will not be waived. That period, however, shall run concurrently with the 7-day period specified in Cal. Civ. Code § 2924g(d) to the extent section 2924g(d) is applicable to orders terminating the automatic stay.

19. 13-34845-A-7 SHARON SMITH — MOTION TO APPROVE COMPENSATION OF TRUSTEE
ASF-3 — 5-26-15 [100]

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, Alan Fukushima, has filed his first and final motion for approval of compensation. The requested compensation consists of $12,750 in fees and $0.00 in expenses. The services for the sought compensation were provided from November 21, 2013 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 $190,000 in distributions to creditors. This means that the cap under section 326(a) on the movant's compensation is $12,750 ($1,250 (25% of the first $5,000) + $4,500 (10% of the next $45,000) + $7,000

(5% of the next $950,000 (or $140,000)). Hence, the requested trustee fees of $12,750 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 (counsel, accountant, and realtor) to assist the estate in the recovery and sale of assets, namely, the debtor's fractional interests in real property, (4) opposing a motion to dismiss filed by the debtor, (5) discussing with and directing estate's counsel to object to the debtor's exemptions, (6) reviewing and analyzing 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.

20. 11-42346-A-7 ERNEST BEZLEY — MOTION TO COMPEL ABANDONMENT
PA-2 — 5-28-15 [270]

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.

The debtor's non-filing spouse, Jacqueline Bezley, seeks an order compelling the trustee to abandon:

(1) "all of the Estate's rights, title and interest in assets listed on Schedule A filed by the Debtor . . . including all the Estate's rights, title and interest to [25344 E. Highway 12, Clements, California]," (Docket 270 at 5); and

(2) "all the Estate's rights, title and interest in the personal property assets listed on Schedule B . . . except the Claims Against Jennings," (Docket 270 at 5).

As part of usury litigation by the trustee and the movant against Harold Jennings, the main creditor secured by the estate's real properties, the trustee, the movant, Mr. Jennings and the debtor entered into a global settlement agreement.

"*Under the terms of the compromise, Mr. Jennings will pay $225,000 to the estate in full satisfaction of the pending claims against him, by both the trustee and Mrs. Bezley. The debtor has agreed not to assert an exemption claim in that settlement payment by Mr. Jennings. Also, the estate will convey to Mrs. Bezley the estate's 50% joint tenancy interest in nine unimproved parcels of real property in Clements, California. Mrs. Bezley is the other 50% joint tenant on those properties.*

"*Further, under the compromise, Mr. Jennings will retain his two loans secured by two deeds of trust on the debtor's principal residence in Clements, California. But, the loan terms will be modified and the loans will be deemed to be current. More, Mr. Jennings will pay approximately $125,000 to cure tax defaults on the debtor's residence.*

"*In addition, the trustee has agreed not to administer any assets scheduled prior to the settlement, leaving the estate only with the $225,000 settlement payment from Mr. Jennings.*

"*Furthermore, Mr. Jennings will withdraw his proof of claim 7, one of three proofs of claim he has filed in this case. Mr. Jennings will not be allowed to file any other proofs of claim against the estate, nor will he be allowed to amend his other two proofs of claim. POC 7 is in the amount of $351,641.39 and it is secured by a real property known as Parcel 13. The other two proofs of claim filed by Mr. Jennings, POC 8 and POC 9, are for $412,938.14 and $296,512.22, respectively. POC 8 is secured by a first deed of trust on the debtor's principal residence and POC 9 is secured by a second deed of trust on the debtor's residence.*

"*Finally, the trustee and Mrs. Bizley will dismiss their pending claims against Mr. Jennings.*"

Docket 268 at 1-2; see also Docket 269.

Given that under the above court-approved settlement the trustee agreed not to administer any assets scheduled prior to his entry in the settlement, except for the $225,000 settlement payment, the court will order all assets disclosed in Schedules A and B that were not sold, settled or otherwise administered by the estate already, to be abandoned. The motion will be granted.

21. 15-23452-A-7 BRIAN/CINTHYA ROBERTSON
APN-1
SANTANDER CONSUMER USA, INC. VS.
MOTION FOR RELIEF FROM AUTOMATIC STAY
5-19-15 [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, Santander Consumer U.S.A., seeks relief from the automatic stay with respect to a 2010 Dodge Journey. The movant has produced evidence that the vehicle has a value of $12,225 ($9,183 in Schedule B) and its secured claim is approximately $18,053. Docket 11 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 May 26, 2015. And, in the statement of intention, the debtor has indicated an intent to surrender the vehicle.

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.

22. 13-29754-A-7 TIMOTHY/SHAWN POLI
BHS-4

MOTION TO APPROVE COMPENSATION OF TRUSTEE'S ATTORNEY
5-29-15 [66]

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.

Law Office of Barry Spitzer, attorney for the trustee, has filed its first and final motion for approval of compensation. The requested compensation consists of $17,932.50 in fees and $129.48 in expenses, for a total of $18,061.98. This

motion covers the period from November 4, 2013 through the present. The court approved the movant's employment as the trustee's attorney on December 6, 2013. In performing its services, the movant charged hourly rates of $325 and $350.

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 estate assets, (2) advising the trustee about the recovery of the estate's partial interest in a real property of which the debtor was unaware, (3) negotiating a substantial principal reduction with the mortgagee holding a reverse mortgage on the property, (4) negotiating the sale of the entire property, (5) assisting the estate with obtaining court approval of the settlement and sale, and (6) preparing and filing employment and compensation motions.

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

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

23. 15-22759-A-7 NORMA ALVAREZ — MOTION FOR RELIEF FROM AUTOMATIC STAY
MDE-1 — 5-29-15 [13]
THE BANK OF NEW YORK MELLON 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, The Bank of New York Mellon, seeks relief from the automatic stay as to a real property in Sacramento, California. The property has a value of $184,979 and it is encumbered by claims totaling approximately $214,645. 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 May 13, 2015.

Thus, the motion will be granted pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to conduct a nonjudicial foreclosure sale and to obtain possession of the subject property following sale. No other relief is awarded.

The court determines that this bankruptcy proceeding has been finalized for purposes of Cal. Civil Code § 2923.5 and the enforcement of the note and deed of trust described in the motion against the subject real property. Further,

upon entry of the order granting relief from the automatic stay, the movant and its successors, assigns, principals, and agents shall comply with Cal. Civil Code § 2923.52 et seq., the California Foreclosure Prevention Act, to the extent it is otherwise applicable.

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

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will not be waived. That period, however, shall run concurrently with the 7-day period specified in Cal. Civ. Code § 2924g(d) to the extent section 2924g(d) is applicable to orders terminating the automatic stay.

24. 09-23465-A-7 MOORE EPITAXIAL, INC. MOTION TO ABANDON
MDM-2 5-27-15 [259]

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 wishes to abandon the estate's interest in old castings that cannot be used any longer and have no economic value to the estate. Docket 261.

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

The property has no economic value to the estate as the trustee has been unable to liquidate it or find another profitable way to administer it for the benefit of the creditors and the estate.

Given this, the court concludes that the property is of inconsequential value to the estate. The castings are also burdensome to the estate, as they are being stored. Abandoning them will reduce the estate's storage costs. The motion will be granted.

25. 15-20488-A-7 DARLENE COLLISSON MOTION FOR RELIEF FROM AUTOMATIC STAY
KAZ-1 5-28-15 [19]
JPMORGAN CHASE BANK, N.A. VS.

Final Ruling: The motion will be dismissed without prejudice.

According to the certificate of service accompanying the motion, the motion was not served on the debtor. Docket 24.

Fed. R. Bankr. P. 9013 and 9014(a) provide that a request for an order shall be made by a motion. Fed. R. Bankr. P. 9014(b) further provides that a motion must be served in the manner provided for service of a summons and a complaint. Fed. R. Bankr. P. 7004(b) permits service of a summons and a complaint by first class mail. But, nothing in Fed. R. Bankr. P. 7004 permits service on the debtor's attorney to the exclusion of the debtor. Contra Fed. R. Bankr. P. 7004(g). Accordingly, service is defective.

26. 15-23188-A-7 MARGARET DESPART — MOTION FOR RELIEF FROM AUTOMATIC STAY
JCW-1 — 5-22-15 [13]
NATIONSTAR MORTGAGE, L.L.C. VS.

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

The motion will be granted.

The movant, Nationstar Mortgage, seeks relief from the automatic stay as to a real property in Redding, California (Alfreda Way). The property has a value of $75,000 and it is encumbered by claims totaling approximately $102,241. 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 non-opposition. And, in the statement of intention, the debtor has indicated an intent to surrender the property.

Thus, the motion will be granted pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to conduct a nonjudicial foreclosure sale and to obtain possession of the subject property following sale. No other relief is awarded.

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

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

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will not be waived. That period, however, shall run concurrently with the 7-day period specified in Cal. Civ. Code § 2924g(d) to the extent section 2924g(d) is applicable to orders terminating the automatic stay.

27. 14-32289-A-7 ROSE/RAYMOND RASH — MOTION TO RECONSIDER
MOH-3 — 5-21-15 [40]

Final Ruling: The court concludes that a hearing will not be helpful to its consideration and resolution of this matter. There is no objection to the relief requested and the court will not materially alter the relief requested. Accordingly, an actual hearing is unnecessary and this matter is removed from calendar for resolution without oral argument. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006).

The court will avoid the judicial lien of Unifund CCR Partners.

The hearing on this motion was continued from June 15, 2015 in order for the debtors to supplement the record. The debtors have filed additional evidence in support of the motion.

The debtors are seeking reconsideration of the court's May 18, 2015 denial without prejudice of their lien avoidance motion as to the lien of Unifund CCR Partners. Docket 38. However, as the court denied that motion without prejudice, it does not need to reconsider it. It will consider the same motion anew.

A judgment was entered against Debtor Raymond Rash in favor of Unifund CCR Partners for the sum of $2,273.55 on July 31, 2003. The abstract of judgment was recorded with Butte County on September 23, 2003. That lien attached to the debtor's residential real property in Chico, California. The creditor's judgment was renewed on June 21, 2013, adding $2,238.20 to the judgment principal. Dockets 26 & 47.

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of $110,169 as of the petition date. Dockets 20 & 1. The unavoidable liens totaled $39,395.85 on that same date, consisting of a single mortgage in favor of Wells Fargo Home Mortgage. Dockets 20 & 1. The debtors claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.950 in the amount of $175,000 in Schedule C. Dockets 20 & 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).

28. 13-28491-A-7 JAMES ENGLISH — MOTION TO APPROVE COMPENSATION OF ACCOUNTANT
KJH-4 — 5-26-15 [150]

Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor, the trustee, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned

parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

Gabrielson & Company, accountant for the estate, has filed its first interim motion for approval of compensation. The requested compensation consists of $4,381.50 in fees and $261.92 in expenses, for a total of $4,643.42. This motion covers the period from May 28, 2014 through April 30, 2015. The court approved the movant's employment as the estate's accountant on June 5, 2014. In performing its services, the movant charged an hourly rate of $345.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant's services included reviewing financial and tax records, analyzing tax consequences from the sale of assets, preparing estate tax returns, and preparing and filing the instant 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.

29. 15-21594-A-7 GAIL NESBIT — MOTION TO CONVERT CASE 6-3-15 [29]
SJS-2

Final Ruling: The movant has provided only 24 days' notice of the hearing on this motion. Docket 41. Nevertheless, the notice of hearing for the motion requires written opposition at least 14 days before the hearing, in accordance with Local Bankruptcy Rule 9014-1(f)(1). Motions noticed on less than 28 days' notice of the hearing are deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). This rule does not require written oppositions to be filed with the court. Parties in interest may present any opposition at the hearing. Consequently, parties in interest were not required to file a written response or opposition to the motion. Because the notice of hearing stated that they were required to file a written opposition, however, an interested party could be deterred from opposing the motion and, moreover, even appearing at the hearing. Accordingly, the motion will be dismissed without prejudice.