UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

July 13, 2015 at 10:00 a.m.

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

3, 4, 5, 6, 7, 8, 9, 14, 21

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 17, 2015 AT 10:00 A.M. OPPOSITION MUST BE FILED AND SERVED BY AUGUST 3, 2015, AND ANY REPLY MUST BE FILED AND SERVED BY AUGUST 10, 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. 08-35602-A-7 MUZIO BAKING COMPANY, MOTION FOR ADMINISTRATIVE EXPENSES
DNL-8 6-19-15 [159]

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

The motion will be denied without prejudice.

The trustee requests the allowance of payments of post-petition estate income tax liability to the IRS in the amount of $10,485 and to the California Franchise Tax Board in the amount of $3,273.

The motion will be denied without prejudice because the above amount is irreconcilable with other figures represented in the motion. For instance, the motion calculates the estate's total tax liability to the IRS from 2009 through 2015 at $11,920.23. Docket 159 at 2-3. On the other hand, the trustee's supplemental declaration states that the estate paid the $11,920.23 sum to the IRS in December 2013 and January 2014. Docket 163 ¶ 5.

Further, the motion states that the estate has $0 tax liability to the IRS for 2013 through 2015 and has $2,400 tax liability to the FTB for 2013 through 2015. Docket 159 at 2-3. Yet, the trustee's supplemental declaration also states that he paid all IRS and FTB tax liability for 2009 through 2012. Docket 163 ¶ 3. As a result, the court cannot tell to what tax period(s) the requested tax liability sums ($10,485 still owed to the IRS) and ($3,273 still owed to the FTB) apply.

2. 15-24710-A-7 HELEN KING MOTION TO EXTEND AUTOMATIC STAY
TAG-1 6-18-15 [10]

Tentative Ruling: The motion will be denied.

The debtor is asking the court to extend the automatic stay - seemingly as to all creditors - given that she had her prior chapter 13 case was dismissed. The motion will be denied for several reasons.

First, the motion was not served on any of the debtor's creditors. Besides serving the U.S. Trustee and the trustee, the debtor served only Darlene Vigil, allegedly counsel for Wells Fargo Bank, the debtor's mortgagee. Docket 13.

While she served Wells Fargo Bank'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).

Moreover, service on banks must be done pursuant to 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 to an officer of the institution. The debtor did not do this with respect to Wells Fargo Bank.

Second, the motion says nothing about the history of the prior case, such as the case number, how long that case was pending for, did anyone file a motion for relief from stay, were any creditors prejudiced, etc.

Third, the motion does not state why the debtor did not discover her inability to complete a chapter 13 plan prior to filing the prior case. The motion asserts that the debtor dismissed the prior case because she "discovered her arrearage [to Wells Fargo Bank] was higher than anticipated as a result of a City of Sacramento lien being placed on her home." Docket 10 at 2.

Third, the prior chapter 13 case, Case No. 14-30220-C-13, was filed on October 14, 2014 and was dismissed on January 15, 2015, pursuant to a dismissal motion filed by the debtor on January 12, 2015. Yet, the instant motion does not explain why it took nearly three months after the filing of the prior case for the debtor to determine that her "arrearage [to Wells Fargo Bank] was higher than anticipated." The motion also does not elaborate on how that affected her ability to propose, obtain confirmation of, and complete a chapter 13.

Lastly, 11 U.S.C. § 362(c)(3)(A) provides that if a single or joint case is filed by or against a debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding one-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 (11, 12 or 13) after dismissal under section 707(b), the automatic stay with respect to a debt, property securing such debt, or any lease terminates on the 30th day after the filing of the new case.

11 U.S.C. § 362(c)(3)(B) and (C) further provide that:

"(B) on the motion of a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed."

However, due to the foregoing deficiencies, the court is not satisfied that the debtor has met her burden of persuasion under 11 U.S.C. § 362(c)(3)(B), namely, "that the filing of the later case is in good faith as to the creditors to be stayed." Accordingly, the motion will be denied.

3. 11-49912-A-7 GINA FLAHARTY — MOTION FOR ADMINISTRATIVE EXPENSES
DNL-16 — 6-18-15 [206]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the trustee, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the creditors, the debtor, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing

schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted.

The trustee requests the allowance of payments of 2013 post-petition estate income tax liability to the IRS in the amount of $10,485 and to the California Franchise Tax Board in the amount of $3,273.

11 U.S.C. § 503(b)(1)(B) provides that "After notice and a hearing, there shall be allowed administrative expenses, other than claims allowed under section 502(f) of this title, including–

(1) . . . (B) any tax-- (i) incurred by the estate, whether secured or unsecured, including property taxes for which liability is in rem, in personam, or both, except a tax of a kind specified in section 507(a)(8) of this title."

This case was filed on December 30, 2011. The tax liability in question was incurred in 2013. As the tax was incurred post-petition, the court will allow its payment as an administrative expense claim under section 503(b)(1)(B). The motion will be granted.

4. 15-24221-A-7 RONIE/MARIA DELA CRUZ — MOTION FOR RELIEF FROM AUTOMATIC STAY
VVF-1 — 6-24-15 [9]
HONDA LEASE TRUST 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, Honda Lease Trust, seeks relief from the automatic stay with respect to a leased 2014 Honda Odyssey. The movant has produced evidence that the vehicle has a value of $20,400 ($21,000 per Schedule B) and the outstanding debt under the lease agreement totals approximately $28,912. The debtor also has not made approximately four pre-petition and one post-petition payments under the lease agreement. And, the movant took possession of the vehicle pre-petition, on May 6, 2015. These facts make it unlikely that the trustee will attempt to assert any interest in the lease.

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

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

permit the movant to dispose of the vehicle pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

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

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

5. 14-22238-A-7 LARRY/CARMEN MCCARREN — MOTION TO AVOID JUDICIAL LIEN
JB-4
VS. SNIDER LEASING CORP. — 3-20-15 [67]

Tentative Ruling: The motion will be granted.

A judgment was entered against Debtor Larry McCarren (named as James McCarren in the complaint) in favor of Snider Leasing Corp. for the sum of $80,051.11 on April 17, 2012. The abstract of judgment was recorded with San Joaquin County on May 8, 2012. That lien attached to the debtor's residential real property in Ripon, California (6th Street).

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property has an approximate value of $200,000 as of the date of the petition. Dockets 63 & 69. The unavoidable liens total $76,0007.22 on that same date, consisting of a single mortgage in the amount of $67,267.45 in favor of JPMorgan Chase Bank, a property tax lien in the amount of $344.77 in favor of San Joaquin County Tax Collector, a tax lien in favor of the IRS in the amount of $8,395. Dockets 63, Amended Schedule D & 69. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730(a)(3) in the amount of $175,000 in Amended Schedule C. Docket 63, Amended Schedule C.

The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the subject real property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is 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).

6. 14-22238-A-7 LARRY/CARMEN MCCARREN — MOTION TO AVOID JUDICIAL LIEN
JB-5
VS. CAPITAL ONE BANK (USA), N.A. — 3-20-15 [72]

Tentative Ruling: The motion will be granted.

A judgment was entered against the debtors in favor of Capital One Bank for the sum of $9,358.55 on February 1, 2012. The abstract of judgment was recorded with San Joaquin County on March 29, 2012. That lien attached to the debtor's residential real property in Ripon, California (6th Street).

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property has an approximate value of $200,000 as of the date of the petition. Dockets 63 & 69. The unavoidable liens total $76,0007.22 on that same date, consisting of a single mortgage in the amount of $67,267.45 in favor of JPMorgan Chase Bank, a property tax lien in the amount of $344.77 in favor of San Joaquin County Tax Collector, a tax lien in favor of the IRS in the

amount of $8,395. Dockets 63, Amended Schedule D & 69. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730(a)(3) in the amount of $175,000 in Amended Schedule C. Docket 63, Amended Schedule C.

The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the subject real property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is 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).

7. 14-22238-A-7 LARRY/CARMEN MCCARREN — MOTION TO AVOID JUDICIAL LIEN
JB-6
VS. SAVE MART SUPERMARKETS — 3-20-15 [77]

Tentative Ruling: The motion will be granted.

A judgment was entered against Debtor Larry McCarren in favor of Save Mart Supermarkets for the sum of $9,258.46 on October 19, 2009. The abstract of judgment was recorded with San Joaquin County on December 3, 2009. That lien attached to the debtor's residential real property in Ripon, California (6th Street).

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property has an approximate value of $200,000 as of the date of the petition. Dockets 63 & 69. The unavoidable liens total $76,0007.22 on that same date, consisting of a single mortgage in the amount of $67,267.45 in favor of JPMorgan Chase Bank, a property tax lien in the amount of $344.77 in favor of San Joaquin County Tax Collector, a tax lien in favor of the IRS in the amount of $8,395. Dockets 63, Amended Schedule D & 69. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730(a)(3) in the amount of $175,000 in Amended Schedule C. Docket 63, Amended Schedule C.

The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the subject real property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is 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).

8. 15-25040-A-7 JOSE OSORTO — MOTION TO KEEP CASE OPEN
SCB-2 — 6-28-15 [15]

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

The motion will be granted.

The trustee seeks to avoid the dismissal of the case even though the debtor has not filed schedules or statements. The trustee received a letter from Wells Fargo Bank, identifying a bank account in the debtor's name, with approximately $44,000. Based on this, the trustee asserts that there are assets to be administered.

This case was filed on June 24, 2015 as a skeletal filing. Schedules A through J, the statement of financial affairs, and the means test form were not filed with the petition. The court issued a notice of incomplete filing, telling the debtor that unless the missing documents were filed by July 8, 2015 or the debtor moved for extension of the July 8 deadline, the case would be dismissed without further notice. Docket 3.

As the debtor still has not filed the missing documents, the court will order that the case not be dismissed, given that there appear to be assets the trustee can administer for the benefit of the creditors and the estate. The motion will be granted.

9. 12-21645-A-7 LISA TAYLOR — MOTION FOR ADMINISTRATIVE EXPENSES
DNL-10 — 6-18-15 [118]

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

The motion will be granted.

The trustee seeks to pay a 2014 post-petition estate income tax liability to the IRS in the amount of $4,988 and to the California Franchise Tax Board in the amount of $1,462.

11 U.S.C. § 503(b)(1)(B) provides that "After notice and a hearing, there shall be allowed administrative expenses, other than claims allowed under section 502(f) of this title, including–

(1) . . . (B) any tax-- (i) incurred by the estate, whether secured or unsecured, including property taxes for which liability is in rem, in personam, or both, except a tax of a kind specified in section 507(a)(8) of this title."

This case was filed on January 27, 2012. The tax liability in question was incurred in 2014. As the tax was incurred post-petition, the court will allow its payment as an administrative expense claim under section 503(b)(1)(B). The motion will be granted.

10. 15-23347-A-7 MATTHEW KAHLE — MOTION TO COMPEL ABANDONMENT
DAO-1 — 6-12-15 [18]

Tentative Ruling: The motion will be denied without prejudice.

The debtor moves for abandonment of his sole proprietorship, MK Construction. However, neither the motion nor supporting declaration identifies the assets of the business. Directing the court to the schedules without identifying the specific assets and telling the court which assets are encumbered and/or exempt, and to what extent they are encumbered and/or exempt, invites the court to speculate about which assets belong to the business. The court should not have to speculate about the assets of the business. The motion will be denied.

11. 15-22060-A-7 MICHELLE GEORGE — MOTION TO AVOID JUDICIAL LIEN
DEF-1 — 6-2-15 [16]
VS. BUDGET RENT A CAR SYSTEMS, INC.

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

A judgment was entered against the debtor in favor of Budget Rent A Car System, Inc. for the sum of $22,722.61 on March 30, 2009. The abstract of judgment was recorded with Sacramento County on April 30, 2009. That lien attached to the debtor's residential real property in Sacramento, California.

The motion will be granted in part pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of $189,000 as of the petition date. Dockets 18 & 1. The unavoidable liens totaled $95,000 on that same date, consisting of a single mortgage in favor of Safe Credit Union. Dockets 18 & 1; see also Docket 14. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730(a)(1) in the amount of $75,000 in Schedule C. Docket 1.

The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the subject real property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is only $19,000 in equity to support the judicial lien ($189,000 property value minus ($95,000 of unavoidable liens plus $75,000 exemption claim)).

Therefore, the fixing of this judicial lien impairs the debtor's exemption of the real property only to the extent of $3,722.61 and its fixing will be avoided up to that amount subject to 11 U.S.C. § 349(b)(1)(B).

12. 15-20865-A-7 JOHN/MERRIE HOLMAN — AMENDED OBJECTION TO EXEMPTIONS
4-24-15 [32]

Tentative Ruling: The objection will be overruled.

Creditors Rodney and Shirley Brown object to all of the debtors' exemptions, arguing that the debtors had no right to increase their debts within two years prior to filing for bankruptcy; complaining that the debtors did not pay over $20,000 in rent, even though they purportedly had the ability to do so; and questioning the absence of information about the assets addressed in the court's ruling on the Browns' objection to the trustee's report of no distribution, which ruling is incorporated here by reference.

In addition to the foregoing, in their original objection filed on April 17, 2015 (Docket 25), the Browns refer to property that have been claimed as exempt, including:

- cash on hand,
- checking and savings accounts (#2682),
- checking accounts (#1619),
- account held by adult son,
- household goods and furnishings at residence,
- household goods and furnishings in storage,
- debts owed to the debtors, including a tax refund, and
- "automobiles, trucks, trailers, and other vehicles."

The Browns assert that "[a]dditional investigation and documentation will be necessary to determine if these properties should be exempt, we believe the amounts listed are not accurate." Docket 25.

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

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

The original objection, which was supplemented by the instant amended objection, is timely as it was filed within 30 days after the meeting of creditors concluded on March 19, 2015. The original objection was filed on April 17, 2015. Docket 25.

Rights to exemptions of property are determined as of the date the petition is filed. In re Kim, 257 B.R. 680, 685 (B.A.P. 9th Cir. 2000); In re Kolsch, 58 B.R. 67, 68 (Bankr. D. Nev. 1986).

The objection will be overruled for several reasons.

First, the court adjudicates objections to specific exemptions. The instant objection does not address specific exemptions. Instead, it argues against broad categories of exemptions. The court will not speculate about the specific exemptions to which the Browns are objecting. For instance, the reference to "Automobiles, trucks, trailers, and other vehicles" is ambiguous. Docket 25.

Second, none of the contentions in the objection are proper bases for disallowance of any exemptions. A debtor is not precluded from incurring debt within the two years of a bankruptcy filing and then claiming exemptions. The failure to pay a debt is not a basis for disallowing exemptions. While it may be grounds for objecting to the debtors' discharge or seeking non-dischargeability of a specific debt, the fact that the debtors incurred a debt to the Browns and did not pay it is not basis for disallowing their exemptions.

As to the assets addressed in the Browns' objection to the trustee's report of no distribution - except the proceeds from the sale of the mobile home, the court will overrule the objection. The debtors were never able to sell their 1977 travel trailer, as it was in poor condition. Docket 64. The TV, a 52" Sharp Aquos model, was purchased in 2009 and today's value is approximately

$200. The TV is listed as "TVs" in both Schedules B (item 4) and C. Docket 14. The objection will be overruled.

As to the proceeds from the sale of the mobile home, the objection will be overruled because the court sees no such exemption in the schedules. In fact, the debtors have denied receiving the proceeds.

More, the court permitted the objecting creditors to conduct discovery. They have filed an amendment to their objection, requesting discovery from the debtors and even asking the court to do some of its own investigation.

However, while the court permits the parties to conduct discovery, it does not conduct discovery itself. Also, this objection is not the proper tool for discovery. The objecting parties must utilize only authorized methods of discovery, such as the Rule 2004 exam procedure. And, the court cannot give legal advice to the objecting creditors. They should retain their own counsel, if uncertain how to utilize the procedures sanctioned by the Fed. R. Bankr. P.

Third, the objection is devoid of any admissible evidence. Fed. R. Bankr. P. 4003(c) provides that:

"In any hearing under this rule, the objecting party has the burden of proving that the exemptions are not properly claimed. After hearing on notice, the court shall determine the issues presented by the objections."

A claim of exemption is presumptively valid. Carter v. Anderson (In re Carter), 182 F.3d 1027, 1029 n.3 (9th Cir. 1999); Tyner v. Nicholson (In re Nicholson), 435 B.R. 622, 630 (B.A.P. 9th Cir. 2010); Hopkins v. Cerchione (In re Cerchione), 414 B.R. 540, 548-49 (B.A.P. 9th Cir. 2009); Kelley v. Locke (In re Kelley), 300 B.R. 11, 16-17 (B.A.P. 9th Cir. 2003).

Under Rule 4003(c), once an exemption has been claimed, the objecting party has the burden to prove that the exemption is improper. Carter at 1029 n.3; Cerchione at 548; Gonzales v. Davis (In re Davis), 323 B.R. 732, 736 (B.A.P. 9th Cir. 2005).

"Once the debtor claims an exemption on her bankruptcy schedules, 'the objecting party has the burden of proving that the exemptions are not properly claimed.' Fed. R. Bankr. P. 4003(c). Thus, in this case, the trustee had the burden to show that debtor had not properly claimed the exemption."

Davis at 736.

This means that the objecting party has both the burden of production, *i.e.*, to produce evidence in support of the objection (also known as the burden of going forward) and the burden of persuasion. Carter at 1029 n.3; Cerchione at 548.

The Browns have not met their burden of going forward or their ultimate burden of persuasion. The objection contains no admissible evidence. The attachments to the objection are not authenticated by a declaration. Fed. R. Evid. 901(a). At best, the statements in the attachments are inadmissible hearsay. Fed. R. Evid. 802. And, the Browns are generally questioning the merits of the debtors' exemptions. "Additional investigation and documentation will be necessary to determine if these properties should be exempt, we believe the amounts listed are not accurate." Docket 25. This is the time to prove there are meritorious objections to the exemptions, not sometime in the future

The objection also violates Local Bankruptcy Rule 9014-1(d)(6), which requires that every motion and objection contain admissible evidence substantiating the factual assertions by the movants.

The lack of admissible evidence is separate and independent basis for overruling the objection.

Finally, even if this objection had merit, the debtors filed Amended Schedule C on May 19, 2015, making the objection moot as to their original exemptions. Docket 74.

13. 15-20865-A-7 JOHN/MERRIE HOLMAN — OBJECTION TO TRUSTEE'S REPORT OF NO DISTRIBUTION 4-17-15 [23]

Tentative Ruling: The objection will be sustained in part and overruled in part.

Creditors Rodney and Shirley Brown object to the trustee's report of no distribution, arguing that the debtors were untruthful about their assets and liabilities.

The Browns contend that the debtors did not pay them over $20,000 in rent; the debtors received a mobile home as an inheritance, which asset was not disclosed in their schedules even though it was sold in December 2014; the debtors owned a travel trailer whose sale was not disclosed; and the debtors own a large screen TV that was not listed along with the debtors' other household items in Schedule B.

The trustee contends that he is satisfied about the veracity of the debtors' schedules and statements. The trustee is not swayed by the objection to amend his report of no distribution.

Except as to the proceeds from the sale of the mobile home, the trustee's contentions are supported by the evidence produced from the debtors in response to the objection.

The debtors were never able to sell their 1977 travel trailer, as it was in poor condition. Conversely, they had to pay $400 for the trailer to be removed from their residence. Docket 64.

As to the TV, a 52" Sharp Aquos model, it was purchased in 2009 and today's value is approximately $200.

Hence, as to the travel trailer and TV set, the court is satisfied with both the trustee's and the debtors' explanations of the Browns' contentions. The court will not compel the trustee to administer the debtors' six-year old TV set, even if it was not properly scheduled. The value of the TV is nominal and, even if sold, the proceeds will not be sufficient to pay even the estate's administrative expenses.

But, as to the sold mobile home, the court notes that the United States Trustee has filed a complaint objecting to the debtors' discharge, specifically due to their failure to disclose inheriting the mobile home, receiving the proceeds from its sale, and transferring the proceeds to their son. As such, the court will sustain the objection to the trustee's report, to the extent it has not

administered the avoidance transfer asset related to the sale of the mobile home.

Finally, to the extent the Browns are complaining about the debtors' discharge and/or dischargeability of debt owed to them, the court does not resolve such questions on a motion or in connection with the trustee's report. Such matters require an adversary proceeding which has not been filed and is now too late to file. See Fed. R. Bankr. P. 7001(4), (6). The objection will be sustained in part and overruled in part.

14.	12-33966-A-7 RWF-1	EUGENE/BILLIE JEAN BENITEZ	MOTION TO RESTRICT OR REDACT PUBLIC ACCESS 6-10-15 [25]

Tentative Ruling: The motion will be granted.

The debtors seek to seal the information they have disclosed in their Amended Schedule B, item 18 (Docket 19), with respect to a settlement of a personal injury action. The settlement requires that all its terms be confidential and not disclosed by the debtors to anyone.

Fed. R. Bankr. P. 9018 provides that "*On motion or on its own initiative, with or without notice, the court may make any order which justice requires (1) to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information, (2) to protect any entity against scandalous or defamatory matter contained in any paper filed in a case under the Code, or (3) to protect governmental matters that are made confidential by statute or regulation. If an order is entered under this rule without notice, any entity affected thereby may move to vacate or modify the order, and after a hearing on notice the court shall determine the motion.*"

Fed. R. Bankr. P. 9037(c) & (d) prescribes that:

"(c) Filings made under seal

The court may order that a filing be made under seal without redaction. The court may later unseal the filing or order the entity that made the filing to file a redacted version for the public record;"

"(d) Protective orders

For cause, the court may by order in a case under the Code: (1) require redaction of additional information; or (2) limit or prohibit a nonparty's remote electronic access to a document filed with the court."

Although Rule 9018 is cited in the motion, the debtors have not demonstrated that the information sought to be redacted falls into any of the categories enumerated in that rule. The terms of the settlement are not a trade secret or confidential research, development, or commercial information. They are not scandalous or defamatory matters, much less governmental matters made confidential by a statute or regulation.

Nevertheless, the court has authority under Rule 9037 to redact information of documents filed with the court. As the settlement agreement requires confidentiality and non-disclosure of its terms by the debtors, the court will order the Amended Schedule B (Docket 19) redacted, as to the narrative pertaining to the value of the lawsuit. The motion will be granted.

15. 14-32070-A-7 ASL-2 — CAPITOL AIR SYSTEMS, INC. — MOTION FOR ADMINISTRATIVE EXPENSES 6-15-15 [149]

Tentative Ruling: The motion will be conditionally granted.

Creditor and Lessor Grant Carmichael moves for the allowance and payment of $19,128.17 as an administrative expense claim. According to the movant, the requested administrative expense amount represents $17,222 in base rent (109 days x $158 / day), $1,133.60 in CAM charges (109 days x $10.40 / day), $338.97 of 10% interest as per the terms of the lease agreement, and the value of seven 10-pound fire extinguishers that belonged to the movant but the trustee sold, totaling $602 (7 x $86).

The debtor filed this chapter 7 case on December 12, 2014 but the trustee did not move out from the space leased by the movant until March 31, 2015.

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

The storage of the debtor's assets at the movant's premises preserved them until the trustee was able to sell them and realize proceeds for the benefit of the estate, including his selling some of the movant's assets. The court concludes then that the unpaid rental value and utilities for the storage of the estate's assets at the premises, and the value of the movant's fire extinguishers, represents actual and necessary costs for preserving assets of the estate.

However, the movant's calculation does not add up to $19,128.17. It adds up to $19,296.57.

Subject to the movant reconciling the figures in the motion, the motion will be granted.

16. 15-23970-A-7 RDN-1 — HELEN WHITE — MOTION FOR RELIEF FROM AUTOMATIC STAY 6-12-15 [23]
U.S. BANK, N.A. VS.

Tentative Ruling: The motion will be denied.

The movant, U.S. Bank, seeks relief from stay as to a real property in Sacramento, California. The movant is the owner of the property as it purchased it at a pre-petition foreclosure sale. The movant seeks relief from stay to obtain possession of the property, including in rem relief under 11 U.S.C. §§ 362(d)(4), 105(a), and 362(d) in general, as this is apparently the third case involving the property.

The court will deny in personam relief from stay with respect to the property because the case was dismissed on June 15, 2015, automatically dissolving the stay as to both the estate and the debtor. See 11 U.S.C. § 362(c)(2)(B).

In addition, the court will deny in rem relief from stay under section 362(d)(4), as such relief is available only to creditors who are secured by the property. Ellis v. Yu (In re Ellis), 523 B.R. 673, 678-80 (B.A.P. 9th Cir. 2014). The movant is not secured by the property. The movant is the owner of

the property.

In rem relief will be denied under 11 U.S.C. § 105 as well, as such relief requires an adversary proceeding. Johnson v. TRE Holdings L.L.C. (In re Johnson), 346 B.R. 190, 195 (B.A.P. 9th Cir. 2006). The court will deny in rem relief under section 362(d) generally also. The court does not agree with the movant that section 362(d) in general permits the court to award in rem relief, outside the parameters set by sections 362(d)(4) and 105(a), and the requirement for an adversary proceeding under Fed. R. Bankr. P. 7001(7). The movant has cited no binding precedent to this effect.

17. 15-22471-A-7 TRENT LONG — MOTION FOR RELIEF FROM AUTOMATIC STAY
VVF-1
AMERICAN HONDA FINANCE CORP. VS. — 6-24-15 [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 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, American Honda Finance Corporation, seeks relief from the automatic stay with respect to a 2012 Honda NC700XC. The debtor has surrendered the vehicle, in accordance with the statement of intention, and the trustee filed a report of no distribution on May 7, 2015.

This is cause for the granting of relief from stay as to both the debtor and the estate.

The motion will be granted pursuant to 11 U.S.C. § 362(d)(1) 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.

According to the movant, the vehicle has a value of $3,230 and its secured claim totals $3,763. 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.

18. 15-23171-A-7 RAFAEL LAZCANO — MOTION TO DISMISS CASE 6-10-15 [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 first continued meeting of creditors held on June 9, 2015.

The debtor's counsel, Steele Lanphier, responds that the debtor informed him that he did not receive notice of the June 9 meeting. But, Mr. Lanphier's statement is inadmissible hearsay.

Further, the June 9 meeting was the first continued meeting of creditors. The debtor did not appear at the initial meeting of creditors on May 26, 2015 either, and there is no explanation from the debtor about that.

More, as Mr. Lanphier appeared at the May 26 meeting, he should have notified the debtor of the continued June 9 meeting, as the debtor was not present on May 26. Thus, if the debtor was not notified of the June 9 meeting, that was due solely to the failing of his counsel. The court then is unpersuaded by Mr. Lanphier's contentions. Accordingly, the case will be dismissed.

19. 14-27474-A-7 BRENT/ANGELINA WARD — MOTION TO AVOID JUDICIAL LIEN 6-11-15 [28]
GMW-1
VS. CAVALRY SPV I, L.L.C.

Tentative Ruling: The motion will be denied without prejudice.

A judgment was entered against the debtor Brent Ward in favor of Cavalry SPV I, L.L.C. for the sum of $8,766.20 on August 12, 2013. The abstract of judgment was recorded with San Joaquin County on September 30, 2013. That lien attached to the debtor's residential real property in Manteca, California. The debtor seeks avoidance of the lien.

The motion will be denied for three reasons. First, while the motion claims that the property has a value of $175,000, Schedule D gives the property a value of $150,000. Docket 1, Schedule D.

Further, the debtor's Second Amended Schedule C (Docket 36), asserts an exemption in the property for $500 pursuant to Cal. Civ. Proc. Code § 703.140(b)(5).

However, the exemption under Cal. Civ. Proc. Code § 703.140(b)(5) in the Second Amended Schedule C totals $27,325, which exceeds the maximum exemption amount of $26,925 under both Cal. Civ. Proc. Code § 703.140(b)(1) & (5). The debtor has claimed no exemptions under Cal. Civ. Proc. Code § 703.140(b)(1). Accordingly, the debtor is not entitled to the $500 exemption in the property.

Finally, the debtor's last amendment of Schedule C (Docket 36), was not served on any of the creditors, informing them of the changed exemptions. Parties in interest have 30 days from an exemption amendment to object to any added or altered exemptions. Fed. R. Bankr. P. 4003(b)(1). The Second Amended Schedule C was served only on the trustee and the U.S. Trustee. Docket 37.

20. 14-27474-A-7 BRENT/ANGELINA WARD — MOTION TO AVOID JUDICIAL LIEN
GMW-2
VS. PORTFOLIO RECOVERY ASSOCIATES, L.L.C. — 6-11-15 [32]

Tentative Ruling: The motion will be denied without prejudice.

A judgment was entered against the debtor Brent Ward in favor of Portfolio Recovery Associates, L.L.C. for the sum of $6,099.97 on October 24, 2013. The abstract of judgment was recorded with San Joaquin County on November 25, 2013. That lien attached to the debtor's residential real property in Manteca, California. The debtor seeks avoidance of the lien.

The motion will be denied for three reasons. First, while the motion claims that the property has a value of $175,000, Schedule D gives the property a value of $150,000. Docket 1, Schedule D.

Further, the debtor's Second Amended Schedule C (Docket 36), asserts an exemption in the property for $500 pursuant to Cal. Civ. Proc. Code § 703.140(b)(5).

However, the exemptions under Cal. Civ. Proc. Code § 703.140(b)(5) in the Second Amended Schedule C total $27,325, which exceeds the maximum exemption amount of $26,925 under both Cal. Civ. Proc. Code § 703.140(b)(1) & (5). The debtor has claimed no exemptions under Cal. Civ. Proc. Code § 703.140(b)(1). Accordingly, the debtor is not entitled to the $500 exemption in the property.

Finally, the debtor's last amendment of Schedule C (Docket 36), was not served on any of the creditors, informing them of the changed exemptions. Parties in interest have 30 days from an exemption amendment to object to any added or altered exemptions. Fed. R. Bankr. P. 4003(b)(1). The Second Amended Schedule C was served only on the trustee and the U.S. Trustee. Docket 37.

21. 15-22581-A-7 REMY SUGABO — MOTION FOR RELIEF FROM AUTOMATIC STAY
CJO-1
BANK OF AMERICA, N.A. VS. — 6-25-15 [25]

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

The motion will be granted.

The movant, Bank of America, seeks relief from the automatic stay as to a real property in Stockton, California (2364 Fairway Glen St.). The movant has produced evidence that the property has a value of $120,000 and it is encumbered by claims totaling approximately $198,377. Docket 28 at 22-23. The movant's deed appears to be 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 June 11, 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.

22.	15-23785-A-7 SLC-1	ERNEST WEST AND CONNIE HERMAN-WEST	MOTION TO DISMISS CASE 6-17-15 [9]

Tentative Ruling: The motion will be denied.

The trustee moves for dismissal because the debtors did not attend the initial meeting of creditors held on June 17, 2015.

The debtors respond that they made a calendering error, seeking another opportunity to appear at a meeting of creditors. Given that the debtors made a calendaring error, the motion will be denied and the case will not be dismissed.

However, as the meeting of creditors was continued to July 15, 2015 at 8:00 a.m., the court will order that the deadlines for filing complaints under section 523 and 727 and filing motions to dismiss under section 707 be extended by 60 days. All the deadlines will be extended from August 17 to October 16, 2015.

FINAL RULINGS BEGIN HERE

23. 15-20500-A-7 THOMAS/CARRIE LIEBRICH — MOTION TO AVOID JUDICIAL LIEN
MDA-2
VS. CITIBANK, N.A. — 6-1-15 [25]

Final Ruling: The motion will be dismissed without prejudice because it was not served on the respondent creditor, Citibank, 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 to an officer of the institution. The proof of service accompanying the motion indicates that the notice was not addressed to anyone. Docket 29 at 2. This does not satisfy Rule 7004(h).

And, once again, while the debtor served Citibank'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).

24. 14-26626-A-7 SAEED BALAZI — MOTION TO AVOID JUDICIAL LIEN
DPR-5
VS. WINDRIFT COMPANY — 6-1-15 [64]

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

The motion will be granted.

A judgment was entered against the debtor in favor of Windrift Company for the sum of $84,405.54 on July 19, 2007. The abstract of judgment was recorded with Solano County on August 13, 2007. That lien attached to the debtor's residential real property in Fairfield, California.

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of $250,000 as of the petition date. Dockets 29, 14, 66. The unavoidable liens totaled $187,577 on that same date, consisting of a single mortgage in favor of Wells Fargo Home Mortgage. Dockets 29, 14, 66. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730(a)(3) in the amount of $175,000 in Schedule C. Dockets 29, 14, 66.

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

25. 14-26626-A-7 SAEED BALAZI
DPR-6
VS. AMERICAN EXPRESS TRAVEL RELATED SERVICES, INC.

MOTION TO AVOID JUDICIAL LIEN
6-1-15 [70]

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

The motion will be granted.

A judgment was entered against the debtor in favor of American Express Travel Related Services Company, Inc. for the sum of $4,798.14 on April 7, 2008. The abstract of judgment was recorded with Solano County on May 6, 2008. That lien attached to the debtor's residential real property in Fairfield, California.

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of $250,000 as of the petition date. Dockets 33, 14, 72. The unavoidable liens totaled $187,577 on that same date, consisting of a single mortgage in favor of Wells Fargo Home Mortgage. Dockets 33, 14, 72. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730(a)(3) in the amount of $175,000 in Schedule C. Dockets 33, 14, 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).

26. 14-26626-A-7 SAEED BALAZI
DPR-7
VS. UNIFUND CCR PARTNERS

MOTION TO AVOID JUDICIAL LIEN
6-1-15 [76]

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

The motion will be granted.

A judgment was entered against the debtor in favor of Unifund CCR Partners for the sum of $5,294.75 on February 12, 2009. The abstract of judgment was recorded with Solano County on June 18, 2009. That lien attached to the

debtor's residential real property in Fairfield, California.

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of $250,000 as of the petition date. Dockets 39, 14, 78. The unavoidable liens totaled $187,577 on that same date, consisting of a single mortgage in favor of Wells Fargo Home Mortgage. Dockets 39, 14, 78. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730(a)(3) in the amount of $175,000 in Schedule C. Dockets 39, 14, 78.

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

27. 14-26626-A-7 SAEED BALAZI — MOTION TO AVOID JUDICIAL LIEN
DPR-8
VS. COLLINS JUDGMENT RECOVERY SERVICES — 6-1-15 [82]

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

The motion will be granted.

A judgment was entered against the debtor in favor of Windraft Company for the sum of $142,119.43 on July 19, 2007. The judgment was subsequently assigned to Collins Judgment Recovery Services. An abstract of the judgment was recorded with Solano County on May 29, 2014. That lien attached to the debtor's residential real property in Fairfield, California.

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of $250,000 as of the petition date. Dockets 45, 14, 85. The unavoidable liens totaled $187,577 on that same date, consisting of a single mortgage in favor of Wells Fargo Home Mortgage. Dockets 45, 14, 85. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730(a)(3) in the amount of $175,000 in Schedule C. Dockets 45, 14, 85.

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

MOTION TO DISMISS CASE
6-9-15 [32]

Final Ruling: This motion will be dismissed as moot because the case was dismissed on June 30, 2015. Docket 41.

29. 13-29754-A-7 TIMOTHY/SHAWN POLI
GMR-2

MOTION TO APPROVE COMPENSATION OF ACCOUNTANT
6-3-15 [71]

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

The motion will be granted.

Gabrielson & Company, accountant for the estate, has filed its first and final application for approval of compensation. The requested compensation consists of $2,932.50 in fees and $141.05 in expenses, for a total of $3,073.55. This motion covers the period from February 9, 2015 through May 30, 2015. The court approved the movant's employment as the estate's accountant on February 11, 2015. 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 the preparation of estate tax returns and tax consequence analysis pertaining to the sale of estate assets.

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

30. 15-23472-A-7 STEVEN/SUSAN GOODRICH
GW-1

MOTION TO COMPEL ABANDONMENT
6-15-15 [10]

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

The motion will be granted.

The debtors seek an order compelling the trustee to abandon the estate's interest in their real property in Shingle Springs, California. The entire equity in the property is exempt.

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 debtors have scheduled the value of the property at $500,000. The property is encumbered by a first deed of trust in favor of Ocwen Loan Servicing in the amount of $424,092 and an outstanding property tax lien in favor of El Dorado County Treasurer for $7,288, for a total of $431,380. The debtors have also asserted an exemption claim for $100,000 in the property, pursuant to Cal. Code Civ. Proc. § 704.730(a)(2), exempting the entire approximately $68,620 equity in the property.

Given the scheduled value of and encumbrances against the property and the debtors' exemption claim, the court concludes that the property is of inconsequential value to the estate. The motion will be granted.

31. 15-22576-A-7 NAOMI LUNA — MOTION TO AVOID JUDICIAL LIEN
JCK-2
VS. CENTRAL STATE CREDIT UNION — 6-12-15 [17]

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

The motion will be granted.

A judgment was entered against the debtor in favor of Central State Credit Union for the sum of $7,539.87 on June 26, 2008. The abstract of judgment was recorded with San Joaquin County on August 27, 2008. That lien attached to the debtor's residential real property in Stockton, California.

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of $250,000 as of the petition date. Docket 1. The unavoidable liens totaled $233,366 on that same date, consisting of a mortgage for $200,769 in favor of Wells Fargo Home Mortgage and a mortgage for $32,597 in favor of Golden 1 Credit Union. Docket 1. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of $16,634 in Schedule C. Docket 1.

The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the subject real property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this

judicial lien impairs the debtor's exemption of the real property and its fixing will be avoided subject to 11 U.S.C. § 349(b)(1)(B).

32. 15-22581-A-7 REMY SUGABO
JCK-2
VS. CITIBANK (SOUTH DAKOTA), N.A.

MOTION TO AVOID JUDICIAL LIEN
6-12-15 [16]

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

The motion will be granted.

A judgment was entered against the debtor in favor of Citibank for the sum of $4,541.25 on June 8, 2010. The abstract of judgment was recorded with San Joaquin County on August 17, 2010. That lien attached to the debtor's residential real property in Stockton, California (52 Delhi St.).

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of $72,000 as of the petition date. Docket 1. The unavoidable liens totaled $112,507 on that same date, consisting of a single mortgage in favor of Central Mortgage Co. Docket 1. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of $1,000 in Schedule C. Docket 1.

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

33. 14-25282-A-7 JOSEPH/TERI LUCHINI
JFL-1
SETERUS, INC. VS.

MOTION FOR RELIEF FROM AUTOMATIC STAY
6-15-15 [21]

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, Seterus, Inc., seeks relief from the automatic stay as to a real

property in Rackerby, California. In Schedule A, the property's location is identified as Oroville, California.

Given the entry of the debtor's discharge on September 22, 2014, the automatic stay has expired as to the debtor and any interest the debtor may have in the property. See 11 U.S.C. § 362(c). Hence, as to the debtor, the motion will be dismissed as moot.

As to the estate, the analysis is different. The property has a value of $186,025 and it is encumbered by claims totaling approximately $232,956. The movant's deed is the only encumbrance against the property.

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

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

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

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

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

34. 15-23484-A-7 LAWRENCE BRENNAN — MOTION TO AVOID JUDICIAL LIEN
JMC-1
VS. AMERICAN EXPRESS BANK — 6-8-15 [11]

Final Ruling: The motion will be dismissed without prejudice.

First, the instructions about filing of opposition in the notice of hearing are contradictory. On one hand, the notice of hearing tells parties in interest to file their response "no less than 14 days before the date of the hearing." On the other hand, however, the notice tells parties in interest to mail their response "early enough so the Court will receive it before the date of the hearing on this motion." Docket 12.

Further, the motion was not served on the respondent creditor, American Express 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 to anyone. Docket 15. This does not satisfy Rule 7004(h).

35. 15-22481-A-7 THEO ADAMS
BAP-1
TIFFANY NICHOLS VS.

MOTION FOR
RELIEF FROM AUTOMATIC STAY
6-2-15 [12]

Final Ruling: The motion will be dismissed without prejudice because the notice of hearing with the motion requires that written opposition be filed 13 days before the hearing, even though this motion was brought pursuant to Local Bankruptcy Rule 9014-1(f)(1), which requires that written opposition be filed at least 14 days prior to the hearing. The duplicate notices of hearing for the motion (Dockets 13 & 14) require that written opposition be filed no later than June 30, 2015, which is 13 days prior to the July 13 hearing on the motion.

36. 15-22288-A-7 THELMA NELSON
HCS-3

MOTION TO
EXTEND DEADLINE
6-15-15 [23]

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

The motion will be granted.

The trustee requests a 91-day extension, from June 15, 2015 to September 14, 2015, of the deadline for filing complaints objecting to discharge pursuant to 11 U.S.C. § 727. The trustee requests the extension because he needs additional time to investigate the debtor's financial affairs.

Fed. R. Bankr. P. 4004(b) provides that the court may extend the deadline for filing discharge complaints for cause. The motion must be filed before the deadline expires. The deadline for filing such complaints was June 15, 2015. The motion was filed on June 15, 2015. Thus, the motion complies with the temporal requirements of the rule.

The trustee has requested additional documents and information from the debtor about an unscheduled real property and a trust which owns another real property. The debtor has refused to provide the requested information.

Given the foregoing, cause exists for the requested extension of time. The motion will be granted and the deadline for filing complaints pursuant to 11 U.S.C. § 727 by the trustee will be extended to September 14, 2015.