

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Modesto, California

July 23, 2019 at 10:00 a.m.

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

1. Matters resolved without oral argument:

Unless otherwise stated, the court will prepare a civil minute order on each matter listed. If the moving party wants a more specific order, it should submit a proposed amended order to the court. In the event a party wishes to submit such an Order it needs to be titled 'Amended Civil Minute Order.'

If the moving party has received a response or is aware of any reason, such as a settlement, that a response may not have been filed, the moving party must contact Nancy Williams, the Courtroom Deputy, at (916) 930-4580 at least one hour prior to the scheduled hearing.

2. The court will not continue any short cause evidentiary hearings scheduled below.

3. If a matter is denied or overruled without prejudice, the moving party may file a new motion or objection to claim with a new docket control number. The moving party may not simply re-notice the original motion.

4. If no disposition is set forth below, the matter will be heard as scheduled.

1.	19-90503-D-13	JUAN NAJERA	MOTION TO VALUE COLLATERAL OF
	TOG-1		HONDA FINANCIAL SERVICES
			6-13-19 [9]

Tentative ruling:

This is the debtor's motion to value collateral of American Honda Finance ("Honda"). Honda has filed opposition. For the following reasons, the motion will be denied.

The collateral is a 2014 Honda Civic. The debtor testifies he "believe[s] the replacement value is \$6,311, i.e., a retail merchant would sell this vehicle for the above amount based on the age and condition of said vehicle." Najera Decl., filed June 13, 2019, at 2:1-3. The debtor has used the statutory language, but there is no indication how he arrived at that value. Honda, on the other hand, has submitted a Kelley Blue Book printout showing, to buy a similar vehicle from a dealer, a "fair market range" of \$11,108 to \$13,737 and a "fair purchase price" of \$12,423, taking into account the mileage on the vehicle, according to the debtor. The debtor indicated on his Schedule A/B the vehicle is in good condition.

Pursuant to § 506(a)(2) of the Bankruptcy Code, a secured claim is to be valued based on the replacement value of the collateral securing the claim. For property acquired for personal, family, or household purposes, "replacement value" means the price a retail merchant would charge for property of the same kind considering the age and condition of the debtor's property.¹ Here, the debtor used the statutory language for his valuation, but submitted no evidence or information as how he arrived at that figure; Honda, on the other hand, has submitted evidence from a source generally considered to be reliable.

According to Honda's KBB printout, the replacement value of the vehicle is at least \$11,108. Honda is owed \$10,806, and the debtor has failed to meet his burden of establishing that the replacement value of the vehicle is any less than that amount. The court will hear the matter.

1 The debtor does not own his own business, and on the Retail Installment Sale Contract, he did not check the box indicating the vehicle was to be used for business or commercial purposes, thereby letting it stand that the vehicle was to be used for personal, family, or household purposes. The debtor has been employed for 11 years as an electrician; there is no indication he has any expertise in valuing motor vehicles.

2. 17-91007-D-13 JOANN LOPES CONTINUED MOTION TO MODIFY PLAN
JAD-2 5-13-19 [55]

3. 19-90314-D-13 LINDA EXPOSE MOTION TO AMEND PLAN, MOTION TO
AMEND START DATE OF CHAPTER 13
PLAN PAYMENTS
6-25-19 [40]

Final ruling:

This case was dismissed on June 26, 2019. As a result the motion will be denied by minute order as moot. No appearance is necessary.

4. 19-90314-D-13 LINDA EXPOSE MOTION TO VALUE COLLATERAL OF
SOUTHERN CASCADE AND FAST AUTO
TITLE LOAN
6-11-19 [33]

Final ruling:

This case was dismissed on June 26, 2019. As a result the motion will be denied by minute order as moot. No appearance is necessary.

5. 19-90129-D-13 KENNETH/MISTY GONZALES MOTION TO CONFIRM PLAN
JAD-1 5-29-19 [27]

Final ruling:

This is the debtors' motion to confirm an amended chapter 13 plan. The motion will be denied for two reasons. First, the moving parties failed to serve all creditors, as required by Fed. R. Bankr. P. 2002(a)(9). The moving parties filed their schedules two weeks into the case, and when they did so, they included creditors who had not been included on their master address list and they failed to amend the master address list. As a result, when the moving parties utilized the PACER matrix for service of this motion, they failed to serve several of the creditors listed on their Schedule E/F at all.

Second, because the debtors' master address list does not include those several creditors, the debtors have failed to comply with Fed. R. Bankr. P. 1007(a)(1), which requires a debtor to include on his or her master address list the names and addresses of all parties included or to be included on his or her schedules. As a result, the court's creditor list, as reflected on the court's website for this case and on the PACER matrix, does not include those creditors. Thus, those creditors have not received and will not receive notices served by the Bankruptcy Noticing Center or by creditors in the case.

It is the moving parties' responsibility to serve the motion on all creditors, which, presumably, they will do when they file another motion. However, they also have a responsibility to be sure their master address list includes "each entity included . . . on Schedules D, E/F, G, and H . . ." Fed. R. Bankr. P. 1007(a)(1). Thus, the plan cannot be confirmed because the debtors have failed to comply with their duty to file a complete list of creditors, as required by § 521(a)(1)(A), as implemented by Fed. R. Bankr. P. 1007(a)(1), and thus, have not complied with § 1325(a)(1).

For the reasons stated, the motion will be denied by minute order. No appearance is necessary.

6. 19-90146-D-13 LEVON GADSON MOTION TO CONFIRM PLAN
LG-3 6-17-19 [55]

7. 17-90554-D-13 JASPAL SINGH
TOG-9

MOTION TO MODIFY PLAN
6-17-19 [182]

Final ruling:

This is the debtor's motion to confirm a modified chapter 13 plan. The motion will be denied because the list of "The Attached creditors" referred to in the proof of service is not attached; thus, the proof of service evidences service only on the chapter 13 trustee, the United States Trustee, the IRS, and BMO Harris Bank. There is no evidence the many other creditors were served, as required by Fed. R. Bankr. P. 2002(a) (9).

As a result of this service defect, the motion will be denied by minute order. No appearance is necessary.

8. 12-91862-D-13 AUGSTIN/ARCELIA OCHOA
TOG-3

MOTION TO AVOID LIEN OF CAVALRY
PORTFOLIO SERVICES, LLC
6-12-19 [69]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion is supported by the record. The court finds the judicial lien described in the motion impairs an exemption to which the debtors are entitled. As a result, the court will grant the debtors' motion to avoid the lien. Moving party is to submit an appropriate order, which order shall specifically identify the real property subject to the lien and specifically identify the lien to be avoided. No appearance is necessary.

9. 16-90362-D-13 KRISTOPHER/JULIE NABORS
MSN-4

MOTION TO MODIFY PLAN
6-13-19 [148]

Final ruling:

The relief requested in the motion is supported by the record and no timely opposition to the motion has been filed. Accordingly, the court will grant the motion by minute order and no appearance is necessary. The moving party is to lodge an order confirming the plan, amended plan, or modification to plan, and shall use the form of order which is referenced in LBR 3015-1(e). The order is to be signed by the Chapter 13 trustee approving its form prior to the order being submitted to the court.

10. 19-90467-D-13 ERIC/MARGIE DANA
SLH-1

MOTION TO VALUE COLLATERAL OF
CENTRAL STATE CREDIT UNION
6-19-19 [15]

Final ruling:

This is the debtors' motion to value collateral of Central State Credit Union (the "Credit Union"). The motion will be denied because the moving parties failed to serve the Credit Union in strict compliance with Fed. R. Bankr. P. 7004(b)(3), as required by Fed. R. Bankr. P. 9014(b). The moving parties served the Credit Union at a street address with no attention line, whereas a corporation, partnership, or other unincorporated association must be served to the attention of an officer, managing or general agent, or agent for service of process. Rule 7004(b)(3).

As a result of this service defect, the motion will be denied by minute order. No appearance is necessary.

11. 17-90869-D-13 KAY PARKER
WW-4

MOTION TO MODIFY PLAN
6-3-19 [146]

Tentative ruling:

The court intends to use this hearing as a status conference.

12. 17-90869-D-13 KAY PARKER
WW-5

MOTION TO SELL
6-3-19 [150]

13. 17-90869-D-13 KAY PARKER
18-9005
PARKER V. MID VALLEY
FINANCIAL, INC. ET AL

CONTINUED MOTION FOR
COMPENSATION BY THE LAW OFFICE
OF MELLEN LAW FIRM FOR DUNCAN
MCGEE NEFCY, PLAINTIFFS
ATTORNEY(S)
5-22-19 [91]

Final ruling:

This is the motion of the Mellen Law Firm for approval of compensation, filed as DN 91 in this adversary proceeding. On July 9, 2019, the moving party filed a new motion, DN 110, requesting the same relief. As a result of the filing of the new motion, this motion, DN 91, is moot. The motion will be denied as moot by minute order. No appearance is necessary (although an appearance is necessary on the motion that is DN 110).

14. 17-90869-D-13 KAY PARKER
18-9016
DEOL V. PARKER

CONTINUED MOTION FOR
COMPENSATION BY THE LAW OFFICE
OF MELLEEN LAW FIRM FOR DUNCAN
MCGEE NEFCY, DEFENDANTS
ATTORNEY(S)
5-22-19 [103]

**ADVERSARY PROCEEDING CLOSED:
12/19/2018**

Final ruling:

This is the motion of the Mellen Law Firm for approval of compensation, filed as DN 103 in this adversary proceeding. On July 9, 2019, the moving party filed a new motion, DN 110, requesting the same relief. As a result of the filing of the new motion, this motion, DN 103, is moot. The motion will be denied as moot by minute order. No appearance is necessary (although an appearance is necessary on the motion that is DN 110).

15. 19-90374-D-13 JOSE TORRES AND LAURA DE
TOG-1 RIOS

MOTION TO VALUE COLLATERAL OF
FORD MOTOR CREDIT
6-18-19 [24]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion is supported by the record. As such the court will grant the motion and, for purposes of this motion only, sets the creditor's secured claim in the amount set forth in the motion. Moving party is to submit an order which provides that the creditor's secured claim is in the amount set forth in the motion. No further relief is being afforded. No appearance is necessary.

16. 19-90374-D-13 JOSE TORRES AND LAURA DE
TOG-2 RIOS

MOTION TO VALUE COLLATERAL OF
FORD MOTOR CREDIT
6-18-19 [29]

Tentative ruling:

This is the debtors' motion to value collateral of Ford Motor Credit ("Ford"). Ford has filed opposition. For the following reasons, the motion will be denied.

The collateral is a 2013 Ford Explorer. The debtor testifies he "believe[s] the replacement value is \$8,736, i.e., a retail merchant would sell this vehicle for the above amount based on the age and condition of said vehicle." Torres Decl., filed June 18, 2019, at 2:1-3. The debtor has used the statutory language, but there is no indication how he arrived at that value. Ford, on the other hand, has submitted an NADA Guides printout showing a clean retail value of \$16,400 for a vehicle similar in most respects to the debtors'. Ford's valuation, however, assigns mileage of 82,500 to the vehicle, whereas the debtor testifies the mileage is double that, 165,000. Ford states that until it receives verification of the high mileage, it has made the smaller deduction for mileage.

Pursuant to § 506(a)(2) of the Bankruptcy Code, a secured claim is to be valued based on the replacement value of the collateral securing the claim. For property acquired for personal, family, or household purposes, "replacement value" means the price a retail merchant would charge for property of the same kind considering the age and condition of the debtor's property.¹ Here, the debtor used the statutory language for his valuation, but submitted no evidence or information as how he arrived at that figure; Ford, on the other hand, has submitted evidence from a source generally considered to be reliable.

From Ford's NADA Guides printout, the replacement value of the vehicle, with a deduction for mileage based on only half the mileage the debtor testifies to, is \$16,400. The court is not persuaded a deduction for the higher mileage would reduce the replacement value to the debtors' asserted value, \$8,736. Thus, the court concludes the debtors have failed to meet their burden of establishing that the replacement value of the vehicle is \$8,736, and the motion will be denied. Ordinarily, the court would agree, in the alternative, to value the claim at \$16,400 if the debtors so request, which is lower than the total amount owed Ford, \$20,520. However, as Ford failed to take into account the debtors' higher mileage figure, with no evidence, that figure appears inaccurate. Thus, the court will hear from the debtors as to this potential alternative ruling.

1 The debtor does not own his own business, and on the Retail Installment Sale Contract, they did not check the box indicating the vehicle was to be used for business or commercial purposes, thereby letting it stand that the vehicle was to be used for personal, family, or household purposes. The debtor has been employed for 11 years as an electrician; there is no indication he has any expertise in valuing motor vehicles.

17. 19-90376-D-13 KATHERINE MARTIN OBJECTION TO DEBTOR'S CLAIM OF
RDG-1 EXEMPTIONS
6-17-19 [17]

18. 19-90385-D-13 MIGUEL GUTIERREZ OBJECTION TO DEBTOR'S CLAIM OF
RDG-2 EXEMPTIONS
6-17-19 [23]

Final ruling:

This is the trustee's objection to the debtor's claim of exemption of a worker's compensation award under Cal. Code Civ. Proc. § 704.140. On June 21, 2019, the debtor filed an amended Schedule C on which he claimed the worker's compensation award as exempt under a different exemption statute. As a result of the filing of the amended Schedule C, the trustee's objection is moot. The objection will be overruled as moot by minute order. No appearance is necessary.

19. 19-90088-D-13 STEVEN/ROCHELLE MODARESI MOTION TO CONFIRM PLAN
PBG-1 6-17-19 [45]

20. 15-90490-D-13 JUSTIN/CYSTAL FREEMAN MOTION TO SELL
JAD-1 6-24-19 [33]

21. 19-90291-D-13 LUIS ALCANTARA MOTION TO CONFIRM PLAN
WLG-1 5-31-19 [28]

22. 19-90193-D-13 JOSE/CLAUDIA ACEVES MOTION FOR RELIEF FROM
DCW-1 AUTOMATIC STAY
CORNERSTONE FINANCIAL 6-20-19 [27]
SERVICES VS.

Final ruling:

The motion is denied for the following reasons: (1) the notice of hearing indicates 10:00 a.m. as the time of the hearing in the caption, but then indicates the hearing time is 9:30 a.m. in the text; (2) moving party failed to file a proof of service that has been signed under oath as required by 28 U.S.C. § 1746; and (3) the various pleadings were not filed as separate documents as required by the Court's Local Bankruptcy Rules. As a result of these procedural and notice defects, the court will deny the motion by minute order. No appearance is necessary.

23. 19-90415-D-13 LEWIS/JOSEFA HAMPTON OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
6-28-19 [21]
24. 13-92116-D-13 DIANA ROCHA MOTION TO SUBSTITUTE ATTORNEY
DJR-2 7-9-19 [129]
25. 19-90421-D-13 NARCISSA THOMAS OBJECTION TO CONFIRMATION OF
RDG-2 PLAN BY RUSSELL D. GREER
6-28-19 [45]
26. 19-90365-D-13 RONNIE WILSON CONTINUED OBJECTION TO
RDG-1 CONFIRMATION OF PLAN BY RUSSELL
D. GREER
6-17-19 [13]

27. 17-90869-D-13 KAY PARKER
MLF-3

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF MELLEN LAW FIRM
FOR DUNCAN MCGEE NEFCY,
DEBTOR'S ATTORNEY(S)
7-9-19 [168]

Final ruling:

This is the motion of the Mellen Law Firm ("Counsel") for approval of compensation in the amount of \$3,500. The motion was generated originally by the court's May 14, 2019 order requiring Counsel to file an application for approval of compensation (the "Order"). On May 22, 2019, Counsel filed such a motion in AP Nos. 18-9005 and 18-9016, which Counsel set for hearing on June 25, 2019. The court pointed out at the June 25 hearing that Counsel had failed completely to "authenticat[e] evidence of the services rendered, by date, name of attorney, description of services performed, amount of time spent, hourly rate, and amount billed, as well as evidence of all costs paid and/or incurred, as required for any application for approval of compensation," as required by the Order, which the court referred to and quoted from at the hearing. The court also pointed out that motions and notices are required by the local rules to be filed separately.

Rather than simply filing supplemental evidence, as outlined at the hearing, Counsel filed a new motion, combined with a new notice ("Notice of Motion and Motion"), contrary to LBR 9014-1(d) (A) and (B) and 9004-2(c) (1) and despite the court's caution at the June 25 hearing. Along with the motion, Counsel filed a declaration containing the detail required by the order. However, the new notice of motion and motion do not comply with the Order and applicable rules in the following respects:

(1) The notice of motion and motion state that "all interested parties are hereby advised that they have until fourteen (14) days preceding the hearing or continued hearing date of this motion to file any written opposition," whereas the notice of motion and motion, together with the declaration, were not served until the 14th day before the hearing date, thereby giving interested parties virtually no time to file written opposition;

(2) The notice of motion and motion, and the declaration, were served on 14 days' notice rather than 21 days', as required by Fed. R. Bankr. P. 2002(a) (6) and as specifically required by the Order;

(3) The notice of motion and motion, and the declaration, were not served on the attorney for the debtor in the parent case, as required by Fed. R. Bankr. P. 7004(g) and 9014(b) and as specifically required by the Order; and

(4) The notice of motion and motion were not served on all creditors, as required by Fed. R. Bankr. P. 2002(a) (6) and as specifically required by the Order.

The court will continue the hearing to August 13, 2019 at 11:00 a.m. and Counsel shall, no later than July 23, 2019 (the 21st day before the hearing date): (1) file a notice of continued hearing that includes the amount of compensation sought and by whom; (2) serve the notice of continued hearing on the debtor's attorney in the parent case and all creditors; and (3) serve the notice of continued hearing on the chapter 13 trustee, the debtor, and counsel for the other parties in the adversary proceedings. The notice of continued hearing shall be a notice pursuant to LBR 9014-1(f) (2); that is, it shall specifically state no written opposition is required and that opposition, if any, may be presented at the hearing.

A proof of service shall be filed concurrently with the notice of continued hearing, or not more than three days after it is filed.

The court will continue the hearing by minute order. No appearance is necessary on July 23, 2019.

28. 17-90869-D-13 KAY PARKER MOTION FOR COMPENSATION BY THE
18-9005 MLF-3 LAW OFFICE OF MELLEN LAW FIRM
PARKER V. MID VALLEY FOR DUNCAN MCGEE NEFCY,
FINANCIAL, INC. ET AL PLAINTIFFS ATTORNEY(S)
7-9-19 [110]

Final ruling:

This is the motion of the Mellen Law Firm ("Counsel") for approval of compensation in the amount of \$3,500. The motion will be denied as duplicative of the motion filed as DC No. MLF-3 in the debtor's parent chapter 13 case. The motion will be denied by minute order. No appearance is necessary.

29. 17-90869-D-13 KAY PARKER MOTION FOR COMPENSATION BY THE
18-9016 MLF-3 LAW OFFICE OF MELLEN LAW FIRM
DEOL V. PARKER FOR DUNCAN MCGEE NEFCY,
DEFENDANTS ATTORNEY(S)
7-9-19 [110]

**ADVERSARY PROCEEDING CLOSED:
12/19/2018**

Final ruling:

This is the motion of the Mellen Law Firm ("Counsel") for approval of compensation in the amount of \$3,500. The motion will be denied as duplicative of the motion filed as DC No. MLF-3 in the debtor's parent chapter 13 case. The motion will be denied by minute order. No appearance is necessary.

30. 19-90088-D-13 STEVEN/ROCHELLE MODARESI MOTION TO VALUE COLLATERAL OF
PBG-2 CACH, LLC
7-9-19 [53]

Final ruling:

This is the debtors' motion ostensibly to value collateral of CACH, LLC ("CACH"). The motion was noticed pursuant to LBR 9014-1(f)(2); thus, ordinarily, the court would entertain opposition, if any, at the hearing. However, the moving parties have conflated the concepts of valuing collateral and avoiding judicial liens, pursuant to Bankruptcy Code §§ 506(a) and 522(f)(1)(A), respectively, and thus, have failed to submit evidence establishing their factual allegations and demonstrating they are entitled to the relief requested.

The debtors characterize the motion as a motion to value collateral, which they themselves refer to as a "misnomer." They state they are actually "asking this Court to rule, based on the value of the Residence, that [the] claim of Cach, LLC (a junior judicial lien) may be treated as a general unsecured claim, versus a secured claim, in the Debtor[s'] chapter 13 plan." Debtors' Memo., filed July 9, 2019, at 1:22-24. The value of the property is substantially greater than the total of the amounts due on the first and second position deeds of trust; thus, a motion to value collateral, under § 506(a), is not available. What the debtors are actually seeking is an order avoiding a judicial lien that allegedly impairs their claim of exemption, under § 522(f) (1) (A).

In order to avoid a judicial lien, "the debtor must make a competent record on all elements of the lien avoidance statute, 11 U.S.C. § 522(f)" (In re Mohring, 142 B.R. 389, 391 (Bankr. E.D. Cal. 1992)), including that the creditor has a lien that is a judicial lien. Goswami v. MTC Distrib. (In re Goswami), 304 B.R. 386, 390-91 (9th Cir. BAP 2003), quoting Mohring, 142 B.R. at 392. "The operative principle here is that although bankruptcy confers substantial benefits on the honest but unfortunate debtor, including a discharge of debts, the ability to retain exempt property, and the ability to avoid certain liens that impair exemptions, there is a price." Mohring, 142 B.R. at 396. Here, there is no evidence CACH holds a judicial lien against the debtors' property; indeed, no lien is even mentioned in the debtors' declaration. If such a lien were mentioned, without a recorded copy of the abstract of judgment that created the lien, any testimony would be hearsay and without foundation. Submission of evidence that an abstract of judgment was recorded in the county where the property is located; that is, evidence that a judicial lien actually exists, is a small price to pay to avoid an otherwise valid and enforceable property interest.

As a result of this evidentiary defect, the motion will be denied by minute order. No appearance is necessary.

31. 19-90088-D-13 STEVEN/ROCHELLE MODARESI MOTION TO VALUE COLLATERAL OF
PBG-3 C&S DRAPERIES
7-9-19 [58]

Final ruling:

This is the debtors' motion ostensibly to value collateral of C&S Draperies ("C&S"). The motion was noticed pursuant to LBR 9014-1(f) (2); thus, ordinarily, the court would entertain opposition, if any, at the hearing. However, (1) the moving parties have conflated the concepts of valuing collateral and avoiding judicial liens, pursuant to Bankruptcy Code §§ 506(a) and 522(f) (1) (A), respectively, and thus, have failed to submit evidence establishing their factual allegations and demonstrating they are entitled to the relief requested; and (2) the moving parties failed to serve C&S in strict compliance with Fed. R. Bankr. P. 7004(b) (3), as required by Fed. R. Bankr. P. 9014(b).

The debtors characterize the motion as a motion to value collateral, which they themselves refer to as a "misnomer." They state they are actually "asking this Court to rule, based on the value of the Residence, that [the] claim of C&S Draperies Inc (a junior judicial lien) may be treated as a general unsecured claim, versus a secured claim, in the Debtor[s'] chapter 13 plan." Debtors' Memo., filed

July 9, 2019, at 1:22-25. The value of the property is substantially greater than the total of the amounts due on the first and second position deeds of trust; thus, a motion to value collateral, under § 506(a), is not available. What the debtors are actually seeking is an order avoiding a judicial lien that allegedly impairs their claim of exemption, under § 522(f) (1) (A).

In order to avoid a judicial lien, "the debtor must make a competent record on all elements of the lien avoidance statute, 11 U.S.C. § 522(f)" (In re Mohring, 142 B.R. 389, 391 (Bankr. E.D. Cal. 1992)), including that the creditor has a lien that is a judicial lien. Goswami v. MTC Distrib. (In re Goswami), 304 B.R. 386, 390-91 (9th Cir. BAP 2003), quoting Mohring, 142 B.R. at 392. "The operative principle here is that although bankruptcy confers substantial benefits on the honest but unfortunate debtor, including a discharge of debts, the ability to retain exempt property, and the ability to avoid certain liens that impair exemptions, there is a price." Mohring, 142 B.R. at 396. Here, there is no evidence C&S holds a judicial lien against the debtors' property; indeed, no lien is even mentioned in the debtors' declaration. If such a lien were mentioned, without a recorded copy of the abstract of judgment that created the lien, any testimony would be hearsay and without foundation. Submission of evidence that an abstract of judgment was recorded in the county where the property is located; that is, evidence that a judicial lien actually exists, is a small price to pay to avoid an otherwise valid and enforceable property interest.

In addition, the moving parties failed to serve C&S as required by the applicable rules. They purported to serve C&S (1) through its alleged agent for service of process, an individual at an address in San Francisco; and (2) to the attention of its chief financial officer, at an address in Burlingame that is described in the proof of service as C&S's "entity mailing address." In contrast, according to the Secretary of State's website, the entity mailing address of C&S (actually, C & S Draperies, Inc.) is an address in Modesto (the same address the debtors listed on their Schedule D) and its agent for service of process is an individual at that address. The moving parties failed to serve C&S at that address, either through its agent for service of process or through an officer or managing or general agent.¹

As a result of these evidentiary and service defects, the motion will be denied by minute order. No appearance is necessary.

1 The moving parties did serve C&S at the Modesto address, but only using its dba, Coit Services, and not to the attention of an officer, managing or general agent, or agent for service of process, as required by Rule 7004(b) (3).

32. 19-90569-D-13 BIMLESH SINGH MOTION TO RECONSIDER DISMISSAL
JAD-1 OF CASE O.S.T.
7-10-19 [17]
DEBTOR DISMISSED: 07/08/2019