UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

September 24, 2018 at 10:00 a.m.

No written opposition has been filed to the following motions set for argument on this calendar: 3.

When Judge McManus convenes court, he will ask whether anyone wishes to oppose one of these motions or objects to the tentative ruling. If you wish to oppose the motion or otherwise be heard, please so advise Judge McManus. Please do not identify yourself or explain the nature of your opposition. If anyone wishes to be heard, the motion will remain on calendar and Judge McManus will hear from you when he calls the motion for argument.

If no one indicates they oppose the motion or object to the proposed 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 NOVEMBER 5, 2018 AT 10:00 A.M. OPPOSITION MUST BE FILED AND SERVED BY OCTOBER 22, 2018, AND ANY REPLY MUST BE FILED AND SERVED BY OCTOBER 29, 2018. 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. 18-23617-A-7 JOSEPH/WENDY BURTH — MOTION FOR RELIEF FROM AUTOMATIC STAY
ASW-1
LAKEVIEW LOAN SERVICING, L.L.C. VS. — 8-24-18 [20]

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

The movant, Lakeview Loan Servicing, L.L.C., seeks relief from the automatic stay as to a real property in Ripon, California.

With respect to the debtors, the property has a value of $645,000 and it is encumbered by claims totaling approximately $623,158. Costs of sale are not encumbrances for purposes of the analysis under 11 U.S.C. § 362(d)(2). The movant's deed is the only encumbrance against the property. This leaves approximately $21,841 of equity in the property.

Given this equity, relief from stay as to the debtors under 11 U.S.C. § 362(d)(2) is not appropriate. While this result may seem harsh in light of the slim amount of equity, the court notes that the trustee has filed a no-asset report, the debtor has filed a financial management course completion certificate, and the deadline to file complaints challenging the debtor's discharge has passed without a complaint being filed. Therefore, the entry of a discharge and closure of the case likely would have occurred, causing the expiration of the stay as a matter of law, had this motion not been filed. See 11 U.S.C. § 362(c)(1) & (2).

Further, there is no evidence in the record establishing that the property is depreciating in value. Under United Sav. Ass'n. Of Tex. v. Timbers of Inwood Forest Assocs., Ltd., 484 U.S. 365, 108 S.Ct. 626, 98 L.Ed.2d 740 (1988), a secured creditor's interest in its collateral is considered to be inadequately protected only if that collateral is depreciating or diminishing in value. The creditor, however, is not entitled to be protected from an erosion of its equity cushion due to the accrual of interest on the secured obligation. In other words, a secured creditor is not entitled to demand, as a measure of adequate protection, that "the ratio of collateral to debt" be perpetuated. See Orix Credit Alliance, Inc. v. Delta Resources, Inc. (In re Delta Resources, Inc., 54 F.3d 722, 730 (11th Cir. 1995).

The movant has an equity cushion of approximately $21,841. This equity cushion is sufficient to adequately protect the movant's interest in the property until the debtors obtain a discharge or the case is closed without entry of a discharge. See 11 U.S.C. § 362(c)(1) & (c)(2). At that point, the automatic stay will expire as a matter of law. The debtors are scheduled to obtain a discharge soon after September 17, 2018. The trustee filed a report of no distribution on July 19, 2018 and there is nothing in the file suggesting that the case will remain open a significant period beyond September 17, 2018. Thus, relief from stay as to the debtors under 11 U.S.C. § 362(d)(1) is not appropriate either. The motion will be denied as to the debtors.

As to the estate, the analysis is different. The trustee filed a report of no distribution on July 19, 2018.

The court concludes that this is cause for the granting of relief from stay as to the estate. Thus, the motion will be granted as to the estate pursuant to 11 U.S.C. § 362(d)(1) to permit the movant to conduct a nonjudicial foreclosure sale and to obtain possession of the subject property following sale. No other

relief is awarded.

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

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) is not 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.

2.	18-20956-A-7 SCB-2	JOHN/CAROLYN HANNESSON	MOTION TO SELL 8-23-18 [109]

Tentative Ruling: The motion will be granted.

The chapter 7 trustee requests authority to sell to the debtors for $6,000 the estate's interest in the non-exempt equity in two vehicles, a 2004 Honda Accord and 2013 Hyundai Elantra. The vehicles are unencumbered. The Honda vehicle has been valued by the trustee at $4,500 and it is subject to no exemptions. The Hyundai vehicle has been valued by the trustee at $6,500 and it is subject to an exemption claim of $3,050. The total value of the non-exempt equity being sold here is $7,950 ($4,500 + $3,450).

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

The sale will generate significant proceeds for distribution to creditors of the estate. And, the sale will not require an auction or another process of marketing and transferring title to the vehicles, thus saving the estate significant sale expenses. Hence, the sale will be approved pursuant to 11 U.S.C. § 363(b), as it is in the best interests of the creditors and the estate.

3.	15-23164-A-7 DNL-12	JF MCCRAY PLASTERING, INC.	MOTION TO ALLOW ADMINISTRATIVE EXPENSE 8-30-18 [149]

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 allowance of a payment of post-petition estate income tax liability for the 2018 tax year as follows: $800 to the California Franchise Tax Board.

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 April 17, 2015. The tax liability in question was incurred for the 2018 tax year. 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. 17-21973-A-7 JOSE/MARIA PIMENTEL — MOTION TO ALLOW ADMINISTRATIVE EXPENSE 9-10-18 [167]
GMW-2

Tentative Ruling: The motion will be denied without prejudice.

The debtors are seeking approval of an administrative expense claim in the amount of $11,870 for their planting, irrigating, and otherwise cultivating Sudan crop which the chapter 7 trustee eventually sold for $40,000.

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.

This case was filed on March 27, 2017 as a chapter 12 proceeding. On June 14, 2017, the court converted the case to chapter 7. The debtors worked on the crop from May 9, 2017 until October 31, 2017.

While the court has no doubt that the debtors worked on the crop, enabling the trustee to eventually sell it, the evidence in support of the asserted value of services provided by the debtors is thin at best. For instance, for June, July, August, September, and October 2017, the debtors claim that Joe Pimentel's "field" and "irrigation" work on the crop was worth $1,500 a month. Docket 170.

However, there is nothing in the record stating exactly what this work entailed, how many days a month Mr. Pimentel worked on the crop, and how many hours a day he worked. Nor is there evidence that comparable such work in the past has been compensated at the same or equal pay. Mr. Pimentel's supporting declaration says nothing on these points. See Docket 169. As such, the motion will be denied without prejudice.

The debtors should also note that administrative expenses incurred prior to the conversion to chapter 7 have lower priority than administrative expenses incurred after the conversion to chapter 7. This should be addressed the next time the debtors bring this motion.

FINAL RULINGS BEGIN HERE

5. 16-23709-A-7 DINA NORTHCUTT — MOTION TO APPROVE COMPENSATION OF SPECIAL COUNSEL
DNL-8 — 8-27-18 [63]

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.

Cable Law, APC, special counsel for the estate, has filed its first and final motion for approval of compensation. The requested compensation consists of $57,607.11 in fees and $433 in expenses, for a total of $58,040.11. The movant's employment as special counsel for the estate was approved on April 12, 2017. Docket 51. The requested compensation is based on a one-third contingency fee basis. See Docket 50.

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 consisted, without limitation, of: evaluating the personal injury claims of the debtor against Bayer Corporation, discussing the claims with the debtor, obtaining and reviewing the debtor's medical records, researching other similar pending claims against Bayer, preparing and filing complaint in state court, communicating with the trustee and the trustee's counsel about the action, and negotiating a settlement agreement with Bayer.

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

6. 16-23709-A-7 DINA NORTHCUTT — MOTION TO APPROVE COMPENSATION OF TRUSTEE'S ATTORNEY
DNL-9 — 8-27-18 [69]

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

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

The motion will be granted.

Desmond, Nolan, Livaich & Cunningham, attorney for the trustee, has filed its first and final motion for approval of compensation. The requested compensation consists of $12,000 in fees and $69.27 in expenses, for a total of $12,069.27. This motion covers the period from July 19, 2016 through August 27, 2018. The court approved the movant's employment as the trustee's attorney on August 16, 2016. In performing its services, the movant charged hourly rates of $100, $225, $325, and $425.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant's services included, without limitation: (1) assisting the trustee in the evaluation of the estate's assets, (2) assisting the estate with the administration of a personal injury claim, (3) analyzing the debtor's exemption in the claim, (4) negotiating and preparing a stipulation for extension of the time to object to the exemption, (5) negotiating a stipulation with the debtor over the estate's interest in the personal injury claim, resolving the trustee's exemption objection, (6) assisting the trustee with the negotiation of a settlement of the personal injury claim, (7) preparing and prosecuting a motion for approval of the settlement, (8) assisting the trustee with the general administration of the estate, and (9) preparing and filing employment and compensation motions.

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

7.	18-25448-A-7	NORMAN MASTERS	MOTION FOR
	LHL-1		RELIEF FROM AUTOMATIC STAY
	BKKS HOLDINGS, L.L.C. VS.		9-5-18 [17]

Final Ruling: The motion will be dismissed as moot because the case was dismissed on September 17, 2018, automatically dissolving the stay. See 11 U.S.C. § 362(c)(2)(B). The motion requests no retroactive or in rem relief.

8.	18-24254-A-7	EDGAR/SONIA VAZQUEZ	MOTION FOR
	JHW-1		RELIEF FROM AUTOMATIC STAY
	TD AUTO FINANCE, L.L.C. VS.		8-16-18 [16]

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 dismissed as moot.

The movant, Wells Fargo Auto Finance, seeks relief from the automatic stay with

respect to a 2007 Toyota Tundra vehicle.

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

The petition here was filed on July 6, 2018 and a meeting of creditors was first convened on August 7, 2018. Therefore, a statement of intention that refers to the movant's property and debt was due no later than August 5. The debtor filed a statement of intention on the petition date, indicating an intent to retain the vehicle and reaffirm the debt secured by the vehicle.

11 U.S.C. § 521(a)(2)(B) requires that a chapter 7 individual debtor, within 30 days after the first date set for the meeting of creditors, perform his or her intention with respect to such property.

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

Here, although the debtor indicated an intent to retain the vehicle and reaffirm the debt secured by the vehicle, the debtor did not do so. And, no motion to redeem has been filed, nor has the debtor requested an extension of the 30-day period. As a result, the automatic stay automatically terminated on September 6, 2018, 30 days after the initial meeting of creditors.

The trustee may avoid automatic termination of the automatic stay by filing a motion within whichever of the two 30-day periods set by section 521(a)(2) is applicable, and proving that such property is of consequential value or benefit to the estate. If proven, the court must order appropriate adequate protection of the creditor's interest in its collateral and order the debtor to deliver possession of the property to the trustee. If not proven, the automatic stay terminates upon the conclusion of the hearing on the trustee's motion. See 11 U.S.C. § 362(h)(2).

The trustee in this case has filed no such motion and the time to do so has expired.

Therefore, without this motion being filed, the automatic stay terminated on September 6, 2018.

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

section 362(h), an adversary proceeding seeking such declaration is necessary. See Fed. R. Bankr. P. 7001.

9. 18-23070-A-7 WILLIAM/LORINDA HANSEN — MOTION TO AVOID JUDICIAL LIEN
DMB-1
VS. AMERICAN EXPRESS BANK, F.S.B. — 8-20-18 [39]

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

The motion will be granted.

A judgment was entered against debtor "Bill Hansen" in favor of American Express Bank for the sum of $2,091.73 on March 7, 2011. The abstract of judgment was recorded with Shasta County on June 7, 2011. That lien attached to the debtor's interest in a residential real property in Redding, 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 $240,000 as of the petition date. Dockets 1, 10, 41. The unavoidable liens totaled $220,814 on that same date, consisting of a first mortgage for $109,234 in favor of U.S. Bank, a second mortgage for $76,402 in favor of Union Bank, and a third mortgage for $35,178 in favor of Amerifirst Home Improvement. Dockets 1 & 41. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730 in the amount of $100,000 in Amended Schedule C filed on June 21, 2018. Docket 10. The Amended Schedule C was served on the creditors and the trustee on August 20, 2018. Docket 38.

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

10. 18-23070-A-7 WILLIAM/LORINDA HANSEN — MOTION TO AVOID JUDICIAL LIEN
DMB-2
VS. DISCOVER BANK — 8-20-18 [44]

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

The motion will be granted.

A judgment was entered against debtor William Hansen in favor of Discover Bank for the sum of $5,985.09 on September 12, 2011. The abstract of judgment was recorded with Shasta County on January 4, 2012. That lien attached to the debtor's interest in a residential real property in Redding, 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 $240,000 as of the petition date. Dockets 1, 10, 46. The unavoidable liens totaled $220,814 on that same date, consisting of a first mortgage for $109,234 in favor of U.S. Bank, a second mortgage for $76,402 in favor of Union Bank, and a third mortgage for $35,178 in favor of Amerifirst Home Improvement. Dockets 1 & 46. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730 in the amount of $100,000 in Amended Schedule C filed on June 21, 2018. Docket 10. The Amended Schedule C was served on the creditors and the trustee on August 20, 2018. Docket 38.

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

11. 18-23070-A-7 WILLIAM/LORINDA HANSEN — MOTION TO AVOID JUDICIAL LIEN
DMB-3
VS. TRI COUNTIES BANK — 8-20-18 [49]

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

The motion will be granted.

A judgment was entered against debtor William Hansen in favor of Tri Counties Bank for the sum of $61,375.16 on September 16, 2011. The abstract of judgment was recorded with Shasta County on October 5, 2011. That lien attached to the debtor's interest in a residential real property in Redding, 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 $240,000 as of the petition date. Dockets 1, 10, 51. The unavoidable liens totaled $220,814 on that same date, consisting of a first mortgage for $109,234 in favor of U.S. Bank, a second mortgage for $76,402 in favor of Union Bank, and a third mortgage for $35,178 in favor of Amerifirst Home Improvement. Dockets 1 & 51. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730 in the amount of $100,000 in Amended Schedule C filed on June 21, 2018. Docket 10. The Amended Schedule C was served on the creditors and the trustee on August 20, 2018. Docket 38.

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

12. 17-21973-A-7 JOSE/MARIA PIMENTEL — MOTION FOR RELIEF FROM AUTOMATIC STAY
APN-1
WELLS FARGO BANK, N.A. VS. — 8-21-18 [161]

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 be dismissing the motion as moot, 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 dismissed as moot but the absence of the automatic stay will be confirmed.

The movant, Wells Fargo Bank, seeks relief from the automatic stay with respect to a 2013 Chevrolet Silverado vehicle.

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 (13 or 11) 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. Section 362(c)(3)(B) allows any party in interest to file a motion requesting the continuation of the stay.

On May 5, 2015, the debtors filed a chapter 12 case (case no. 15-23700). But, the court dismissed that case on August 25, 2016 due to the debtors' failure to make plan payments. The debtors filed the instant case on March 27, 2017 as a chapter 12 case, which was later converted to chapter 7. The prior chapter 12 case then was pending within one year of the filing of the instant case. The court has reviewed the docket of the instant case and no motions for continuation of the automatic stay under 11 U.S.C. § 362(c)(3)(B) have been timely filed.

Hence, the motion will be dismissed as moot because the automatic stay expired as to the subject vehicle on April 26, 2017, 30 days after the debtors filed the present case. See 11 U.S.C. § 362(c)(3)(A); see also Reswick v. Reswick (In re Reswick), 446 B.R. 362, 371-73 (B.A.P. 9th Cir. 2011) (holding that when a debtor commences a second bankruptcy case within a year of the earlier case's dismissal, the automatic stay terminates *in its entirety* on the 30th day after the second petition date).

Nevertheless, the court will confirm that the automatic stay in the instant case expired in its entirety with respect to the subject vehicle on April 26,

2017, 30 days after the debtors filed the present case. See 11 U.S.C. §§ 362(c)(3)(A) and 362(j).

13. 14-23576-A-7 GSO ENTERPRICES, INC. MOTION TO
DMW-2 APPROVE COMPENSATION TO ACCOUNTANT
8-27-18 [54]

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 $3,712.50 in fees and $136.63 in expenses, for a total of $3,849.13. This motion covers the period from August 2, 2018 through August 24, 2018. The court approved the movant's employment as the estate's accountant on August 6, 2018. Docket 53. In performing its services, the movant charged an hourly rate of $375.

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 five years of estate tax returns and reconstructed 2014 financials.

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

14. 11-22897-A-7 MICHAEL/COLEEN NOVO MOTION TO
RWH-2 AVOID JUDICIAL LIEN
VS. THE COMMERCIAL AGENCY 8-16-18 [36]

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

The debtor served the motion on The Commercial Agency without addressing it "to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process." See Docket 40.

And, while the debtor served The Commercial Agency'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).