UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

October 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, 8, 10, 12

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 NOVEMBER 9, 2015 AT 10:00 A.M. OPPOSITION MUST BE FILED AND SERVED BY OCTOBER 26, 2015, AND ANY REPLY MUST BE FILED AND SERVED BY NOVEMBER 2, 2015. THE MOVING/OBJECTING PARTY IS TO GIVE NOTICE OF THESE DATES.

ITEMS WITH FINAL RULINGS: THERE WILL BE NO HEARING ON THE ITEMS WITH FINAL RULINGS. INSTEAD, EACH OF THESE ITEMS HAS BEEN DISPOSED OF AS INDICATED IN THE FINAL RULING BELOW. THAT RULING ALSO WILL BE APPENDED TO THE MINUTES. THIS FINAL RULING MAY OR MAY NOT BE A FINAL ADJUDICATION ON THE MERITS. IF ALL PARTIES HAVE AGREED TO A CONTINUANCE OR HAVE RESOLVED THE MATTER BY STIPULATION, THEY MUST ADVISE THE COURTROOM DEPUTY CLERK PRIOR TO HEARING IN ORDER TO DETERMINE WHETHER THE COURT VACATE THE FINAL RULING IN FAVOR OF THE CONTINUANCE OR THE STIPULATED DISPOSITION.

ORDERS: UNLESS THE COURT ANNOUNCES THAT IT WILL PREPARE AN ORDER, THE PREVAILING PARTY SHALL LODGE A PROPOSED ORDER WITHIN 14 DAYS OF THE HEARING.

MATTERS FOR ARGUMENT

1. 15-20102-A-7 MUKHTIAR TAKHER — MOTION TO SELL
CDH-3 — 9-15-15 [84]

Tentative Ruling: The motion will be granted.

The chapter 7 trustee seeks to sell the estate's unencumbered interest in 3,000 shares of common stock in Bank of Feather River on the open market. The sale is subject to payment of the debtor's $4,607.37 exemption in the shares. The stock was selling at $9.25 a share on June 17, 2015. The trustee also asks for waiver of the 14-day period of Fed. R. Bankr. P. 6004(h).

Although creditor Marlin Riddell has filed a response to the motion, his response does not address the merits of the motion. Rather, the response states that Mr. Riddell anticipates receiving a dividend on his claim. To the extent it is an opposition to this motion, it is overruled.

11 U.S.C. § 363(b) allows the trustee to sell property of the estate, other than in the ordinary course of business. The sale will generate some proceeds for distribution to creditors of the estate. Hence, the sale will be approved pursuant to 11 U.S.C. § 363(b), as it is in the best interests of the creditors and the estate. The court will waive the 14-day period of Rule 6004(h).

By granting this motion, the court makes no determinations that Mr. Ridell or any other unsecured creditor will receive a dividend.

2. 15-20102-A-7 MUKHTIAR TAKHER — MOTION TO LIMIT NOTICE
CDH-4 — 9-15-15 [81]

Tentative Ruling: The motion will be granted.

The trustee seeks an order limiting the notice required by Fed. R. Bankr. P. 2002(a) "to only the Debtor, the Trustee, all indentured trustees, and creditors that hold claims for which proofs of claim have been filed, as well as persons who have requested special notice."

Fed. R. Bankr. P. 2002(h) provides that "In a chapter 7 case, after 90 days following the first date set for the meeting of creditors under §341 of the Code, the court may direct that all notices required by subdivision (a) of this rule be mailed only to the debtor, the trustee, all indenture trustees, creditors that hold claims for which proofs of claim have been filed, and creditors, if any, that are still permitted to file claims by reason of an extension granted pursuant to Rule 3002(c)(1) or (c)(2). In a case where notice of insufficient assets to pay a dividend has been given to creditors pursuant to subdivision (e) of this rule, after 90 days following the mailing of a notice of the time for filing claims pursuant to Rule 3002(c)(5), the court may direct that notices be mailed only to the entities specified in the preceding sentence."

The initial meeting of creditors in this case was scheduled and held on February 3, 2015, whereas the hearing on this motion is set for October 13, 2015, over eight months after the initial meeting of creditors. The claims bar date was on May 8, 2015. While the master address matrix contains over 130 names and addresses, only 16 persons have filed proofs of claim thus far.

Also, no extensions have been granted under Rule 3002(c)(1) or (c)(2). And, an order limiting notice will limit the costs of administering the estate.

As such, the court will limit the notice under Rule 2002(a) to the debtor, the trustee, all indentured trustees, creditors that hold claims for which proofs of claim have been filed, and persons who have requested or will request special notice. The motion will be granted.

Although creditor Marlin Riddell has filed a response to the motion, his response does not address the merits of the motion. Rather, the response states that Mr. Riddell anticipates receiving a dividend on his claim. To the extent it is an opposition to this motion, it is overruled.

3. 11-26832-A-7 GREGORY/CATHY SANDERS — MOTION TO APPROVE COMPENSATION OF SPECIAL COUNSEL
DNL-8 — 9-22-15 [100]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the trustee's counsel, 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.

Lamb and Frischer Law Firm, LLP, special counsel for the estate, has filed its first and final motion for approval of compensation. The requested compensation consists of $8,379.55 in fees and $16,551.13 in expenses, for a total of $24,930.68. The requested compensation represents only the estate's share of the compensation, per the court approved agreement between the estate and Ms. McKinzie. The compensation relates solely to services provided in a wrongful death action. The services were provided from May 26, 2013 through and including September 9, 2015. The requested compensation is based on a 40% contingency fee basis. The movant's employment order was entered on June 25, 2013. Docket 77.

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."

L&F provided valuable services for the estate, as it litigated the wrongful death claims, eventually leading to a settlement agreement with the defendants, expected to generate over $12,500 in settlement proceeds for the estate.

L&F's services consisted, without limitation, of: collecting, reviewing and summarizing medical records, preparing and filing a complaint, conducting and responding to discovery, conducting and appearing at depositions, prepared public record requests for the County, communicating with experts, visiting scene of accident multiple times, searching and locating former employees of

the County, communicating with the trustee and her counsel, negotiating and reviewing the settlement agreement. The movant has spent over 500 hours litigating the action.

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.

4. 11-26832-A-7 GREGORY/CATHY SANDERS — MOTION TO APPROVE COMPENSATION OF TRUSTEE'S ATTORNEY
DNL-9 — 9-22-15 [106]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the trustee's counsel, 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.

Desmond, Nolan, Livaich & Cunningham, attorney for the trustee, has filed its first and final motion for approval of compensation. The requested compensation consists of $5,917.03 in fees (reduced from $21,254) and $332.97 in expenses, for a total of $6,250. This motion covers the period from July 15, 2011 through September 20, 2015. The court approved the movant's employment as the trustee's attorney on August 25, 2011. In performing its services, the movant charged hourly rates of $75, $175, $195, $225, $275, $300, $350, $375 and $400.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant's services included, without limitation: (1) investigating the value for the estate in wrongful death claims, (2) negotiating an agreement with the deceased's mother, who also has an interest in the claims, (3) obtaining court approval of the agreement with the deceased's mother, (4) assisting the estate's special counsel with discovery propounded on the estate, (5) preparing and prosecuting a motion for a 998 offer and compromise, (6) preparing settlement agreement with the defendants in the wrongful death action, (7) preparing and prosecuting a motion for approval of the wrongful death settlement, (8) preparing and prosecuting a motion to abandon a real property, 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.

5. 15-25449-A-7 SEVILLE DEAL
EJS-2
SRI CHURCH TERRACE, L.L.C. VS.

MOTION FOR
RELIEF FROM AUTOMATIC STAY
8-31-15 [29]

Tentative Ruling: The motion will be granted.

The movant, SRI Church Terrace, L.L.C., seeks relief from the automatic stay as to real property in Sacramento, California.

The debtor has filed a response, seeking an extension of the stay until October 31, 2015, but without supporting evidence and without specifics of her opposition to the motion. Docket 37. She merely states that she denies the content of paragraphs 11 and 12 of the motion, which recite that the debtor filed this bankruptcy case on July 8, 2015 and that the filing was for the purpose of frustrating the movant's attempts to recover possession of the property. The debtor also asserts being in a hardship "due to the current loss of her child and the loss of her job."

But, in granting this motion, the court is not required to make determinations about the debtor's purposes in filing this bankruptcy case. Also, the court does not have enough information, much less admissible evidence, from the debtor about her hardship. There are no details about when the debtor lost her job; under what circumstances she lost her job; what has precluded her from seeking another job; what has precluded her from moving from the property, even before this case was filed, etc.

And, while the court is sympathetic to the debtor's situation, even with the alleged hardship, this court is bound by the pre-petition events surrounding the debtor's tenancy, including the unlawful detainer judgment against her and the termination of the tenancy upon the expiration of the three-day notice.

The movant is the legal owner of the property and the debtor leased it from the movant. The debtor defaulted under the lease agreement in May 2015. The movant served the debtors with a three-day notice to pay or quit on June 10, 2015. After expiration of the notice, the movant filed an unlawful detainer action against the debtor on June 22, 2015. A default judgment for possession was entered against the debtor and an occupant on June 30, 2015. The debtor filed this bankruptcy case on July 8, 2015.

This is a liquidation proceeding and the debtor has no ownership interest in the property as the movant is the legal owner of it. And, even though the debtor is a tenant at the property, she has defaulted under the lease agreement by failing to pay the rent due from May 2015 onward. Also, the debtor's tenancy interest in the property terminated upon expiration of the three-day notice served on her pre-petition. See In re Windmill Farms, Inc., 841 F.2d 1467 (9th Cir. 1988); In re Smith, 105 B.R. 50, 53 (Bankr. C.D. Cal. 1989).

This is cause for the granting of relief from stay. Accordingly, the motion will be granted for cause pursuant to 11 U.S.C. § 362(d)(1) to permit the movant to exercise its state law remedies in accordance with the orders and judgments of the state court in the unlawful detainer action.

No monetary claim may be collected from the debtor. The movant is limited to recovering possession of the property to the extent permitted by the state court. No other relief will be awarded.

No fees and costs will be awarded because the movant is not an over-secured

creditor. See 11 U.S.C. § 506.

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

The debtor's request for extension of the stay until October 31, 2015 will be denied. There is cause to terminate the automatic stay and the court has no authority to impose some other stay by motion.

6. 15-20865-A-7 JOHN/MERRIE HOLMAN — MOTION TO COMPEL
9-29-15 [123]

Tentative Ruling: The motion will be denied.

The debtors seek to compel creditors Rodney and Shirley Brown to appear for an examination pursuant to Fed. R. Bankr. P. 2004 and to produce documents pursuant to Fed. R. Civ. P. 37(a)(3)(b)(1). The debtors are also seeking an award for attorney's fees and costs in the amount of $1,441.80 under Fed. R. Civ. P. 37(d).

The Browns oppose the motion and have moved to quash the subpoenas.

The debtors are seeking discovery from the Browns in order to obtain information about the Browns' proof of claim. The debtors want to know why the Browns have increased their proof of claim amount from $10,205 to $42,758.30.

The use of Fed. R. Civ. P. 37 in connection with Fed. R. Bankr. P. 2004 makes no sense. Rule 37 can be used only in an adversary proceeding or contested matter, whereas Rule 2004 is used prior to the commencement of the adversary proceeding or contested matter. Fed. R. Bankr. P. 7037 unequivocally states that Fed. R. Civ. P. 37 "applies in adversary proceedings." There is no authority for the applicability of Rule 37 in bankruptcy outside of an adversary proceeding or contested matter.

Further, even if the subject discovery was being conducted in the context of an objection to the Browns' proof of claim, the debtors have filed no such objection. Discovery in an adversary proceeding or contested matter is impermissible unless and until an answer or response has been filed to the complaint or motion. As the Browns' proof of claim is tantamount to the filing of an adversary proceeding complaint, a response is filed only when the debtors file their objection.

More, even when a response is filed to a complaint or motion, discovery does not commence unless and until the court authorizes it. The court has authorized no discovery in this case, as pertaining to an objection to the Browns' proof of claim. Once again, the debtors have not filed an objection to the Browns' proof of claim.

Finally, even if the debtors had filed an objection to the Browns' proof of claim, the court sees no reason to authorize discovery because the debtors have not established their standing to object to the Browns' proof of claim.

Ordinarily, the trustee prosecutes claim objections, and the debtor, in his individual capacity, lacks standing to object to a proof of claim unless the debtor demonstrates that he would be injured in fact by allowance of the claim. See In re An-Tze Cheng, 308 B.R. 448, 454 (B.A.P. 9th Cir. 2004).

The debtors have not demonstrated that they are injured in fact by the allowance of the Browns' proof of claim, even if the claim lacks merit. For instance, there is no evidence here that this is a surplus estate that would result in the return of assets back to the debtors. The motion will be denied.

The court reminds the debtors' counsel to utilize docket control numbers on all pleadings filed with the court. See Local Bankruptcy Rule 9014-1(c).

7. 15-20865-A-7 JOHN/MERRIE HOLMAN — MOTION TO QUASH
RBB-1 — 9-10-15 [120]

Tentative Ruling: The motion will be granted as provided in the ruling below.

Creditors Rodney and Shirley Brown are seeking an order quashing the debtors' subpoenas for examination and the production of documents under Fed. R. Bankr. P. 2004 and Fed. R. Civ. P. 37.

The court will quash the debtors' subpoenas in their entirety for the reasons stated in the court's ruling denying the debtors' related motion to compel discovery from the Browns, also being heard on this calendar.

8. 14-31178-A-7 JOHN HARRITT — MOTION TO AVOID JUDICIAL LIEN O.S.T.
EJS-3
VS. COMERICA BANK — 10-1-15 [41]

Tentative Ruling: The motion will be granted.

A judgment was entered against the debtor in favor of Comerica Bank for the sum of $312,345 on March 28, 2012. The abstract of judgment was recorded with Sacramento County on May 8, 2013. That lien attached to the debtor's residential real property in Sacramento, California.

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of $700,000 as of the petition date. Dockets 43, 28, 1. The unavoidable liens totaled at least $735,212.46 on that same date, consisting of a first mortgage in favor of Wachovia Mortage for $623,085.82 and a tax lien in favor of the California Franchise Tax Board for $112,126.64. Dockets 43 & 28. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(1) in the amount of $1.00 in Schedule C. Dockets 43, 28, 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).

9. 14-27980-A-7 GKUBI SMART — MOTION FOR TURNOVER OF PROPERTY
HSM-10 — 7-22-15 [143]

Tentative Ruling: The motion will be granted.

The hearing on this motion was continued from August 31, 2015 because the debtor sought to negotiate a buyout of the estate's interest in the subject

real property.

The trustee requests turnover of a real property in Tracy, California, in order to prepare for sale, market and sell the property.

The debtor has not opposed the motion. His response prior to the August 31 hearing on the motion sought only time to negotiate a buyout of the estate's interest in the property.

11 U.S.C. § 541(a)(1) provides that property of the estate consists of "all legal or equitable interests of the debtor in property as of the commencement of the case." 11 U.S.C. § 542(a) requires parties holding property of the estate to turn over "and account for, such property or the value of such property."

11 U.S.C. § 542(a) extends beyond the present possession of estate property. It extends to all property in the possession, custody or control during the case.

According to the debtor, there is approximately $136,000 of equity in the property, and the court has disallowed the debtor's exemption claim in the property. The trustee has retained a real estate broker and is prepared to liquidate the property. Given this, the court will order the debtor to turn over control of the real property. The motion will be granted.

10. 15-26397-A-7 SHAWN SHAW — MOTION FOR RELIEF FROM AUTOMATIC STAY
RWC-1 — 9-24-15 [24]
AMY SHAW VS.

Tentative Ruling: The motion will be granted.

The movant, Amy Shaw, the respondent in a marriage dissolution action involving the debtor, seeks relief from automatic stay to continue with the dissolution proceeding.

The trustee filed a report of no distribution on September 16, 2015, meaning that the estate will not be administering any assets. This is cause under section 362(d)(1) to modify the automatic stay as to the estate with respect to the dissolution litigation.

As to the debtor, the analysis is different. The debtor will receive a discharge of all dischargeable pre-petition debt on or soon after November 16, 2015.

11 U.S.C. § 727(b) provides: "Except as provided in section 523 of this title, a discharge under subsection (a) of this section discharges the debtor from *all* debts that arose before the date of the order for relief under this chapter, and any liability on a claim that is determined under section 502 of this title as if such claim had arisen before the commencement of the case, whether or not a proof of claim based on any such debt or liability is filed under section 501 of this title, and whether or not a claim based on any such debt or liability is allowed under section 502 of this title."

A chapter 7 discharge does not include support or nonsupport debts arising out of a marital dissolution proceeding. See 11 U.S.C. § 523(a)(5), (a)(15). Nor does it include any post-petition debt. See 11 U.S.C. § 727(b) [a chapter 7 discharge includes only "debts that arose before the date of the order for

relief under this chapter . . . whether or not a proof of claim based on any such debt or liability is filed . . . and whether or not a claim based on any such debt or liability is allowed."].

As such, the court will modify the stay as to the debtor with respect to the litigation, to allow adjudication of custody issues, visitation issues, separate property issues, and division of the couples' community property, to determine the dischargeability of pre-petition obligations or to determine that an obligation is a post-petition obligation not subject to discharge.

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

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

11. 15-23799-A-7 STEPHANY MURPHY — MOTION TO CONVERT CASE
SJS-1 — 9-17-15 [46]

Tentative Ruling: The motion will be denied without prejudice.

The debtors request conversion from chapter 7 to chapter 13.

Given the Supreme Court's decision in Marrama v. Citizens Bank of Massachusetts, 127 S. Ct. 1105 (2007), before the conversion of a case from chapter 7 to chapter 13, the court must determine that the debtor is eligible for chapter 13 relief. This entails examining whether the debtor is seeking the conversion for an improper purpose or in bad faith, whether the debtor is eligible for chapter 13 relief under 11 U.S.C. § 109(e), and whether there is any cause that might warrant dismissal or conversion to chapter 7 under 11 U.S.C. § 1307(c). See Marrama, 127 S. Ct. at 1112.

Among the eligibility requirements for relief under chapter 13 are the requirements that the debtor must have regular income and owe, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts of less than $383,175 and noncontingent, liquidated, secured debts of less than $1,149,525. 11 U.S.C. § 109(e).

The debtor has $241,986.73 in secured debt and $49,786.86 in unsecured debt. Docket 41.

However, while the debtor has established that she is within the eligibility debt limits for chapter 13 relief, the motion states nothing about whether the debtor has regular income to fund a chapter 13 plan. There is no evidence of this with the motion.

12. 15-26799-A-7 DANIEL JONES — MOTION FOR RELIEF FROM AUTOMATIC STAY
RTD-1 — 9-23-15 [11]
SCHOOLS FINANCIAL CREDIT UNION 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, Schools Financial Credit Union, seeks relief from the automatic stay with respect to a 2014 Ford F150. The vehicle has a value of $40,000 and its secured claim is approximately $47,465. Docket 14.

The court concludes that there is no equity in the vehicle and no evidence exists that it is necessary to a reorganization or that the trustee can administer it for the benefit of the creditors. And, in the statement of intention, the debtor has indicated an intent to surrender the vehicle.

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

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

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived due to the fact that the movant's vehicle is being used by the debtor without compensation and it is depreciating in value.

FINAL RULINGS BEGIN HERE

13. 10-39525-A-7 CAROLYN CUNNINGHAM — MOTION TO AVOID JUDICIAL LIEN
RHM-4
VS. DISCOVER BANK — 9-18-15 [40]

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

The proof of service accompanying the motion indicates that the notice was not addressed solely to an officer of the creditor. It was addressed to "Officer, Director, or other agent designated for the service of process." Docket 45 at 2. This does not satisfy Rule 7004(h).

Rule 7004(h) requires service solely to the attention of an officer. Nothing in the rule or its legislative history suggests that Congress intended the term "officer" to include anything other than officer of the respondent creditor. Hamlett v. Amsouth Bank (In re Hamlett), 322 F.3d 342, 345-46 (4th Cir. 2003) (examining the legislative history of Rule 7004(h), comparing it to Rule 7004(b)(3), and concluding that the term "officer" in Rule 7004(h) does not include other posts with the respondent creditor, such as "registered agent").

Further, the debtor amended her Schedule C on January 20, 2011 (Docket 31), to add an exemption in the subject property, but she did not serve the Amended Schedule C on any of the creditors and the trustee, informing them of the added exemption. Docket 31. 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 debtor has not afforded parties in interest such an opportunity.

14. 15-25427-A-7 MATTHEW MAIN — MOTION TO AVOID JUDICIAL LIEN
HLG-2
VS. PORTFOLIO RECOVERY ASSOC., L.L.C. — 9-11-15 [18]

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 Portfolio Recovery Associates, L.L.C. for the sum of $3,162.09 on April 21, 2015. The abstract of judgment was recorded with Sacramento County on June 1, 2015. That lien attached to the debtor's residential real property in North Highlands, 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 $157,850 as of the petition date. Dockets 20 & 21. The unavoidable liens totaled $106,547 on that same date, consisting of a single mortgage in favor of Bank of America. Docket 21, Ex. B. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730 in the amount of $100,000 in Schedule C. Dockets 20 & 21 Ex. D.

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

15. 11-26832-A-7 GREGORY/CATHY SANDERS — MOTION TO APPROVE COMPROMISE
DNL-7 — 9-10-15 [94]

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

The motion will be granted.

The trustee requests approval of a settlement agreement between the estate and the debtor Gregory Sanders' former spouse, Michelle McKinzie, on one hand, and Brian Matthews and County of Sacramento, on the other hand, resolving a pending wrongful death action where the estate and Ms. McKinzie are seeking damages for the fatal accident of the daughter of debtor Gregory Sanders and Ms. Mcinzie. The action includes several negligence claims, seeking damages for property damage, emotional distress, pain and suffering, loss of care, comfort and society, loss of earnings and earning capacity, and medical expenses. The estate will net over $12,000 from the settlement.

Under the terms of the compromise, the County or its insurer will pay $50,000 to the estate and Mr. Matthews or his insurer will pay $25,000 to the estate, for an aggregate total settlement amount of $75,000.

On a motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Fed. R. Bankr. P. 9019. Approval of a compromise must be based upon considerations of fairness and equity. In re A & C Properties, 784 F.2d 1377, 1381 (9th Cir. 1986). The court must consider and balance four factors: 1) the probability of success in the litigation; 2) the difficulties, if any, to be encountered in the matter of collection; 3) the complexity of the litigation involved, and the expense, inconvenience, and delay necessarily attending it; and 4) the paramount interest of the creditors with a proper deference to their reasonable views. In re Woodson, 839 F.2d 610, 620 (9th Cir. 1988).

The court concludes that the Woodson factors balance in favor of approving the compromise. That is, given the factual complexity of the action, given the

necessity for expert testimony, given the anticipated substantial expert witness expenses and other costs of litigation, and given the inherent risks, delay and inconvenience of further litigation, the settlement is equitable and fair.

Therefore, the court concludes the compromise to be in the best interests of the creditors and the estate. The court may give weight to the opinions of the trustee, the parties, and their attorneys. In re Blair, 538 F.2d 849, 851 (9th Cir. 1976). Furthermore, the law favors compromise and not litigation for its own sake. Id. Accordingly, the motion will be granted.

16. 15-24640-A-7 GARRETT/TANYA SMITH — MOTION FOR RELIEF FROM AUTOMATIC STAY
AP-1
U.S. BANK TRUST, N.A. VS. — 9-14-15 [27]

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

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

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

Given the entry of the debtor's discharge on September 14, 2015, the automatic stay has expired as to the debtor and any interest the debtor may have in the property. See 11 U.S.C. § 362(c). Hence, as to the debtor, the motion will be dismissed as moot.

As to the estate, the analysis is different. The property has a value of $531,128 and it is encumbered by claims totaling approximately $764,438. The movant's deed is the only encumbrance against the property.

The court concludes that there is no equity in the property and there is no evidence that it is necessary to a reorganization or that the trustee can administer it for the benefit of creditors. The court also notes that the trustee filed a report of no distribution on July 21, 2015.

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.

17. 15-25040-A-7 JOSE OSORTO — MOTION TO DISMISS CASE 8-10-15 [25]
AFL-1

Final Ruling: Given the dismissal of this case pursuant to the U.S. Trustee's motion for dismissal of the case (DCN UST-2), this motion will be dismissed as moot.

18. 15-25040-A-7 JOSE OSORTO — MOTION TO DISMISS CASE 9-15-15 [51]
UST-2

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.

The U.S. Trustee seeks dismissal, with the stipulation of the debtor, of this case under 11 U.S.C. § 707(b)(1) and (2), contending that there is a presumption of abuse.

11 U.S.C. § 707(b)(1) provides that, after notice and a hearing, on its own motion or on a motion by the U.S. Trustee, the court may dismiss a case filed by an individual debtor whose debts are primarily consumer debts if it concludes that the granting of chapter 7 relief would be an abuse of the chapter 7 provisions.

A presumption of abuse exists under 11 U.S.C. § 707(b)(2)(A) when a debtor's current monthly income, reduced by the amounts permitted by subsections (ii), (iii), and (iv) of 11 U.S.C. § 707(b)(2)(A), and multiplied by 60, is no less than the lesser of 25% of the debtor's non-priority unsecured claims or $7,475, whichever is greater, or $12,475. See 11 U.S.C. § 707(b)(2)(A)(i), as amended by 78 F.R. 12089.

In other words, if after deducting all allowable expenses from a debtor's current monthly income, the debtor has less than $124.58 in net monthly income (*i.e.*, less than $7,475 to fund a 60 month plan), a chapter 7 petition is not presumed abusive. If the debtor has monthly income of more than $207.92 (or $12,475) to fund a 60-month plan, a chapter 7 petition is presumed abusive.

And, if the debtor has between $124.58 and $207.92 of monthly disposable income, a presumption of abuse exists if that sum, when multiplied by 60 months, will pay 25% or more of the debtor's non-priority unsecured debts.

The debtor's monthly disposal income in the means test form is $5,436.57, making his 60-month disposal income $326,194.20. As such, the presumption of abuse arises. And, the debtor agrees to dismissal of the case. Thus, the case will be dismissed.

19. 15-25945-A-7 DEBRA CAMPBELL — MOTION TO AVOID JUDICIAL LIEN
SDB-2
VS. LVNV FUNDING, L.L.C.
9-10-15 [21]

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: "Upon 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 LVNV Funding, L.L.C. without addressing it "to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process." Docket 26 at 3.

And, while the debtor served LVNV'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).

20. 15-27052-A-7 NIKOLAY/ANNA ONISHCHENKO — MOTION TO AVOID JUDICIAL LIEN
MS-1
VS. UNITED GUARANTY RESIDENTIAL INSURANCE COMPANY OF NORTH CAROLINA
9-14-15 [11]

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 claimant 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 Nikolay Onishchenko in the amount of $49,968.69 on June 30, 2015, in favor of United Guaranty Residential Insurance Company of North Carolina. Pursuant to the judgment, a writ of execution was issued on the debtor's Wells Fargo Bank accounts. This resulted in the Los Angeles County Sheriff levying $7,468.56 from those accounts pre-petition, on August 25, 2015. The debtors filed this case on September 5, 2015. The subject funds are currently held by the Los Angeles County Sheriff.

The debtors are seeking to avoid the lien that led to the levy of the funds.

The lien will be avoided pursuant to 11 U.S.C. § 522(f)(1)(A). The debtors listed the funds, $7,468.56, in their Schedule B. Dockets 1 & 13. The debtors claimed an exemption of $7,468.56 in the levied funds pursuant to Cal. Code Civ. Proc. § 703.140(b)(5) in their Schedule C. Dockets 1 & 13.

The respondent holds a judicial lien created by the issuance of a writ of execution for the levy of the funds. 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 funds and its fixing will be avoided subject to 11 U.S.C. § 349(b)(1)(B).

21. 15-26458-A-7 ADAM HOLYBEE — MOTION FOR RELIEF FROM AUTOMATIC STAY
APN-1
SANTANDER CONSUMER USA, INC. VS. — 9-14-15 [12]

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

The motion will be granted.

The movant, Santander Consumer U.S.A., seeks relief from the automatic stay with respect to a 2007 Dodge Grand Caravan. The movant has possession of the vehicle. The vehicle was repossessed or surrendered pre-petition, on or about July 28, 2015. Docket 1, Statement of Financial Affairs, item 5.

The movant has produced evidence that the vehicle has a value of $5,700 ($3,991 per Statement of Financial Affairs) and its secured claim is approximately $8,818.59. Docket 14.

The court concludes that there is no equity in the vehicle and no evidence exists that it is necessary to a reorganization or that the trustee can administer it for the benefit of the creditors. The court also notes that the trustee filed a report of no distribution on September 23, 2015.

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

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

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

in value.

22. 15-26161-A-7 DAVID ESPARZA
APN-1
SANTANDER CONSUMER USA, INC. VS.

MOTION FOR
RELIEF FROM AUTOMATIC STAY
9-10-15 [9]

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

The motion will be granted.

The movant, Santander Consumer U.S.A., seeks relief from the automatic stay with respect to a 2014 Jeep Compass. The movant has produced evidence that the vehicle has a value of $17,750 ($11,515 per Schedule B) and its secured claim is approximately $25,372. Docket 11.

The court concludes that there is no equity in the vehicle and no evidence exists that it is necessary to a reorganization or that the trustee can administer it for the benefit of the creditors. The court also notes that the trustee filed a report of no distribution on October 1, 2015.

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

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

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived due to the fact that the movant's vehicle is being used by the debtor without compensation and it is depreciating in value.

23. 11-34464-A-7 STUART SMITS
KJH-2

MOTION TO
APPROVE COMPENSATION OF ACCOUNTANT
9-15-15 [325]

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 $7,624.50 in fees and $214.53 in expenses, for a total of $7,839.03. This motion covers the period from June 5, 2014 through August 21, 2015. The court approved the movant's employment as the estate's accountant on June 6, 2014. In performing its services, the movant charged an hourly rate of $345.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant's services included reviewing various financial documents, assessing tax consequences from the sale of estate assets, and communicating with the debtor and a prior accountant about tax treatment and history of business interests.

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

24. 15-23871-A-7 JULIO/CECILIA JARDINES — MOTION TO COMPEL ABANDONMENT
RJM-1 — 9-3-15 [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 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 to compel the trustee to abandon the estate's interest in:

- their real property in Sacramento, California, with a value of $156,400, subject to $119,180 of encumbrances and a $75,000 exemption;

- personal property items that have been fully exempt, including: cash on hand ($10), First Tech Federal Credit Union Savings account ($5), Wells Fargo Bank checking account ($10), JPMorgan Chase Bank checking account ($40), living room set ($500), bedroom set ($200), desk ($20), dresser and night stands ($30), baby furniture ($30), outdoor furniture ($10), refrigerator ($200), range ($150), microwave ($40), vacuum ($30), washer and dryer ($100), TVs ($300), VCR/CD/DVD players ($10), stereo equipment ($30), cameras ($200), telephones ($80), gaming systems ($60), tablets ($50), computers ($100), BBQ ($20), power tools ($30), lawn mower ($50), hand tools ($80), pots and pans ($15), tableware ($20), crystal ($20), rugs ($20), clothing ($300), watch, costume jewelry and sapphire ring ($165);

- 2014 tax refund (value of $0.00, refund received prior to the filing of this

case);

- 2014 Honda Civic EX with a value of $17,300 and subject to a claim of $25,969;

- unexempt (except for $1.00) and unencumbered wedding ring ($3,895.46); and

- a craft store co-debtor Cecilia Jardines runs on etsy.com, with a value of $100, all in inventory.

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.

Except for the wedding ring and the craft store, the above assets are fully exempt or over-encumbered. And, while there is some value for the estate in the wedding ring and store inventory, their value is less than $4,000 and is thus inconsequential to the estate. The court also notes that the trustee has filed a non-opposition to this motion. Accordingly, the motion will be granted.

25. 14-27474-A-7 BRENT/ANGELINA WARD — MOTION TO AVOID JUDICIAL LIEN
GMW-5
VS. CAVALRY SPV I, L.L.C. — 8-31-15 [65]

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 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 motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of $175,000 as of the petition date. Dockets 65 & 1. The unavoidable liens totaled $294,839.58 on that same date, consisting of a mortgage in favor of Green Tree Financial for $241,007.79 and a mortgage in favor of 21st Mortgage Corporation for $53,831.79. Dockets 65 & 1. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(1) in the amount of $100 in Amended Schedule C. Dockets 63 & 65.

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. 14-27474-A-7 BRENT/ANGELINA WARD — MOTION TO AVOID JUDICIAL LIEN
GMW-6
VS. PORTFOLIO RECOVERY ASSOC., L.L.C. — 8-31-15 [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 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 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 motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of $175,000 as of the petition date. Dockets 71 & 1. The unavoidable liens totaled $294,839.58 on that same date, consisting of a mortgage in favor of Green Tree Financial for $241,007.79 and a mortgage in favor of 21st Mortgage Corporation for $53,831.79. Dockets 71 & 1. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(1) in the amount of $100 in Amended Schedule C. Dockets 63 & 71.

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. 15-24481-A-7 EMERY ULRICH — MOTION FOR RELIEF FROM AUTOMATIC STAY
AP-1
WELLS FARGO BANK, N.A. VS. — 9-11-15 [12]

Final Ruling: The hearing on this motion has been continued to November 23, 2015 at 10:00 a.m. Docket 24.