UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

November 20, 2017 at 10:00 a.m.

No written opposition has been filed to the following motions set for argument on this calendar: 5, 9, 11, 12, 14

When Judge McManus convenes court, he will ask whether anyone wishes to oppose this motion. If you wish to oppose the 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 DECEMBER 18, 2017 AT 10:00 A.M. OPPOSITION MUST BE FILED AND SERVED BY DECEMBER 4, 2017, AND ANY REPLY MUST BE FILED AND SERVED BY DECEMBER 11, 2017. 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. 16-22503-A-7 EMBRY FANTOZZI — MOTION TO SELL
DNL-8 — 10-30-17 [127]

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 chapter 7 trustee requests authority to sell 500 shares of PG&E stock for approximately $28,500. Although the proposed sale will generate surplus proceeds for the estate, the debtor also supports the sale because the parties expect that the PG&E stock will diminish in value due to third-party litigation involving PG&E. The trustee also asks for authority to pay customary sale costs of approximately $570 to Edward Jones.

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 substantial 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 customary sale costs will be approved.

2. 13-35308-A-7 DOROTHY PARENT — MOTION TO VACATE
15-2229 LB-15 — 9-6-17 [166]
FUKUSHIMA V. SWENDEMAN

Tentative Ruling: The motion will be denied.

The hearing on this motion was continued from October 30 to November 13 and then to November 20, in order for the defendant's counsel, Laurence Blunt, to answer questions the court raised in its October 30 ruling on this motion. Mr. Blunt filed a response to the court's question on November 13. Docket 221.

Preliminarily, the court will strike the 10-page supplemental memorandum of points and authorities filed by Laurence Blunt on November 13, 2017, seven days prior to the November 20 hearing. When the court continued the hearing on this motion from October 30 onward, it stated:

"*The hearing on this motion will be continued to November 13, 2017 at 10:00 a.m. Mr. Blunt shall file his answers to the above questions, supported by admissible and probative evidence, no later than November 6, 2017. The records on this motion and the related motion to amend answer and file counterclaims (Docket 186) are otherwise closed.*"

Docket 214 at 6.

Except for its questions directed to Mr. Blunt, the court expressly closed the record when it continued the hearing on this motion. Accordingly, Mr. Blunt's supplemental points and authorities will be stricken. Docket 220.

This is a simple and straightforward dispute, which the parties have managed to needlessly complicate.

Robert Swendeman is the judgment creditor under the terms of a state court judgment. Mr. Blunt was his attorney in that action. Robert died on July 14, 2011. Despite his death, Mr. Blunt continued to enforce the judgment against the judgment debtor, Dorothy Parent. Ms. Parent later filed a chapter 7 bankruptcy case. One of the actions Mr. Blunt took to enforce the judgment was the recordation on November 7, 2011 of an abstract of the judgment in Tehama County. Ms. Parent owns a 50% interest in real property located in Tehama County. That property is now property of the bankruptcy estate. The chapter 7 trustee filed this proceeding to avoid the judicial lien on the ground that Mr. Blunt's agency and authority to collect the judgment for Mr. Swendeman ended with his death.

Dorothy Swendeman, Robert's spouse, succeeded to his interest in the judgment. She transferred her interest in the judgment to a family trust. After Dorothy Swendeman died on November 6, 2016, Cynthia Swendeman succeeded to Dorothy's interest in the judgment as trustee of a family trust and as a beneficiary of the same trust. See Docket 221.

In granting the plaintiff's summary judgment motion, the court concluded that Mr. Blunt had no authority to record the abstract of judgment because his client Robert Swendeman had passed away prior to the recordation. The lien was avoidable.

Now, Cynthia Swendeman, individually and as trustee of the Robert E. Swendeman and Dorothy B. Swendeman 2004 Trust Dated April 28, 2004, moves to vacate the order granting summary judgment.

On December 16, 2016, Mr. Blunt filed a notice of death, informing the court and the parties that Dorothy Swendeman had died. Docket 96. Dorothy Swendeman passed away on November 6, 2016. Docket 221.

Thus, when Mr. Blunt filed written opposition to the summary judgment motion, Dorothy Swendeman was alive and at the November 14 hearing on the motion Mr. Blunt did not inform the court of her death on November 6. See Docket 63 (points and authorities in support of opposition to summary judgment, filed on behalf of Dorothy Swendeman on October 31, 2016); dockets 72 & 73 (audio recording of November 14 hearing on summary judgment motion).

On January 30, 2017, the court granted the plaintiff's Fed. R. Civ. P. 25 motion, substituting Cynthia Swendeman in the place of her deceased mother Dorothy Swendeman. Dockets 116 & 119 (order entered on February 13, 2017). On February 13, 2017, the plaintiff filed an amended complaint, adding Cynthia Swendeman, both in her personal capacity and as trustee of the family trust, as a defendant. Docket 120.

The plaintiff filed another summary judgment motion on July 10, 2017, seeking summary judgment as to Cynthia Swendeman given her substitution in the place of Dorothy Swendeman. The court ruled:

"*The motion will be denied to the extent it seeks to re-adjudicate the plaintiff's prior summary judgment motion. That motion was filed on October 7, 2016 and heard on November 14, 2016. The order on the motion was entered on November 17, 2016. Dockets 53, 72, 74. That motion has been already adjudicated. The court entered an order granting it in part. Dockets 72 & 74. When the court granted the plaintiff's Rule 25 motion, substituting Cynthia Swendeman in the place of her deceased mother Dorothy Swendeman, Cynthia Swendeman became a defendant in this proceeding subject to any prior adjudications against Dorothy Swendeman. There is no need to relitigate what was already litigated with respect to Dorothy Swendeman.*

"*Nevertheless, the court will grant this motion in part, determining that Cynthia Swendeman is a successor in interest, both in her individual and representative capacities, to Dorothy Swendeman. Mr. Blunt, former counsel for Dorothy Swendeman and present counsel for Cynthia Swendeman, admitted this on the record at the August 7 hearing on this motion.*

"*Finally, there are no other claims to be adjudicated in this proceeding. The plaintiff stated at the August 7 hearing on this motion that he is not seeking relief on the single claim as to which summary judgment was previously denied. See Dockets 72 & 120. Prior to entering a judgment, though, the court will allow time for any challenge to its November 17, 2016 order on the prior summary judgment motion. See Dockets 72 & 74. Such challenge must be filed no later than September 6, 2017. By giving this time, however, the court is not determining that any such challenge would be timely, proper, or meritorious.*"

Docket 161.

The motion now before the court makes no effort to brief the law relevant to vacating the order. For example, Fed. R. Civ. P. 60 has not been cited. See Docket 168. The failure to give the court any authority for the relief requested is sufficient to deny the motion.

The motion also does not indicate whether it is timely. Fed. R. Civ. P. 60(b), as made applicable here by Fed. R. Bankr. P. 9024, allows the court to set aside or reconsider an order or a judgment for:

"*(1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or (6) any other reason that justifies relief.*"

"A motion under Rule 60(b) must be made within a reasonable time—and for reasons (1), (2), and (3) no more than a year after the entry of the judgment or order or the date of the proceeding." Fed. R. Civ. P. 60(c).

"Relief under Rule 60(b) is discretionary and is warranted only in exceptional circumstances."

Van Skiver v. United States, 952 F.2d 1241, 1243 (10th Cir. 1991), cert. denied, 506 U.S. 828 (1992).

The court is unconvinced that the motion is timely. The order which the movant seeks to vacate was entered nearly one year ago. Docket 74. The movant, Cynthia Swendeman, was because a party as the successor of Dorothy Swendeman, on January 30, 2017. Dockets 116 & 119. This motion was filed seven months after the substitution.

The motion fails to explain why Cynthia Swendeman waited seven months to file this motion. There is nothing in the record that makes this apparent. The court will not speculate on this point.

The motion also fails to explain why Cynthia Swendeman did not intervene as a defendant to this litigation when her mother transferred the judgment to the family trust on July 7, 2016. At that point, Dorothy was the beneficiary of the trust and Cynthia was the trustee.

Mr. Blunt explained in open court that prior to her death, Dorothy Swendeman was in frail health and that as late as November 6, 2016, Cynthia was managing Dorothy's affairs.

From this, the court infers that Cynthia Swendeman was aware of this litigation at least as of the time Dorothy Swendeman transferred the judgment to the family trust on July 7, 2016. Hence, Cynthia Swendeman, as the trustee of the family trust, could have intervened in this litigation. Instead, Cynthia Swendeman did nothing. She did not intervene in July 2016, when the judgment was transferred to the trust. She did not intervene in November 2016, when her mother passed away. It took a motion by the plaintiff to order the substitution of Cynthia Swendeman in place of her mother. Docket 119 (order entered on February 13, 2017).

This motion has not been filed within reasonable time. This is by itself sufficient to deny the motion.

Third, the motion presents no grounds for vacating the November 17, 2016 order.

Cynthia Swendeman wants to relitigate issues that have been fully litigated by her predecessor in interest. The motion now contends that:

- the plaintiff never proved that Cynthia is the successor in interest to Dorothy;

- Cynthia Swendeman has not had the opportunity to conduct discovery;

- Cynthia Swendeman has not had the opportunity to litigate either of the plaintiff's summary judgment motions;

- there is no basis for Cynthia Swendeman to be named a defendant in this litigation;

- the court should determine that the court's granting of the plaintiff's first summary judgment motion on November 14, 2016 is not binding on Cynthia Swendeman.

Mr. Blunt admitted in open court that Cynthia Swendeman, as an individual and as trustee of the family trust, is the successor in interest to Dorothy Swedeman. Docket 163 at 2:30-4:10

"*Nevertheless, the court will grant this motion in part, determining that*

Cynthia Swendeman is a successor in interest, both in her individual and representative capacities, to Dorothy Swendeman. Mr. Blunt, former counsel for Dorothy Swendeman and present counsel for Cynthia Swendeman, admitted this on the record at the August 7 hearing on this motion."

Docket 161 at 2.

A successor in interest to a deceased defendant is not entitled to relitigate issues resolved when the defendant was alive. The successor in interest merely *continues* in the litigation.

If a party is permitted to relitigate what was already litigated by the deceased party, the party would not be a successor in interest but an independent party to the litigation. Moreover, Mr. Blunt agreed with this point at the August 7, 2017 hearing on the plaintiff's second summary judgment motion. Docket 163 at 5:30-6:00.

The substitution of Cynthia Swendeman in the place of Dorothy Swendeman did not trigger the right to file a new answer, conduct new discovery, or relitigate the summary judgment motion. The court permitted only the substitution of Cynthia Swendeman. It permitted nothing else. See Docket 116.

Although the plaintiff chose to file an amended complaint in order to substitute Cynthia Swendeman for Dorothy Swendeman, that complaint is identical to the original complaint with one exception – it omits a claim as to which the court denied summary judgment. See Dockets 72 & 120.

Further, even though Dorothy Swendeman transferred the judgment to the family trust on July 7, 2016, making that trust a party in interest to this litigation, she still held the beneficial interest in the judgment inasmuch as she was the surviving settlor and the trust beneficiary, and she had the power to revoke the trust.

When this adversary proceeding was filed on November 30, 2015, the subject judgment was owned beneficially by Dorothy Swendeman. She did not transfer the judgment to the trust until seven months after the litigation had started, on July 7, 2016. Based on representations by Laurence Blunt, the transfer was made to facilitate the management of Dorothy Swendeman's affairs, given her frail health. The court has no evidence that the transfer was made for anything other than estate planning purposes. This is well-supported by the following:

— the transfer was not pursuant to a sale to a third party;

— the transfer was to a revocable inter vivos family trust of which Dorothy Swendeman's daughter, Cynthia Swendeman, was a trustee and Dorothy Swendeman was the sole beneficiary until her death;

— the transfer was at a time when Dorothy Swendeman's health was frail.

Cynthia Swendeman was the trustee of the trust to which the judgment was transferred at all times. As the daughter of Dorothy Swendeman, and given Dorothy's frail health, Cynthia Swendeman was in charge of and managing Dorothy's affairs at the time the judgment was transferred to the trust and at the time Dorothy passed away. Cynthia Swendeman beem aware of this litigation at all times.

In this regard it is worth mentioning that Robert Swendeman, Dorothy Swendeman, Cynthia Swendeman and the trustee share the same attorney, Mr. Blunt.

Between the transfer of the judgment into the trust and the passing of Dorothy Swendeman, Dorothy was the sole beneficiary of the trust.

The interests of the trust and Dorothy Swendeman, between the judgment's transfer and her passing, were fully aligned. The trust in question is a revocable inter vivos trust, a typical estate planning vehicle that facilitates the transfer of assets upon the passing of an individual, without divesting the individual of the assets during his lifetime.

In other words, given her beneficial interest in the trust and given her power to revoke the trust, Dorothy Swendeman effectively controlled the judgment until her death. Docket 222, Ex. B at 20.

Although Cynthia Swendeman, as trustee of the trust, was not named as a defendant when the court adjudicated the summary judgment motion, the trust's interests were fully and adequately represented by Dorothy Swendeman. While Dorothy Swendeman passed away on November 6, 2016, eight days prior to the court's adjudication of the summary judgment motion on November 14, 2016 (Docket 72), Dorothy Swendeman filed (through her counsel) her opposition to that motion. Dockets 63-69. Mr. Blunt appeared at the summary judgment hearing and argued against it based on the papers filed 14 days earlier, on October 31, 2016, without mentioning that Dorothy Swendeman had passed away. Docket 73 (audio file).

There is no evidence that the passing of Dorothy Swendeman in any way affected or deprived her or her successors in interest from the opportunity of or actually defending the summary judgment motion.

Additionally, even if the court were to vacate the summary judgment, Cynthia has presented nothing that convinces the court that rehearing the motion for summary judgment would result in a different outcome. As noted at the beginning of this ruling, the facts are straigtforward and not in dispute – the judgment lien was recorded after Robert died and it is void.

As the court stated in its ruling on the summary judgment motion:

"*The court, however, agrees that the judicial lien is invalid because Mr. Blunt had no authority to act on behalf of Mr. Swendeman after his death. Mr. Blunt's authority to act for Mr. Swendeman ended upon his death. Because the abstract of judgment was signed and filed post-death, it is not valid.*"

Docket 72 at 3.

In conclusion, the substituting of Cynthia Swendeman (in both her individual and trustee capacities) in the action was as a successor in interest to Dorothy Swendeman. Cynthia Swendeman is the trustee of the trust and she has a beneficial interest in the trust. As a successor in interest, Cynthia Swendeman has no right to relitigate issues resolved while the action was pending against Dorothy Swendeman.

The subject motion will be denied.

3. 13-35308-A-7 DOROTHY PARENT
15-2229
FUKUSHIMA V. SWENDEMAN

STATUS CONFERENCE
2-13-17 [120]

Tentative Ruling: None.

4. 13-35308-A-7 DOROTHY PARENT
HCS-12

MOTION TO EMPLOY REALTOR
10-9-17 [444]

Tentative Ruling: The motion will be granted in part.

The trustee requests approval to employ James Martin of Lee & Associates as a real estate broker for the estate, to market and list for sale a real property in Red Bluff, California. The proposed compensation for Mr. Martin will be the customary 6% commission, which is to be split in the event of a buyer's agent.

11 U.S.C. § 327(a) states that, subject to court approval, a trustee may employ professionals to assist the trustee in the administration of the estate. Such professional must "not hold or represent an interest adverse to the estate, and [must be a] disinterested [person]." 11 U.S.C. § 327(a).

11 U.S.C. § 328(a) allows for such employment "on any reasonable terms and conditions . . . including on a retainer, on an hourly basis, on a fixed or percentage fee basis, or on a contingent fee basis."

The court concludes that the terms of employment and compensation are reasonable. Mr. Martin is a disinterested person within the meaning of 11 U.S.C. § 327(a) and does not hold an interest adverse to the estate. The employment will be approved.

But, the court will not approve Mr. Martin's employment to the extent he would be seeking compensation on basis other than the proposed contingency real estate commission. The motion says that Mr. Martin may be paid even in the event the property does not sell, if "his efforts result in a benefit to the estate." Docket 444 at 4.

However, the motion does not identify the type of services that would lead to such compensation. Nor does the motion identify the general terms of such compensation, *i.e.*, hourly rate, flat rate, etc.? This denial is without prejudice to a further employment application.

5. 17-22310-A-7 CAROLINE HEGARTY
PPR-2

MOTION FOR EXAMINATION AND FOR PRODUCTION OF DOCUMENTS
11-3-17 [93]

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 debtor, the trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if

there is opposition, the court may reconsider this tentative ruling.

The motion will be granted.

Creditor Property Rehab Trust, L.L.C. moves for an order permitting it to examine the debtor and subpoena documents pertaining to the debtor's 100% interest in two limited liability companies and the assets and liabilities of those companies, as they relate to the debtor, assets previously transferred by the debtor, and administration of this bankruptcy estate. The movant holds an Ohio state court judgment against the debtor, with a current balance of approximately $395,551.

The debtor filed this case as a chapter 13 proceeding on April 6, 2017. The debtor converted the case to chapter 7 on October 19, 2017. During the chapter 13 proceeding, the debtor unsuccessfully objected to the movant's proof of claim. Docket 61.

Fed. R. Bankr. P. 2004(a)-(c) provides that:

"*(a) EXAMINATION ON MOTION. On motion of any party in interest, the court may order the examination of any entity.*

"*(b) SCOPE OF EXAMINATION. The examination of an entity under this rule or of the debtor under § 343 of the Code may relate only to the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor's estate, or to the debtor's right to a discharge. In a family farmer's debt adjustment case under chapter 12, an individual's debt adjustment case under chapter 13, or a reorganization case under chapter 11 of the Code, other than for the reorganization of a railroad, the examination may also relate to the operation of any business and the desirability of its continuance, the source of any money or property acquired or to be acquired by the debtor for purposes of consummating a plan and the consideration given or offered therefor, and any other matter relevant to the case or to the formulation of a plan.*

"*(c) COMPELLING ATTENDANCE AND PRODUCTION OF DOCUMENTS. The attendance of an entity for examination and for the production of documents, whether the examination is to be conducted within or without the district in which the case is pending, may be compelled as provided in Rule 9016 for the attendance of a witness at a hearing or trial. As an officer of the court, an attorney may issue and sign a subpoena on behalf of the court for the district in which the examination is to be held if the attorney is admitted to practice in that court or in the court in which the case is pending.*"

The motion will be granted. The movant will be permitted to examine the debtor about her financial affairs and the financial affairs of her 100%-owned limited liability companies. The court will also permit the debtor to subpoena the documents identified in the attached document production request. Docket 96, Ex. B. The motion will be granted.

6. 13-31633-A-7 CHARLES COATS
GEL-2
VS. CITIBANK, N.A.

MOTION TO
AVOID JUDICIAL LIEN
11-6-17 [26]

Tentative Ruling: The motion will be denied without prejudice.

A judgment was entered against the debtor in favor of Citibank for the sum of $6,729.01 on July 29, 2011. The debtor claims that an abstract of the judgment was recorded with an unidentified county on an unidentified date, creating and attaching a lien to the debtor's interest in a residential real property in Sutter, California. The debtor seeks avoidance of the lien under 11 U.S.C. § 522(f).

The motion will be denied because the court does not have sufficient and admissible evidence of the subject judicial lien. While the supporting declaration mentions the creditor's judgment, it says nothing about when and where the abstract of the judgment was recorded. Docket 28. Nor is the recorded abstract of judgment attached to the motion. See Docket 30. In other words, the court does not have evidence that the abstract was ever recorded and became a lien against the subject property.

Also, while the declaration refers to figures in the judgment, it does not attach the judgment. It attaches only a summary of information about the judgment. Docket 30. As such, the references to the figures in the judgment are inadmissible hearsay. Fed. R. Evid. 801(c) & 802.

7. 13-31633-A-7 CHARLES COATS — MOTION TO AVOID JUDICIAL LIEN
GEL-3
VS. CITIBANK, N.A.
11-6-17 [32]

Tentative Ruling: The motion will be denied without prejudice.

A judgment was entered against the debtor in favor of Citibank for the sum of $3,618.92 on July 20, 2011. The debtor claims that an abstract of the judgment was recorded with an unidentified county on an unidentified date, creating and attaching a lien to the debtor's interest in a residential real property in Sutter, California. The debtor seeks avoidance of the lien under 11 U.S.C. § 522(f).

The motion will be denied because the court does not have sufficient and admissible evidence of the subject judicial lien. While the supporting declaration mentions and attaches an abstract of the creditor's judgment, it says nothing about when and where the abstract of the judgment was recorded. Docket 34. Nor is the attached abstract of judgment a recorded abstract. Docket 36. In other words, the court does not have evidence that the abstract was ever recorded and became a lien against the subject property.

Also, while the declaration attaches a summary of information about the judgment, the summary has not been authenticated as anything more than someone having summarized information about the judgment. Docket 36. As such, the information in the summary is inadmissible hearsay. Fed. R. Evid. 801(c) & 802.

8. 13-31633-A-7 CHARLES COATS — MOTION TO AVOID JUDICIAL LIEN
GEL-4
VS. SYNCHRONY BANK
11-6-17 [38]

Tentative Ruling: The motion will be denied without prejudice.

A judgment was entered against the debtor in favor of Citibank for the sum of $8,369.49 on August 16, 2011. The debtor claims that an abstract of the judgment was recorded with an unidentified county on an unidentified date, creating and attaching a lien to the debtor's interest in a residential real

property in Sutter, California. The debtor seeks avoidance of the lien under 11 U.S.C. § 522(f).

The motion will be denied because the court does not have sufficient and admissible evidence of the subject judicial lien. While the supporting declaration mentions and attaches an abstract of the creditor's judgment, it says nothing about when and where the abstract of the judgment was recorded. Docket 40. Nor is the attached abstract of judgment a recorded abstract. Docket 42. In other words, the court does not have evidence that the abstract was ever recorded and became a lien against the subject property.

Also, while the declaration attaches a summary of information about the judgment, the summary has not been authenticated as anything more than someone having summarized information about the judgment. Docket 42. As such, the information in the summary is inadmissible hearsay. Fed. R. Evid. 801(c) & 802.

9. 15-27448-A-7 JOHN/SHAWNTA ODUM — MOTION FOR RELIEF FROM AUTOMATIC STAY
CRE-1 — 11-3-17 [62]
OSCAR OCAMPO 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 movants, Oscar and Norma Ocampo, seek relief from the automatic stay as to real property in Sacramento, California.

The movant is the legal owner of the property and the debtors leased it from the movant. The debtors filed this bankruptcy case on September 23, 2015 and have not yet received a discharge. The debtors allegedly defaulted under the lease agreement in October 2016 yet continue to reside in the subject property. Unpaid rent in the amount of $28,325 has accumulated since the debtors filed their petition in this matter. Docket 66, Ex. D. The movant seeks relief from the automatic stay to serve the debtors with a three-day notice to pay or quit and pursue an unlawful detainer action after expiration of the notice if necessary.

The trustee filed a statement of non-opposition to this motion on November 10, 2017.

This is a liquidation proceeding and the debtors have no ownership interest in the property as the movant is the legal owner of it. And, even though the debtors are tenants at the property, they have defaulted under the lease agreement by failing to pay the rent due from October 2016 onward.

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.

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.

10.	16-25749-A-7 DNL-7	ROBERT GARZA AND MARIA HERRERA	MOTION TO SELL, APPROVE COMPENSATION FOR REAL ESTATE BROKER, DEPOSIT FUNDS INTO BLOCKED ACCOUNT AND FOR STANDING AUTHORITY TO MAKE DISBURSEMENTS FROM BLOCKED ACCOUNT 10-16-17 [120]

Tentative Ruling: The motion will be granted.

The chapter 7 trustee requests authority to sell for $295,000 the estate's interest in a real property in Dixon, California to Paul and Carol Abrams. The sale is "as is" and without warranty or representations. The trustee also asks for approval of the payment of the real estate broker's 5% commission. In addition, the trustee seeks approval of a compromise of the reinvestment requirement of Cal. Civ. Pro. Code § 704.720(b) as it pertains to funds set aside as debtors' homestead exemption claimed against the property.

The trustee will pay the following costs through escrow: (1) the broker's commission, (2) natural hazard zone disclosure report, (3) county and city transfer taxes, (4) smoke alarm and carbon monoxide installation, and (5) a one-year home warranty. All liens encumbering the property will be liquidated through escrow including the senior mortgage for an estimated $135,000 in favor of Carrington Mortgage Services.

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

Senior lienholder, Carrington Mortgage Services, filed a conditional opposition to the sale. Docket 126. The opposition requests that the motion only be approved upon entry of an order providing that Carrington's lien shall attach to the proceeds of the sale, and shall be released only upon full payment of the amounts owed to Carrington from the proceeds of the sale through escrow (or at a reduced amount only upon written consent).

The trustee seeks to sell the property under section 363(b) and pay Carrington's mortgage in full through the escrow process. Thus, there is no need for an order providing that the lien shall attach to the proceeds of the sale, as would be appropriate if the motion sought to sell the property free and clear of all liens under section 363(f).

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). The sale is in the best interests of the creditors and the estate. The court will

approve the payment of the real estate commissions to Coldwell Banker Real Estate subject to the employment terms approved by the court in its order entered on September 8, 2017. Docket 110.

In addition, the trustee seeks permission to deposit $100,000, the maximum amount available to the debtors as a homestead exemption, into a blocked account. The trustee further seeks standing authority to compromise the reinvestment requirement of Cal. Civ. Pro. Code § 704.720(b) such that the trustee is authorized to make disbursements from the blocked account, as requested by the debtors, on a reduced basis of 50% to the estate and 50% to the debtors. Under California exemption law, homestead exemption proceeds must be reinvested in property within six months or revert to the estate. See Cal. Civ. Proc. Code § 704.720(b).

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 trustee is concerned that the debtors will encounter difficulty in satisfying the reinvestment requirement under the California homestead exemption and will attempt to seek relief from the curt allowing them to circumvent the requirement.

The court concludes that the Woodson factors balance in favor of approving the compromise. That is, given that the blocked account will both ensure the debtors use the homestead proceeds for their intended purpose and will protect the estate's interest in the proceeds and prevent any difficulties in collection, and given that the 50% split disbursement will substantially benefit the estate, the subject agreement 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.

11. 17-21973-A-7 JOSE/MARIA PIMENTEL — MOTION TO ABANDON
SSA-5 — 10-27-17 [116]

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 wishes to abandon the estate's interest in a real property commonly known as 20246 Lammers Road, Tracy, California. The property is over-encumbered.

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

The property has an approximate value of $1.1 million to $1.3 million, whereas its encumbrances total approximately $1,363,800, a mortgage for an estimated $1,250,000 in favor of Bank of Stockton and a county tax lien for an estimated $53,000, and an a judgment lien for $60,800 in favor of Custom Hay, Inc. Given this, the court concludes that the property is of inconsequential value to the estate. The motion will be granted.

12. 17-24778-A-7 DAVID REEDER — MOTION FOR RELIEF FROM AUTOMATIC STAY
BPC-1
THE GOLDEN 1 CREDIT UNION VS. — 11-6-17 [13]

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, Golden 1, seeks relief from the automatic stay with respect to a 2011 Chrysler Town & Country Minivan. The vehicle has a value of $11,976 - $13,965 and its secured claim is approximately $27,795.74.

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. Further, the debtors have not made four post-petition payments to the movant. And, in the statement of intention, the debtor has indicated an intent to surrender the vehicle. This is cause for the granting of relief from stay.

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

13. 17-26181-A-7 MICHAEL FLYNN — MOTION TO DISMISS 10-12-17 [22]

Tentative Ruling: The case will remain pending on the conditions stated below.

The chapter 7 trustee moves for dismissal because no appearance has been made for the debtor at the meeting of creditors held on October 11, 2017. In the event this motion is not granted, trustee requests that the deadline to object to debtor's discharge under 11 U.S.C. § 727 and the deadline to file motions for abuse under 11 U.S.C. § 707 be extended.

The debtor opposes the motion stating that he had requested that the October 11 meeting be extended and was not aware that the meeting actually took place on that date. Docket 28. The debtor explains that he was unable to attend the October 11 meeting because he was in Santa Rosa, California trying to locate his family amidst the wild fires that ravaged the area. The debtor further contends that he will not miss any further meetings of creditors.

In light of the debtor's response, the case will not be dismissed at this juncture. However, the court will grant the trustee's request to extend the deadline to object to debtor's discharge under 11 U.S.C. § 727, to moved to dismiss the case under 11 U.S.C. § 707 to 60 days after the date of the continued 341(a) meeting, November 22, 2017. Also, if the debtor fails to appear on November 22 the case will be dismissed on the trustee's ex parte application.

14. 17-22588-A-7 JAY/SUZANNE DYER — MOTION TO APPROVE STIPULATION 10-30-17 [36]
DNL-3

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the chapter 7 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 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 trustee requests approval of a stipulation between the estate and the debtors to facilitate the sale of real property located in Mexico. The motion to approve the sale will be heard concurrently with this motion. Docket 41. Under the terms of the compromise, the debtors shall cooperate with the

trustee's efforts to seel the real property and personal property located therein, including executing all escrow documents necessary to transfer title. The debtors shall be allowed a $15,000 exemption against the subject property pursuant to Cal. Civ. Proc. Code § 703.140(b)(5). The debtors shall be allowed a $1,500 exemption against the personal property pursuant to Cal. Civ. Proc. Code § 703.140(b)(3).

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 trustee does not dispute the debtors' claim of exemption against the subject property under the available wildcard exemption. Whether the personal property qualifies as "household goods" for purposes of exemption under § 703.140(b)(3) is potentially uncertain given that these items are located in the debtor's unoccupied Mexico condo. The amount of the personal property exemption ($1,500), however, is modest relative to the recoverable net sale proceeds of the sale of real property ($80,000).

The court concludes that the Woodson factors balance in favor of approving the compromise. That is, given the small amount at stake as to the personal property exemption, given the large amount at stake as to the real property sale proceeds for the benefit of the estate, given that the personal property items are located in the debtor's unoccupied Mexico condo, and given the inherent costs, risks, delay and inconvenience of further litigation, the subject agreement 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.

15. 17-22588-A-7 JAY/SUZANNE DYER — MOTION TO SELL AND TO APPROVE COMPENSATION OF REAL ESTATE BROKER
DNL-4 — 10-30-17 [41]

Tentative Ruling: The motion will be granted.

The chapter 7 trustee requests authority to sell for $120,000 the estate's interest in a real property in San Felipe, Baja California, Mexico to Kevin Melvin and Antoinette Vallejos. The sale is "as is" and without warranty or representations. The trustee also asks for approval of the payment of the real estate broker's 8% commission.

The trustee will pay the following costs through escrow: (1) the broker's commission, value added tax, and a sellers tax of $3,215; and (2) 50% of a pro-rated amount for 2017 HOA dues, golf membership fees, and property taxes. The trustee requests to be allowed reimbursement of expenses in the amount of

$4,547.50 payable from the net sale process for personal funds advanced to pay fideicomiso fees (fees necessary to protect the estate's interest in the foreign property).

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). The sale is in the best interests of the creditors and the estate. The court will approve the payment of the real estate commissions to Darryl Campbell McDonogh subject to the employment terms approved by the court in its order entered on August 24, 2017. Docket 29.

16. 16-27489-A-7 PALMER COOKE — MOTION TO SELL AND TO APPROVE COMPENSATION OF REALTOR
SCB-4 — 10-23-17 [124]

Tentative Ruling: The motion will be granted.

The chapter 7 trustee requests authority to sell for $212,000 the estate's interest in a real property in Penn Valley, California to Arcade Creek Properties Inc. The sale is "as is" and without warranty or representations. The trustee has agreed to pay for owner's title insurance policy fees, homeowner's association transfer fees, and 50% of the escrow costs and of county transfer tax/fees. The trustee also asks for approval of the payment of the real estate broker's 5% commission (6% commission if there is a successful overbidder).

The trustee will pay the following liens through escrow: (1) general and special taxes for 2016-2017 ($2,884.30); (2) county tax claim ($42,768.14); and (3) Lake Wildwood Association claim ($5,998.94). The debtor has claimed an exemption in the amount of $75,000.

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). The sale is in the best interests of the creditors and the estate. The court will approve the payment of the real estate commissions to Reed Block Realty subject to the employment terms approved by the court in its order entered on September 7, 2017. Docket 113.

FINAL RULINGS BEGIN HERE

17. 17-23509-A-7 JESSEE NAYLOR — MOTION TO COMPEL ABANDONMENT 10-5-17 [22]
NF-1

Final Ruling: The motion will be dismissed without prejudice because it was not served on all creditors as mandated by Fed. R. Bankr. P. 6007. Dockets 26 & 3.

18. 17-23510-A-7 KEVIN NAYLOR — MOTION TO COMPEL ABANDONMENT 10-5-17 [19]
NF-1

Final Ruling: The motion will be dismissed without prejudice because it was not served on all creditors as mandated by Fed. R. Bankr. P. 6007. Dockets 23 & 3.

19. 17-24019-A-7 GARY SMITH — MOTION TO AVOID JUDICIAL LIEN 10-23-17 [63]
MMM-3
VS. CAVALRY INVESTMENTS, L.L.C.

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 Fireside Thrift Co. ???? for the sum of $15,544.36 on June 3, 1998. The judgment was last renewed on February 11, 2008. Docket 66. The abstract of judgment was recorded with Nevada County on July 9, 2013. That lien attached to the debtor's interest in a residential real property in Nevada City, 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 15, 23, 65. The unavoidable liens totaled $124,479 on that same date, consisting of a single mortgage in favor of Caliber Home Loans. Dockets 15 & 65. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730 in the amount of $75,000 in Schedule C. Dockets 15 & 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).

20. 15-27322-A-7 WILLIAM MYER
DNL-10

MOTION TO
APPROVE COMPENSATION OF ACCOUNTANT
10-23-17 [139]

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.

Bachecki, Crom & Co., accountant for the estate, has filed its first and final motion for approval of compensation. The requested compensation consists of $3,899 in fees and $137.41 in expenses, for a total of $4,036.41. This motion covers the period from July 19, 2016 through October 18, 2017. The court approved the movant's employment as the estate's accountant on August 18, 2016. In performing its services, the movant charged hourly rates of $270, $360, $460, and $525.

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 advising the trustee about tax issues, preparing tax and cash flow estimates for the sale of a real property, reviewing past tax returns, preparing tax returns, preparing supporting documentation for the returns, and preparing tax assessment requests.

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

21. 10-41363-A-7 THOMAS BROOKS
JCO-3
VS. DISCOVER BANK

MOTION TO
AVOID JUDICIAL LIEN
10-20-17 [37]

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 Discover Bank for the sum of $18,555.63 on June 11, 2010. The abstract of judgment was recorded with

Tehama County on July 21, 2010. That lien attached to the debtor's interest in a residential real property in Corning, 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 $124,000 as of the petition date. Dockets 15 & 1. The unavoidable liens totaled $131,098 on that same date, consisting of a single mortgage in favor of Wells Fargo Home Mortgage. Docket 1. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(1) in the amount of $1.00 in Schedule C. Docket 20.

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).

22. 17-25763-A-7 ALBERT VILLELA — MOTION FOR RELIEF FROM AUTOMATIC STAY
DS-1
DIANE SUN VS. — 10-23-17 [36]

Final Ruling: The motion will be dismissed without prejudice. The certificate of service indicates that the trustee was served at an incorrect address, PO Box 57609. See Docket 43. The trustee's correct address is PO Box 576097. Accordingly, notice is defective.