UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

November 21, 2016 at 10:00 a.m.

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

3, 5, 8

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 12, 2016 AT 10:00 A.M. OPPOSITION MUST BE FILED AND SERVED BY NOVEMBER 28, 2016, AND ANY REPLY MUST BE FILED AND SERVED BY DECEMBER 5, 2016. 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. 14-31211-A-7 ALICE CARLSON — MOTION TO AVOID JUDICIAL LIEN
MOH-1
VS. CITIBANK (SOUTH DAKOTA), N.A. — 8-26-16 [21]

Tentative Ruling: The motion will be denied without prejudice.

The court continued the hearing on this motion from October 11, due to service deficiencies. The debtor has corrected the deficiencies by addressing service to an officer of the respondent. Dockets 33 & 34.

A judgment was entered against the debtor in favor of Citibank for the sum of $17,370.38 on January 27, 2011. The abstract of judgment was recorded with Butte County on March 17, 2011. That lien attached to the debtor's residential real property in Berry Creek, California. The debtor asks for avoidance of the lien.

The subject real property had an approximate value of $187,000 as of the petition date. Dockets 23 & 24. The unavoidable liens totaled $43,071 on that same date, consisting of a mortgage in favor of Ocwen in the amount of $8,483 and another mortgage in favor of Green Tree Servicing in the amount of $34,588. Dockets 23 & 24.

However, the debtor claimed an exemption in the amount of $143,929 in Schedule C, pursuant to Cal. Civ. Proc. Code § 704.710. Dockets 23 & 24. Cal. Civ. Proc. Code § 704.710 is not a statute permitting any exemptions under California law. The statute merely outlines the definitions of Part 2, Title 9, Division 2, Chapter 4, Article 4 of the California Civil Procedure Code. It provides no exemption. There is no basis for an exemption claim by the debtor and, as such, there is no impairment of an exemption claim under 11 U.S.C. § 522(f)(1)(A). Accordingly, the motion will be denied.

2. 15-27322-A-7 WILLIAM MYER — MOTION FOR RELIEF FROM AUTOMATIC STAY
APN-1
WELLS FARGO BANK, N.A. VS. — 8-10-16 [50]

Tentative Ruling: The motion will be denied in part and dismissed as moot in part.

The movant, Wells Fargo Bank, seeks relief from stay as to real property in Truckee, California.

The debtor opposes the motion claiming that there is equity in the property.

Given the entry of the debtor's discharge on August 7, 2014, the automatic stay has expired as to the debtor and any interest the debtor may have in the property. See 11 U.S.C. § 362(c). Hence, as to the debtor, the motion will be dismissed as moot. Further, the debtor lacks standing to oppose the motion and cannot assert the rights of the trustee.

As to the estate, the analysis is different. The docket reflects that the estate intends to market and sell the property as indicated by the trustee's application to employ a broker. Docket 60. Given that this application was filed subsequent to the motion for relief from stay, the court infers that the movant is not interested in prosecuting the motion with respect to the estate. Accordingly, the court is inclined to deny the motion as to the estate.

3. 16-26229-A-7 TAMARA GRAYSON — MOTION TO COMPEL ABANDONMENT
FF-1 — 10-10-16 [9]

Tentative Ruling: The motion will be granted.

The court continued the hearing on this motion from October 24, as the deadline for objecting to the debtor's exemptions was not expiring until November 18.

The debtor requests an order compelling the trustee to abandon the estate's interest in her business, Grayson's Customs.

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.

According to the motion, the business assets include a spray gun, a tool box, a compressor, a car lift, and miscellaneous tools. The assets have an aggregate value of $8,000 and have been claimed fully exempt in Schedule C. The trustee has filed a non-opposition. Given the exemption claim, the court concludes that the business, to the extent of the assets listed in the motion, is of inconsequential value to the estate. The motion will be granted.

4. 16-21437-A-7 JULIE COLLIS-DAVIS — MOTION TO DISMISS CASE
SKS-1 — 10-19-16 [86]

Tentative Ruling: The motion will be denied.

The trustee moves for dismissal because the debtor did not attend the meeting of creditors held on October 19, 2016. The debtor's counsel had a conflict, having to appear at a chapter 13 meeting of creditors in Modesto, California.

The trustee was unable to examine the debtor at the two prior chapter 7 creditors' meetings, on September 21 and October 5, either. The debtor was unable to make it to the September 21 meeting due to last minute car trouble and her counsel had a conflict with appearing at the October 5 meeting, due to a trial in Calaveras County.

The next meeting has been scheduled for November 16 at 2:30 p.m., and both the debtor and her counsel promise to be there.

Given the debtor's car trouble and the conflicts of the debtor's counsel, the motion will be denied and the case will not be dismissed. However, because the meeting of creditors was continued to November 16, the court will order that the deadlines for filing complaints under section 523 and 727 and filing motions to dismiss under section 707 be extended by 60 days after the November 16 meeting. The deadlines will be extended from November 21, 2016 to January 16, 2017.

5. 16-27237-A-7 GUADALUPE GUERRA — MOTION FOR RELIEF FROM AUTOMATIC STAY
PRK-1 — 11-3-16 [11]
COLFAX TRUST #704 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, Colfax Trust #704, seeks relief from the automatic stay as to real property in Sacramento, California. The movant purchased the property at a pre-petition foreclosure sale, on June 21, 2016. On June 21, 2016, the movant served the debtor with a notice to quit. The movant commenced an unlawful detainer proceeding. A judgment for possession was entered on September 13, 2016. A writ of possession was issued on September 20, 2016. The debtor filed the instant petition on October 31, 2016.

This is a liquidation proceeding and the debtor has no interest in the property as the movant purchased it pre-petition. 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) in order to permit the movant to proceed with its unlawful detainer action against the debtor in state court. The parties are to return to state court in order to determine who is entitled to possession of the property. If the movant prevails, no monetary claim may be collected from the debtor. The movant is limited to recovering possession of the property if such is permitted by the state court.

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

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

6.	16-20945-A-7 SSA-3	DENNIS/MARGARET EDWARDS	MOTION TO SELL, TO APPROVE COMPENSATION FOR BROKER ETC 10-19-16 [44]

Tentative Ruling: The motion will be granted.

The chapter 7 trustee requests authority to sell as is and without warranty for $344,000 the estate's interest in real property in Tracy, California to Antonio Aguilar. Although the property is being held in a revocable trust, the debtors have agreed to execute the necessary documents facilitate the sale.

The trustee also asks for waiver of the 14-day period of Fed. R. Bankr. P. 6004(h) and asks for approval of the payment of the real estate commission.

The property is subject to: a mortgage for approximately $126,816 in favor of Ocwen Loan Servicing; another mortgage for approximately $16,185 in favor of Mokelumne Federal Credit Union; a state tax lien in the amount of $3,353.86; and an outstanding PG&E utility claim not exceeding $700. The trustee will be paying also the debtor's exemption claim, in the amount of $100,000. The trustee does not expect adverse tax consequences from the sale.

It appears that the estate will generate approximately at least $70,000 from the sale.

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) and will authorize payment of the real estate commission, consistent with the estate's broker's court-approved terms of employment.

7. 14-24449-A-7 ROBERT/KATHLEEN BRANSON — MOTION FOR RELIEF FROM AUTOMATIC STAY
EAT-1 — 7-28-15 [71]
WELLS FARGO BANK, N.A. VS.

Tentative Ruling: The motion will be denied in part and dismissed as moot in part.

The movant, Wells Fargo Bank, seeks relief from stay as to real property in Sonoma, California.

Given the entry of the debtor's discharge on August 7, 2014, the automatic stay has expired as to the debtor and any interest the debtor may have in the property. See 11 U.S.C. § 362(c). Hence, as to the debtor, the motion will be dismissed as moot.

As to the estate, the analysis is different. The movant had provided the trustee with time to market and sell the property. As the court has not heard from the parties about the outcome of the estate's efforts to sell the property, however, the court infers that the movant is not interested in prosecuting the motion with respect to the estate. Accordingly, the court is inclined to deny the motion as to the estate.

8. 16-25751-A-7 SONITA MATTHEWS — MOTION TO AVOID JUDICIAL LIEN
HDR-1 — 10-18-16 [13]
VS. FORD MOTOR CREDIT COMPANY

Tentative Ruling: The motion will be granted.

A judgment was entered against the debtor in the amount of $18,383.40 on July 2, 2014, in favor of Ford Motor Credit Company. Pursuant to the judgment, a writ of execution was issued and a wage garnishment order (a.k.a. earnings withholding order) was served on Bank of the West, the debtor's employer, on July 12, 2016, levying $587.31. Those funds have been turned over to the Los Angeles County Sheriff.

The debtor is 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 debtor has listed the funds in his Schedule C. Docket 1. The debtor claimed an exemption in $924 of garnished wages pursuant to Cal. Code Civ. Proc. § 703.140(b)(5) in the amount of $924. Docket 1, Schedule C.

The respondent holds a judicial lien created by the issuance of a writ of execution and a wage garnishment order. 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).

9. 16-26574-A-7 LUIS GUTIERREZ — MOTION TO AVOID JUDICIAL LIEN
SLE-3
VS. BEST SERVICE CO., INC. — 10-23-16 [22]

Tentative Ruling: The motion will be denied without prejudice.

A judgment was entered against the debtor in favor of The Best Service Co., Inc. for the sum of $13,746.57 on June 22, 2015. The debtor seeks to avoid a judicial lien based on a recordation of an abstract of the judgment, which lien allegedly attached to the debtor's residential real property in Elk Grove, California.

The motion has not been served in accordance with Fed. R. Bankr. P. 7004(b)(3), which requires service "[u]pon a domestic or foreign corporation or upon a partnership or other unincorporated association . . . to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant."

The debtor served the motion by addressing it to the respondent's attorney, "Rachel Zwernemann, Esq. Law Offices of Clark Garen (Salaried Employees of the Best Service Co. Inc.)." Docket 26. 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).

And, even though the debtor also included a line addressing service "[t]o an Officer, Director, Agent Designated to Receive Service of Process c/o Best Service Co. Inc.," this language appears after the debtor has already addressed service to the respondent's counsel. Docket 26. At best, the attempt to address service on "Officer, Director, Agent Designated to Receive Service of Process" is confusing. It fails to comply with Fed. R. Bankr. P. 7004(b)(3). The rule does not permit the debtor to address service on the respondent's counsel, in addition to the individuals named by the rule. If this motion is reset for hearing, the debtor should reserve the papers in accordance with Fed. R. Bankr. P. 7004(b)(3).

FINAL RULINGS BEGIN HERE

10. 13-35110-A-7 MARIO/BRISA LIMA — MOTION TO APPROVE COMPENSATION OF ACCOUNTANT 9-28-16 [44]
JES-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 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.

James Salven, C.P.A., accountant for the estate, has filed its first and final application for approval of compensation. The requested compensation consists of $1,600 in fees and $362.61 in expenses, for a total of $1,962.61. This motion covers the period from June 28, 2016 through September 27, 2016. The court approved the movant's employment as the estate's accountant on June 30, 2016. Docket 35. In performing its services, the movant charged an hourly rate of $250.

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 assessing tax consequences from the sale of estate assets and preparing estate tax returns.

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

11. 16-25814-A-7 MICHAEL/MELISA STOVER — MOTION FOR RELIEF FROM AUTOMATIC STAY 10-17-16 [14]
EMM-1
BANC OF CALIFORNIA, N.A. VS.

Final Ruling: The motion for relief from the automatic stay was voluntarily dismissed on November 10, 2016. Docket 22.

12. 16-26316-A-7 JEFFREY SAADI — MOTION TO AVOID JUDICIAL LIEN 9-30-16 [10]
SNM-1
VS. SUNTRUST BANK

Final Ruling: The court finds that a hearing will not be helpful to its consideration and resolution of this matter. Accordingly, it is removed from calendar for resolution without oral argument.

The motion will be granted.

The hearing on this motion was continued from November 7, in order for the debtor to supplement the record. The debtor has filed additional papers.

A judgment was entered against the debtor in favor of Suntrust Bank for the sum of $62,276.46 on September 24, 2012. The abstract of judgment was recorded with Solano County on December 5, 2012. That lien attached to the debtor's residential real property in Vacaville, 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 $575,000 as of the petition date. Dockets 24, 26, 28. The unavoidable liens totaled $986,461.79 on that same date, consisting of:

- a mortgage in favor of Select Portfolio Servicing in the amount of $587,020,
- a mortgage in favor of Ditech Financial in the amount of $150,805,
- a tax lien in favor of the IRS in the amount of $207,371.40,
- tax liens in favor of the IRS in the aggregate amount of $207,371.40, and
- a tax lien in favor of the California Franchise Tax Board in the amount of $41,265.39.

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 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).

13. 16-26316-A-7 JEFFREY SAADI — MOTION TO AVOID JUDICIAL LIEN
SNM-2
VS. MIDLAND FUNDING, L.L.C — 9-30-16 [15]

Final Ruling: The court finds that a hearing will not be helpful to its consideration and resolution of this matter. Accordingly, it is removed from calendar for resolution without oral argument.

The motion will be granted.

The hearing on this motion was continued from November 7, in order for the debtor to supplement the record. The debtor has filed additional papers.

A judgment was entered against the debtor in favor of Midland Funding, L.L.C. for the sum of $13,658.05 on August 27, 2013. The abstract of judgment was recorded with Solano County on September 20, 2013. That lien attached to the debtor's residential real property in Vacaville, 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 $575,000 as of the petition date. Dockets 25, 27, 29. The unavoidable liens totaled $986,461.79 on that same date, consisting of:

- a mortgage in favor of Select Portfolio Servicing in the amount of $587,020,
- a mortgage in favor of Ditech Financial in the amount of $150,805,
- a tax lien in favor of the IRS in the amount of $207,371.40,
- tax liens in favor of the IRS in the aggregate amount of $207,371.40, and
- a tax lien in favor of the California Franchise Tax Board in the amount of $41,265.39.

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 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).

14. 15-29525-A-7 LARRY/KELLY BUCKINGHAM — MOTION TO APPROVE COMPENSATION OF TRUSTEE'S ATTORNEY
SCB-5 — 10-24-16 [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 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.

Schneweis-Coe & Bakken, attorney for the trustee, has filed its first and final motion for approval of compensation. The requested compensation consists of $4,994.92, reduced from $7,650 in fees and $314.92 in expenses. This motion covers the period from May 4, 2016 through the present. The court approved the movant's employment as the trustee's attorney on May 16, 2016.

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) analyzing assets of the estate, including real property, (2) assisting the estate with the sale of the real property, (3) preparing and prosecuting a motion for approval of sale of the property, (4) negotiating with the debtors about their vacating of the property, (5) negotiating the cancelling of escrow with the first buyer of the property, due to the debtors' refusal to vacate, (6) preparing and prosecuting another motion to sell, after the trustee accepted another offer to purchase, (7) preparing and prosecuting a motion for turnover of the real property, given the debtors' refusal to vacate, and (8) 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.

15. 16-21333-A-7 DEBORAH REIFER
AP-1
THE BANK OF NEW YORK MELLON VS.

MOTION FOR
RELIEF FROM AUTOMATIC STAY
10-19-16 [55]

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 denied.

The movant, The Bank of New York Mellon, seeks relief from the automatic stay as to real property in Davis, California. The property has a value of $1,059,000.00 and it is encumbered by claims totaling approximately $865,980.96. The movant's lien is the only encumbrance against the property. This leaves approximately $193,019.04 of equity in the property.

Given this equity, relief from stay under 11 U.S.C. § 362(d)(2) is not appropriate.

Further, there is no evidence in the record establishing that the property is depreciating in value. Under United Sav. Ass'n. Of Tex. v. Timbers of Inwood Forest Assocs., Ltd., 484 U.S. 365, 108 S.Ct. 626, 98 L.Ed.2d 740 (1988), a secured creditor's interest in its collateral is considered to be inadequately protected only if that collateral is depreciating or diminishing in value. The creditor, however, is not entitled to be protected from an erosion of its equity cushion due to the accrual of interest on the secured obligation. In other words, a secured creditor is not entitled to demand, as a measure of adequate protection, that "the ratio of collateral to debt" be perpetuated. See Orix Credit Alliance, Inc. v. Delta Resources, Inc. (In re Delta Resources, Inc., 54 F.3d 1200, 1202 (11th Cir. 1995).

The movant also has an equity cushion of approximately $193,019.04 . This equity cushion is sufficient to adequately protect the movant's interest in the property until the debtors obtain their discharge or the case is closed without entry of a discharge. See 11 U.S.C. § 362(c)(1) & (c)(2). At that point, the automatic stay will expire as a matter of law. The debtor is scheduled to obtain a discharge soon after November 9, 2016. The case was initially evaluated as a "no asset" case and there is nothing in the file suggesting that the trustee is administering any assets with the result that the case will remain open a significant period beyond November 9. Thus, relief from stay under 11 U.S.C. § 362(d)(1) is not appropriate either. The motion will be denied.

16. 16-24351-A-7 MOHAMMAD MUSHTAQ
SCB-3

MOTION TO
APPROVE COMPROMISE
10-13-16 [33]

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 resolving five avoidance claims based on his pre-petition transfer of funds, aggregating $62,900, to five individuals.

This case was filed on July 1, 2016. The subject transfers are as follows:

- $14,500 to Muhammad Javaid on November 3, 2015,
- $500 to Muhammad Shoaib on November 1, 2015,
- $5,000 to Muhammad I. Khan on November 3, 2015,
- $2,900 to Ali Asghar on November 6, 2015, and
- $40,000 to Yasmin Ismail on an undetermined date.

Under the terms of the compromise, the debtor will pay $30,000 to the estate, which should cover all administrative expenses and unsecured claims in this case. He will obtain the settlement funds by refinancing his real property in Lodi, California. If the debtor is unable to refinance the property and pay the settlement amount within 120 days of the settlement agreement, the trustee shall have the authority to sell the property, pay the costs of sale, pay all claims against the bankruptcy estate, and pay any remaining proceeds to the debtor. The debtor has agreed to cooperate with the trustee, in the event the property is sold by the trustee.

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 asserted defenses pertaining to each of the transfers, given the inherent costs, risks, delay and inconvenience of further litigation, and that the settlement proceeds will pay all estate claims in full, 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.

17. 16-26852-A-7 ALEXIS MADRID
ADR-1
MARINA VILLAGE WEST APT VS.

MOTION FOR
RELIEF FROM AUTOMATIC STAY
10-24-16 [15]

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, Marina Village West Apartments, seeks relief from the automatic stay as to real property in Stockton, California.

The movant is the legal owner of the property and the debtors leased it from the movant. The debtors defaulted under the lease agreement in October 2016. The movant served the debtors with a three-day notice to pay or quit on October 6, 2016. The movant desires to file an Unlawful Detainer action in state court. The debtor has not paid any payment of the pre-petition rent that is owed nor have the debtor vacated the property. Further, the debtor has not paid any rent post-petition.

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 March 2015 onward. Also, the debtors' tenancy interest in the property terminated upon expiration of the three-day notice served on them pre-petition. See In re Windmill Farms, Inc., 841 F.2d 1467, 1470 (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.

18. 16-24261-A-7 C.C. MYERS, INC.
DNL-9

MOTION TO
ABANDON
10-10-16 [224]

Final Ruling: The hearing on this motion will be continued to December 5, 2016 at 10:00 a.m.

The hearing on this motion was continued from November 7 because creditor Construction Laborers Trust Funds for Southern California Administrative Company was unable to attend the November 7 hearing.

The trustee seeks an order abandoning the estate's interest in all the debtor's paper and electronic records, which are currently in the possession of principal secured creditor Liberty Mutual Insurance Company. LMIC claims security interest in the records. In the alternative, the trustee asks for authority to dispose of the records.

Construction Laborers opposes the motion, contending that it was filed in bad faith because the trustee sought use of cash collateral also to pay for the preservation and management of the debtor's records. Construction Laborers argues that, under Midlantic Nat. Bank v. New Jersey Dep't of Envtl. Prot., 474 U.S. 494 (1986), the court cannot order abandonment until the trustee has produced the records to Construction Laborers, for the liquidation of its claim against the estate.

Creditor Ghilotti Bros., Inc. has filed a conditional objection to the sought abandonment, seeking more information about the records from the trustee and seeking assurances from the trustee and LMIC about the post-abandonment preservation and maintenance of the records. GBI demands:

- an inventory of the records,
- the location and custodian of the records,
- certification of no post-petition alternation or spoliation of the records,
- certification that abandonment will not cause "material alternation or spoliation,"
- certification that LMIC will maintain the records at its cost, without "material alternation or spoliation," and
- LMIC to certify that it will provide full and complete access to the records in response to discovery requests.

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 court rejects both oppositions. There are no conditions to the abandonment of property, other than what is specified in section 554(a), namely that the property is burdensome or of inconsequential value or benefit to the estate.

The Midlantic case is inapplicable. It is disingenuous to seek the application of that case here, as it applies only to abandonment of property that would endanger the "public's health and safety." Midlantic at 507. The decision's holding is quite narrow:

"[W]ithout reaching the question whether certain state laws imposing conditions on abandonment may be so onerous as to interfere with the bankruptcy adjudication itself, we hold that a trustee may not abandon property in contravention of a state statute or regulation that is *reasonably designed to protect the public health or safety from identified hazards*."

Midlantic at 507 (emphasis added).

Midlantic had to do with environmental health and safety hazards — the debtor had accepted and stored over 70,000 gallons of toxic, PCB-contaminated oil in deteriorating and leaking containers. Midlantic at 497. Environmental health

and safety hazards are not a concern here.

Construction Laborers says nothing about the statutes the trustee is purportedly violating to be "reasonably designed to protect the public health or safety from identified hazards." No health or safety hazards have been identified as a concern here. Construction Laborers seeks access to the records only to liquidate its claims against the estate and to make claims on the payment of bonds issued by LMIC. Docket 265 at 3.

The court will not force the estate to incur costs only to accommodate third party litigation without any benefit or consequential value to the estate.

And, the trustee's granted request for permission to pay for the preservation and maintenance of the records is only that, a permission. It is within the trustee's business judgment to obtain such a permission from the court and then decide against exercising it. The trustee has never represented or bound herself that she would be using the requested cash collateral to preserve and maintain the records.

The court will not question the trustee's business judgment. It finds no deception or bad faith in her seeking the cash collateral use for the records, while contemporaneously filing a motion to abandon the records. The abandonment motion was not to be heard for nearly another month after the trustee obtained permission to use cash collateral to preserve and maintain the records. The trustee obtained the permission on October 11, whereas the original hearing on the abandonment motion was not until November 7. Dockets 225, 228, 276. This gave the trustee nearly a month to rethink her judgment on the abandonment of the records.

Further, both oppositions are misguided in assuming the court would be abandoning the records to LMIC. Abandonment is always to the debtor. See 11 U.S.C. § 554(c). If a party other than the debtor has control or possession of the records, it is up to the debtor to recover its records. There is nothing requiring the estate to turn over the records to the debtor, when the estate has no control or possession of the records. The trustee has stated that the records — or some of the records — are in the possession of LMIC.

More, the court will not impose any conditions on the abandonment of the records. Section 554(a) does not impose any conditions on the trustee, absent his judgment that the property is burdensome or of inconsequential value to the estate. And, nothing requires the trustee to recover, examine and account for every document in the debtor's records, prior to determining that the records are burdensome or of inconsequential value to the estate. See, e.g., 11 U.S.C. § 704(a)(1) & (2).

The trustee has demonstrated that the records are burdensome or of inconsequential value to the estate. Docket 226. The records are not required for the trustee to administer the estate and they are of no monetary or otherwise beneficial value to the estate. The estate does not have the resources to preserve and maintain the debtor's records. The trustee is also concerned about the risk of spoilation and consequent potential liability, if she accesses the records, given that the records are likely to be used in future litigation involving LMIC, other creditors, and the debtor's officers and directors. The trustee has not accessed the records and does not think this to be in the best interest of the estate. Docket 226.

This is sufficient to order the records' abandonment.

As the trustee has asked for another continuance of the hearing on the motion to December 5, 2016, the court will continue the hearing until December 5 at 10:00 a.m. The written record on this motion, however, is closed.

19. 16-26364-A-7 JOSE/ELIZABETH RODRIGUEZ — MOTION FOR RELIEF FROM AUTOMATIC STAY
JHW-1 — 10-17-16 [14]
AMERICREDIT FINANCIAL SERVICES, INC. VS.

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 movant seeks relief from the automatic stay as to a vehicle. The vehicle has a value of $7,350 and it is encumbered by the movant's claim of approximately $8,163. There is no equity in the vehicle.

Given this lack of equity, relief from stay under 11 U.S.C. § 362(d)(2) is appropriate to permit the movant to repossess the vehicle, dispose of it in a reasonable manner and apply the proceeds to the debtor's outstanding debt.

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.

20. 15-29268-A-7 JOANNE GODREAU — MOTION TO APPROVE COMPENSATION OF CHAPTER 7 TRUSTEE
ASF-3 — 10-17-16 [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 chapter 7 trustee, Alan Fukushima, has filed first and final motion for approval of compensation. The requested compensation consists of $14,087.96 in fees and $0.00 in expenses. The services for the sought compensation were provided from December 29, 2015 through the present. The sought compensation represents 51.4 hours of services.

The court is satisfied that the requested compensation does not exceed the cap

of section 326(a).

The movant will make or has made $216,759.24 in distributions to creditors. This means that the cap under section 326(a) on the movant's compensation is $14,087.96 ($1,250 (25% of the first $5,000) + $4,500 (10% of the next $45,000) + $8,337.96 (5% of the next $950,000 (or $166,759.24)). Hence, the requested trustee fees of $14,087.96 do not exceed the cap of section 326(a).

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."

"[A]bsent extraordinary circumstances, chapter 7, 12 and 13 trustee fees should be presumed reasonable if they are requested at the statutory rate. Congress would not have set commission rates for bankruptcy trustees in §§ 326 and 330(a)(7), and taken them out of the considerations set forth in § 330(a)(3), unless it considered them reasonable in most instances. Thus, absent extraordinary circumstances, bankruptcy courts should approve chapter 7, 12 and 13 trustee fees without any significant additional review."

Hopkins v. Asset Acceptance LLC (In re Salgado-Nava), 473 B.R. 911, 921 (B.A.P. 9th Cir. 2012).

The movant's services did not involve extraordinary circumstances and included, without limitation: (1) reviewing petition documents and analyzing assets, (2) conducting the meeting of creditors, (3) evaluating the debtor's interest in a rental real property, (4) employing professionals to assist the estate in the administration of estate assets, (5) communicating with the estate's professionals about various issues, (6) reviewing and accepting offers on the sale of the rental property, (7) reviewing claims, (8) reviewing various pleadings and documents prepared by the estate's professionals, (9) addressing tax issues, (10) preparing final report, and (11) preparing compensation motion.

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. 16-26574-A-7 LUIS GUTIERREZ — MOTION TO AVOID JUDICIAL LIEN
SLE-1
VS. DISCOVER BANK — 10-23-16 [12]

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 $11,321.68 on June 22, 2015. The abstract of judgment was recorded with

Sacramento County. That lien attached to the debtor's residential real property in Elk Grove, 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 $299,194 as of the petition date. Dockets 14 & 1. The unavoidable liens totaled $204,493.46 on that same date, consisting of a single mortgage in favor of Ditech. Dockets 14 & 1. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730 in the amount of $100,000 in Schedule C. Dockets 14 & 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).

22. 16-26574-A-7 LUIS GUTIERREZ — MOTION TO AVOID JUDICIAL LIEN
SLE-2
VS. WELLS FARGO BANK, N.A. — 10-23-16 [17]

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

The motion will be granted.

A judgment was entered against the debtor in favor of Wells Fargo Bank for the sum of $15,191.25 on March 17, 2016. The abstract of judgment was recorded with Sacramento County. That lien attached to the debtor's residential real property in Elk Grove, 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 $299,194 as of the petition date. Dockets 19 & 1. The unavoidable liens totaled $204,493.46 on that same date, consisting of a single mortgage in favor of Ditech. Dockets 19 & 1. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730 in the amount of $100,000 in Schedule C. Dockets 19 & 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).

23. 11-39176-A-7 RAMON SANCHEZ — MOTION TO AVOID JUDICIAL LIEN
TOG-2
VS. PRECISION RECOVERY ANALYTICS, INC. — 10-28-16 [25]

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

The debtor served the motion on Precision Recovery Analytics, Inc. 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 30 at 3.

And, while the debtor served Precision's attorney, Nelson & Kennard, 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).

In addition, if the motion is reset for hearing, the debtor should note that there is a discrepancy between: the value of the property in the supporting declaration ($120,050 — Docket 27); and the value of the property in Schedules A, C, D and the subject motion and memorandum of points and authorities ($120,071). Also, the memorandum of points and authorities references an exemption claim in the amount of $175,000, whereas Schedule C contains an exemption of $8,021. Dockets 29 & 1.

24. 16-26576-A-7 LARAMIE LAWRENZ — MOTION FOR RELIEF FROM AUTOMATIC STAY
APN-1
SANTANDER CONSUMER USA, INC. VS. — 10-21-16 [13]

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 movant seeks relief from the automatic stay as to a vehicle. The vehicle has a value of $7,425 and it is encumbered by the movant's claim of approximately $12,917. There is no equity in the vehicle.

Given this lack of equity, relief from stay under 11 U.S.C. § 362(d)(2) is appropriate to permit the movant to repossess the vehicle, dispose of it in a reasonable manner and apply the proceeds to the debtor's outstanding debt.

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.

25. 15-29279-A-7 COSTANTINE/HAIFA ERHAYEL — MOTION TO APPROVE COMPENSATION OF SPECIAL COUNSEL
GJH-4 — 10-20-16 [35]

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.

Hughes Law Corporation, special counsel for the estate, has filed its first and final motion for approval of compensation. The requested compensation consists of $16,666.66 in fees and $0.00 in expenses. The compensation relates to services provided in litigation between the estate and the debtors over disqualifications of their IRA. The movant recovered $50,000 for the estate from settlement of the estate's objection to the debtors' exemption of the IRA.

The services, consisting of 65.1 hours, cover the period from January 5, 2016 through the present. The movant's employment as special counsel for the estate was approved on February 2, 2016. Docket 14. The requested compensation is based on a 33.3% contingency fee arrangement.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses."

The movant's services consisted, without limitation, of: investigating the debtors' IRA, analyzing transactions involving the IRA, preparing and filing an objection to the exemption of the IRA, negotiating settlement with the debtors, obtaining court approval of the settlement and preparing 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.

26. 16-26394-A-7 JESSIE HOWELL — MOTION FOR RELIEF FROM AUTOMATIC STAY
NLL-1 — 10-14-16 [10]
U.S. BANK, N.A. VS.

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, U.S. Bank, N.A., seeks relief from the automatic stay as to real property in Sacramento, California. The property has a value of $350,000.00 and it is encumbered by claims totaling approximately $516,914.94. The movant's deed is in first priority position and secures a claim of approximately $516,914.94.

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 November 3, 2016.

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

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

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

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