

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA**

Honorable Fredrick E. Clement
Fresno Federal Courthouse
2500 Tulare Street, 5th Floor
Courtroom 11, Department A
Fresno, California

PRE-HEARING DISPOSITIONS

DAY: WEDNESDAY
DATE: DECEMBER 12, 2018
CALENDAR: 9:00 A.M. CHAPTER 7 CASES

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

No Ruling: All parties will need to appear at the hearing unless otherwise ordered.

Tentative Ruling: If a matter has been designated as a tentative ruling it will be called. The court may continue the hearing on the matter, set a briefing schedule or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

Final Ruling: Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

Orders: Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within 14 days of the final hearing on the matter.

1. [12-60306](#)-A-7 **IN RE: MATTHEW BLANTON**
[DMG-3](#)

MOTION TO AVOID LIEN OF J.R. SMEED DBA NATIONAL CHARTER LIFE
INSURANCE COMPANY
11-14-2018 [[52](#)]

MATTHEW BLANTON/MV
J. IRIGOYEN

Tentative Ruling

Motion: Avoid Lien that Impairs Exemption

Disposition: Denied without prejudice

Order: Civil minute order

The motion appears duplicative of motion to avoid lien, DCN: DMG-8.
The motion will be denied without prejudice.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms
substantially to the following form:

Findings of fact and conclusions of law are stated in the civil
minutes for the hearing.

The debtor's motion to avoid lien of J.R. Smeed has been presented
to the court. Having considered the motion, oppositions, responses
and replies, if any, and having heard oral argument presented at the
hearing,

IT IS ORDERED that the motion is denied without prejudice.

2. [12-60306](#)-A-7 **IN RE: MATTHEW BLANTON**
[DMG-4](#)

MOTION TO AVOID LIEN OF YOW YEA CHIOU
11-14-2018 [[57](#)]

MATTHEW BLANTON/MV
J. IRIGOYEN

Tentative Ruling

Motion: Avoid Lien that Impairs Exemption

Disposition: Denied without prejudice

Order: Civil minute order

The motion appears duplicative of motion to avoid lien, DCN: DMG-6.
The motion will be denied without prejudice.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The debtor's motion to avoid lien of Yow Yea Chiou has been presented to the court. Having considered the motion, oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the motion is denied without prejudice.

3. [12-60306](#)-A-7 **IN RE: MATTHEW BLANTON**
[DMG-5](#)

MOTION TO AVOID LIEN OF YOW YEA CHIOU
11-14-2018 [[62](#)]

MATTHEW BLANTON/MV
J. IRIGOYEN

Tentative Ruling

Motion: Avoid Lien that Impairs Exemption

Disposition: Denied without prejudice

Order: Civil minute order

The judicial lien is not subject to avoidance under § 522(f) because the judgment pertains to "Melvin Blanton" and not the debtor in this case.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The debtor's motion to avoid lien of Yow Yea Chiou has been presented to the court. Having considered the motion, oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the motion is denied without prejudice.

4. [12-60306](#)-A-7 **IN RE: MATTHEW BLANTON**
[DMG-6](#)

MOTION TO AVOID LIEN OF YOW YEA CHIOU
11-14-2018 [[67](#)]

MATTHEW BLANTON/MV
J. IRIGOYEN

Final Ruling

Motion: Avoid Multiple Liens that Impair Exemption

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by moving party

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

LIEN-AVOIDANCE STANDARDS

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

REVERSE-PRIORITY ANALYSIS

In cases in which there are multiple liens to be avoided, the liens must be avoided in the reverse order of their priority. *See In re Meyer*, 373 B.R. 84, 87-88 (B.A.P. 9th Cir. 2007). "[L]iens already avoided are excluded from the exemption-impairment calculation with respect to other liens." *Id.*; 11 U.S.C § 522(f)(2)(B).

The court finds it unnecessary to apply the reverse-priority analysis individually to each of the respondents' liens. *See In re Meyer*, 373 B.R. at 88 ("[O]ne must approach lien avoidance from the

back of the line, or at least some point far enough back in line that there is no nonexempt equity in sight.").

Under the reverse-priority analysis, J.R. Smeed's judicial lien would be the last judicial lien to be avoided because of its higher priority than the other judicial liens (but it remains subject to any senior consensual lien). In determining whether J.R. Smeed's lien may be avoided, the court must exclude all junior judicial liens that would already have been avoided under such analysis. See 11 U.S.C. § 522(f)(2)(B); *In re Meyer*, 373 B.R. at 87-88.

The senior judicial lien, plus all other liens (excluding junior judicial liens lower in priority), plus the exemption amount together equal \$482,400.00. This sum exceeds the property's value by an amount greater than or equal to the senior judicial lien. As a result, J.R. Smeed's judicial lien may be avoided entirely.

Because the highest-priority judicial lien is avoidable, all other junior judicial liens are also avoidable, and the reverse-priority analysis is unnecessary to apply to each judicial lien. Stated differently, the sum of the debt secured by the consensual liens plus the debtor's exemption amount equals or exceeds the fair market value of the real property, so all judicial liens on the debtor's property are avoidable under § 522(f).

5. [12-60306](#)-A-7 **IN RE: MATTHEW BLANTON**
[DMG-7](#)

MOTION TO AVOID LIEN OF COMMERCIAL TRADE, INC.
11-14-2018 [\[72\]](#)

MATTHEW BLANTON/MV
J. IRIGOYEN

Final Ruling

Motion: Avoid Multiple Liens that Impair Exemption

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by moving party

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

LIEN-AVOIDANCE STANDARDS

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that

such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

REVERSE-PRIORITY ANALYSIS

In cases in which there are multiple liens to be avoided, the liens must be avoided in the reverse order of their priority. See *In re Meyer*, 373 B.R. 84, 87-88 (B.A.P. 9th Cir. 2007). "[L]iens already avoided are excluded from the exemption-impairment calculation with respect to other liens." *Id.*; 11 U.S.C § 522(f)(2)(B).

The court finds it unnecessary to apply the reverse-priority analysis individually to each of the respondents' liens. See *In re Meyer*, 373 B.R. at 88 ("[O]ne must approach lien avoidance from the back of the line, or at least some point far enough back in line that there is no nonexempt equity in sight.").

Under the reverse-priority analysis, J.R. Smeed's judicial lien would be the last judicial lien to be avoided because of its higher priority than the other judicial liens (but it remains subject to any senior consensual lien). In determining whether J.R. Smeed's lien may be avoided, the court must exclude all junior judicial liens that would already have been avoided under such analysis. See 11 U.S.C. § 522(f)(2)(B); *In re Meyer*, 373 B.R. at 87-88.

The senior judicial lien, plus all other liens (excluding junior judicial liens lower in priority), plus the exemption amount together equal \$482,400.00. This sum exceeds the property's value by an amount greater than or equal to the senior judicial lien. As a result, J.R. Smeed's judicial lien may be avoided entirely.

Because the highest-priority judicial lien is avoidable, all other junior judicial liens are also avoidable, and the reverse-priority analysis is unnecessary to apply to each judicial lien. Stated differently, the sum of the debt secured by the consensual liens plus the debtor's exemption amount equals or exceeds the fair market value of the real property, so all judicial liens on the debtor's property are avoidable under § 522(f).

6. [12-60306](#)-A-7 **IN RE: MATTHEW BLANTON**
[DMG-8](#)

MOTION TO AVOID LIEN OF J.R. SMEED DBA NATIONAL CHARTER LIFE
INSURANCE COMPANY
11-14-2018 [[77](#)]

MATTHEW BLANTON/MV
J. IRIGOYEN

Final Ruling

Motion: Avoid Multiple Liens that Impair Exemption

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by moving party

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

LIEN-AVOIDANCE STANDARDS

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

REVERSE-PRIORITY ANALYSIS

In cases in which there are multiple liens to be avoided, the liens must be avoided in the reverse order of their priority. See *In re Meyer*, 373 B.R. 84, 87-88 (B.A.P. 9th Cir. 2007). "[L]iens already avoided are excluded from the exemption-impairment calculation with respect to other liens." *Id.*; 11 U.S.C § 522(f)(2)(B).

The court finds it unnecessary to apply the reverse-priority analysis individually to each of the respondents' liens. See *In re*

Meyer, 373 B.R. at 88 (“[O]ne must approach lien avoidance from the back of the line, or at least some point far enough back in line that there is no nonexempt equity in sight.”).

Under the reverse-priority analysis, J.R. Smeed’s judicial lien would be the last judicial lien to be avoided because of its higher priority than the other judicial liens (but it remains subject to any senior consensual lien). In determining whether J.R. Smeed’s lien may be avoided, the court must exclude all junior judicial liens that would already have been avoided under such analysis. See 11 U.S.C. § 522(f)(2)(B); *In re Meyer*, 373 B.R. at 87-88.

The senior judicial lien, plus all other liens (excluding junior judicial liens lower in priority), plus the exemption amount together equal \$482,400.00. This sum exceeds the property’s value by an amount greater than or equal to the senior judicial lien. As a result, J.R. Smeed’s judicial lien may be avoided entirely.

Because the highest-priority judicial lien is avoidable, all other junior judicial liens are also avoidable, and the reverse-priority analysis is unnecessary to apply to each judicial lien. Stated differently, the sum of the debt secured by the consensual liens plus the debtor’s exemption amount equals or exceeds the fair market value of the real property, so all judicial liens on the debtor’s property are avoidable under § 522(f).

7. [18-13921](#)-A-7 **IN RE: EMILY GUILLERMO- DE LA TORRE**
[APN-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
10-31-2018 [9]

FORD MOTOR CREDIT COMPANY/MV
MICHAEL ARNOLD
AUSTIN NAGEL/ATTY. FOR MV.

Final Ruling

Motion: Stay Relief

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Civil minute order

Subject: 2018 Ford Mustang

Unopposed motions are subject to the rules of default. Fed. R. Civ. P.55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

STAY RELIEF

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Ford Motor Credit Company's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as a 2018 Ford Mustang, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

8. [18-13623](#)-A-7 **IN RE: GARY/CRYSTAL RIOS**

MOTION FOR RELIEF FROM AUTOMATIC STAY MOTION TO COMPEL,
MOTION TO DELAY DISCHARGE, MOTION TO EXTEND TIME
11-21-2018 [\[17\]](#)

21ST MORTGAGE CORPORATION/MV
VINCENT GORSKI
DIANE WEIFENBACH/ATTY. FOR MV.

Final Ruling

Matter: Compel Compliance with § 521(a)(2),(6), Enlargement of Time to File Reaffirmation Agreement, Delay Entry of Discharge and Termination of the Stay

Notice: LBR 9014-1(f)(2); no written opposition required

Disposition: Denied without prejudice

Order: Civil minute order

Movant 21st Mortgage Corporation seeks an order (1) requiring compliance with § 521(a)(2),(6); (2) enlarging time to file a Reaffirmation Agreement; (3) delay entry of discharge; and (4) termination of the stay, 11 U.S.C. § 362(h). The motion will be denied without prejudice.

DISCUSSION

Failure to Serve

Motions must be noticed to the debtor and counsel, and in many cases creditors and other parties in interest. Fed. R. Bankr. P. 9013. A certificate of service demonstrating that the motion has, in fact, been served. LBR 9014-1(e). The docket does not reflect service of the motion. As a result, the motion must, and will, be denied.

On the Merits

A brief review of the motion suggests that the movant would not be entitled to at least some of the relief requested.

First, movant's remedy for failure to comply with § 521 is repossession of the collateral. Sections 521 requires the debtor to declare his/her/their intention with respect to collateral encumbered by a security interest. 11 U.S.C. § 521(a)(2),(6). If the debtor does not do so, the creditor's remedy is stay relief. 11 U.S.C. § 362(h).

Here, the debtor has filed a Statement of Intention. Twice. Statements of Intention, September 4, 2018, and November 21, 2018, ECF #s 1, 15. Each contends that the debtor wishes to "retain the property and "pay pursuant (sic) to contract." The movant suggests that such a designation is contrary to the teachings of *In re Dumont*, 581 F.3d 1104 (9th Cir. 2009). If true, the movant's remedy is stay relief.

Second, the court questions whether a creditor has standing to seek deferral of discharge. Fed. R. Bankr. P. 4004(c)(2); *In re Roderick*, 425 B.R. 556, 561 (Bankr. E.D. Cal. 2010) ("Thus, Rule 4004(c)(2) authorizes debtors, but only debtors (in light of negotiating imbalances), to ask that their discharges be deferred. Fed. R. Bankr. P. 4004(c)(2)).").

As a result, this court does not believe it could order some of the relief sought, even if the motion were properly noticed.

Violations of Local Rules

Though not a basis for this ruling, the court notes violations of applicable local rules.

Joinder

Local rules preclude joinder of independent basis for relief.

Joinder. Every application, motion, contested matter or other request for an order, shall be filed separately from any other request, except (1) that relief in the alternative based on the same statute or rule may be filed in a single motion; and (2) as otherwise provided by these rules. Without incorporation by reference to any other document, exhibit or supporting pleading, the motion shall state with particularity the grounds therefor, and shall set forth the relief or order sought. Where the motion combines requests for relief with differing notice periods or persons entitled to notice, the movant shall give notice consistent with the more expansive notice requirements.

LBR 9014-1(d)(5) (emphasis added)

Here, the movant has aggregated relief under (1) 11 U.S.C. § 521(a)(2),(6); (2) Fed. R. Bankr. P. 4008(a); (3) U.S.C. § 362(h); and (4) Fed. R. Bankr. P. 4004(c)(2).

Docket control numbers

Motions filed in the Eastern District of California must be uniquely identified by a docket control number.

(c) Docket Control Number.

1) In motions filed in the bankruptcy case, a Docket Control Number (designated as DC No.) shall be included by all parties immediately below the case number on all pleadings and other documents, including proofs of service, filed in support of or opposition to motions.

2) In motions filed in adversary proceedings, the Docket Control Number shall be placed immediately below the adversary number.

3) The Docket Control Number shall consist of not more than three letters, which may be the initials of the attorney for the moving party (e.g., first, middle, and last name) or the first three initials of the law firm for the moving party, and the number that is one number higher than the number of motions previously filed by said attorney or law firm in connection with that specific bankruptcy case.

Example: The first Docket Control Number assigned to attorney John D. Doe would be DC No. JDD-1, the second DC No. JDD-2, the third DC No. JDD-3, and so on. This sequence would be repeated for each specific bankruptcy case and adversary proceeding in which said attorney or law firm filed motions.

4) Once a Docket Control Number is assigned, all related papers filed by any party, including motions for orders shortening the amount of notice and stipulations resolving that motion, shall include the same number. However, motions for reconsideration and countermotions shall be treated as separate motions with a new Docket Control Number assigned in the manner provided for above.

LBR 9014-1(c) (emphasis added)

Counsel for the movant is cautioned to comply with applicable local rules in the future.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Movant 21st Mortgage Corporation motion has been presented to the court. Having considered the motion together with papers filed in support and opposition,

IT IS ORDERED that the motion is denied without prejudice.

9. [18-14027](#)-A-7 **IN RE: JOSEPH CORDOVA**
[JES-1](#)

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO
APPEAR AT SEC. 341(A) MEETING OF CREDITORS
10-30-2018 [[31](#)]

DISMISSED 11/14/18

Final Ruling

The case dismissed for failure to pay the filing fee, the matter is
dropped as moot.

10. [18-12333](#)-A-7 **IN RE: MASOUD MIRHADI**
[PBB-9](#)

CONTINUED MOTION TO AVOID LIEN OF MICHAEL THALER
11-15-2018 [[97](#)]

MASOUD MIRHADI/MV
PETER BUNTING
WITHDRAWN

Final Ruling

The motion withdrawn, the matter is dropped as moot.

11. [18-12333](#)-A-7 **IN RE: MASOUD MIRHADI**
[PBB-9](#)

CONTINUED HEARING RE: MOTION TO AVOID LIEN OF MICHAEL THALER
11-15-2018 [[97](#)]

MASOUD MIRHADI/MV
PETER BUNTING

Final Ruling

This calendar entry is duplicative of the motion that has been
withdrawn and is dropped as moot.

12. [18-13737](#)-A-7 **IN RE: RONALD/RAMONA FRANKFORT**
[EPE-1](#)

MOTION TO DELAY/DEFER DISCHARGE
11-27-2018 [[18](#)]

RONALD FRANKFORT/MV
ERIC ESCAMILLA

Tentative Ruling

Motion: Deferral of Discharge

Notice: LBR 9014-1(f)(2); no written opposition required

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

DISCUSSION

Rule 4004 authorizes the court to defer discharge in chapter 7:

Notwithstanding Rule 4004(c)(1), on motion of the debtor, the court may defer the entry of an order granting a discharge for 30 days and, on motion within that period, the court may defer entry of the order to a date certain.

Fed. R. Bankr. P. 4004(c)(2).

The need to negotiate a reaffirmation agreement with a mortgage lender may, under appropriate circumstances, support finding of cause to delay discharge. *In re Roderick*, 425 B.R. 556, 561 (Bankr. E.D. Cal. 2010).

Here, the debtors seek a 60- day extension from the scheduled discharge date of December 14, 2018. They do so to negotiate a reaffirmation with Dovenmuehle Mortgage, Inc. There is no evidence of a lack of good faith or lack of due diligence. The motion will be granted.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Ronald Frankfort and Ramona Frankfort's motion has been presented to the court. Having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted.

IT IS FURTHER ORDERED that the Clerk of the Court shall not enter the debtors' discharge before February 12, 2019.

13. [18-13864](#)-A-7 **IN RE: PORFIRIO SANCHEZ-NEGRETE**
[MAZ-1](#)

MOTION TO COMPEL ABANDONMENT
11-6-2018 [\[22\]](#)

PORFIRIO SANCHEZ-NEGRETE/MV
MARK ZIMMERMAN

Final Ruling

Motion: Compel Abandonment of Property of the Estate

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted only as to the business and such business assets described in Exhibit A to the Declaration of Sanchez-Negrete, November 6, 2018, ECF # 24

Order: Prepared by moving party pursuant to the instructions below

Business Description: Strike Hair Tees Accessories

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Property of the estate may be abandoned under § 554 of the Bankruptcy Code if property of the estate is "burdensome to the estate or of inconsequential value and benefit to the estate." See 11 U.S.C. § 554(a)-(b); Fed. R. Bankr. P. 6007(b). Upon request of a party in interest, the court may issue an order that the trustee abandon property of the estate if the statutory standards for abandonment are fulfilled.

The business described above is either burdensome to the estate or of inconsequential value to the estate. An order compelling abandonment of such business is warranted. The order will compel abandonment of only the business and its assets that are described in the motion.

14. [18-12966](#)-A-7 **IN RE: STEVEN ROJO**
[ASW-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
11-2-2018 [[30](#)]

RESIDENTIAL BANCORP/MV
WILLIAM OLCOTT
CAREN CASTLE/ATTY. FOR MV.

Final Ruling

Motion: Stay Relief

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Civil minute order

Subject: 2621 Sara Way, Bakersfield, California

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

STAY RELIEF

Section 362(d)(1) authorizes stay relief for cause shown. Cause includes the debtor's pre-petition loss of real property by way of foreclosure. In this case, the debtor's interest in the property was extinguished prior to the petition date by a foreclosure sale. The motion will be granted. The movant may take such actions as are authorized by applicable non-bankruptcy law, including prosecution of an unlawful detainer action (except for monetary damages) to obtain possession of the subject property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Residential Bancorp's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as 2621 Sara Way, Bakersfield, California, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may take such actions as are authorized by applicable non-bankruptcy law, including prosecution of an unlawful detainer action (except for monetary damages) to obtain possession of the subject property.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

15. [18-13493](#)-A-7 **IN RE: CHERIE SNODGRASS**
[CFS-2](#)

MOTION TO AVOID LIEN OF ONEMAIN FINANCIAL SERVICES, INC.
11-13-2018 [\[26\]](#)

CHERIE SNODGRASS/MV

Tentative Ruling

Motion: Avoid Lien that Impairs Exemption

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted in part; Denied in part

Order: Prepared by moving party

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property;

exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

The movant has shown that the security interest to be avoided is a nonpossessory, nonpurchase money security interest. However, the movant has not complied with the limitations for avoidance of nonpossessory, nonpurchase money security interests found in § 522(f)(4). Paragraph (4) of subsection (f) of § 522 provides in pertinent part:

- (A) Subject to subparagraph (B), for purposes of paragraph (1)(B), the term "household good" means --
- (i) clothing;
 - (ii) furniture;
 - (iii) appliances;
 - (iv) 1 radio;
 - (v) 1 television;
 - (vi) 1 VCR;
 - (vii) linens;
 - (viii) china;
 - (ix) crockery;
 - (x) kitchenware;
 - (xi) educational materials and educational equipment primarily for the use of minor dependent children of the debtor;
 - (xii) medical equipment and supplies;
 - (xiii) furniture exclusively for the use of minor children, or elderly or disabled dependents of the debtor;
 - (xiv) personal effects (including the toys and hobby equipment of minor dependent children and wedding rings) of the debtor and the dependents of the debtor; and
 - (xv) 1 personal computer and related equipment.

(B) The term "household goods" does not include -

- ...
- (v) a computer (except as otherwise provided by this section) ... 11 U.S.C. § 522 (West) (emphases added).

The statutory limitations for avoiding nonpossessory, nonpurchase money security interests in household goods have been exceeded by this motion. First, the motion includes a laptop and a tablet, though the limitation is one personal computer. The court will grant the motion to avoid the lien as to the laptop but will deny the motion as to the tablet. Second, the camera does not fit within any of the categories of household goods under § 522(f)(4)(A). Accordingly, the court will deny the motion as to the camera.

For the foregoing reasons, the motion will be granted in part and denied in part.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

The debtor's Motion to Avoid Lien of OneMain Financial Services, Inc. has been presented to the court. Having considered the motion together with papers filed in support and opposition, and having heard the arguments of counsel, if any,

IT IS ORDERED that the motion is granted, as to the laptop but denied as to the tablet and camera.

16. [18-13099](#)-A-7 **IN RE: JUAN GUTIERREZ-MURILLO**
[NLG-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
11-6-2018 [[20](#)]

FEDERAL NATIONAL MORTGAGE
ASSOCIATION/MV
SCOTT LYONS
NICHOLE GLOWIN/ATTY. FOR MV.
DISCHARGED

Final Ruling

Motion: Stay Relief

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted in part; denied in part as moot

Order: Civil minute order

Subject: 831 East Belleview Avenue, Porterville

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

AS TO THE DEBTOR

The motion is denied as moot. The stay that protects the debtor terminates at the entry of discharge. 11 U.S.C. § 362(c)(2). In this case, discharge has been entered. As a result, the motion is moot as to the debtor.

AS TO THE ESTATE

Subsection (d)(1) of § 362 of Title 11 provides for relief from stay for "cause, including the lack of adequate protection of an interest in property of such party." 11 U.S.C. § 362(d)(1). Adequate protection may consist of a lump sum cash payment or periodic cash payments to the entity entitled to adequate protection "to the extent that the stay . . . results in a decrease in the value of such entity's interest in property." 11 U.S.C. § 361(1).

"[U]nder section 362(d)(1), the stay must be terminated for 'cause.' Lack of adequate protection is but one example of "cause" for relief from stay." *In re Ellis*, 60 B.R. 432, 435 (B.A.P. 9th Cir. 1985). The panel in the *Ellis* case rejected the argument that under § 362(d)(1) "the stay can only be terminated if [the movant-creditors] show a lack of adequate protection." *Id.*

The debtor has missed three (3) post-petition payments due on the debt secured by the moving party's lien. This constitutes cause for stay relief.

The court does not address grounds for relief under § 362(d)(2) as relief is warranted under § 362(d)(1). The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Federal National Mortgage Association's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted in part and denied as moot in part. The automatic stay is vacated with respect to the interest of the trustee in the property described in the motion, commonly known as 831 East Belleview Avenue, Porterville. Relief from the automatic stay as to the interest of the debtor in such property is denied as moot given the entry of the discharge in this case. 11 U.S.C. § 362(c)(2)(C).

IT IS FURTHER ORDERED that the 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

17. [11-17165](#)-A-11 **IN RE: OAKHURST LODGE, INC., A CALIFORNIA CORPORATION**

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY
PETITION
6-22-2011 [[1](#)]

DONNA STANDARD

No Ruling

18. [11-17165](#)-A-11 **IN RE: OAKHURST LODGE, INC., A CALIFORNIA CORPORATION**
[AJM-5](#)

CONTINUED MOTION TO COMPROMISE CONTROVERSY/APPROVE
SETTLEMENT AGREEMENT WITH OAKHURST LODGE, INC., STEVEN KENT
MARSHALL, TOTAL LENDERS SOLUTIONS, INC. AND OAKHURST LODGE,
LP
9-13-2018 [[397](#)]

FIRST-CITIZENS BANK & TRUST
COMPANY/MV
DONNA STANDARD
AARON MALO/ATTY. FOR MV.

No Ruling

19. [11-17165](#)-A-11 **IN RE: OAKHURST LODGE, INC., A CALIFORNIA CORPORATION**
[15-1017](#)

CONTINUED PRE-TRIAL CONFERENCE RE: AMENDED COMPLAINT
4-6-2016 [[151](#)]

OAKHURST LODGE, INC. V.
FIRST-CITIZENS BANK & TRUST
DONNA STANDARD/ATTY. FOR PL.

No Ruling