

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

January 2, 2018 at 10:00 a.m.

No written opposition has been filed to the following motions set for argument on this calendar: 2, 3, 4, 5, 6

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.

January 2, 2018 at 10:00 a.m.

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 JANUARY 29, 2018 AT 10:00 A.M. OPPOSITION MUST BE FILED AND SERVED BY JANUARY 16, 2018, AND ANY REPLY MUST BE FILED AND SERVED BY JANUARY 23, 2018. THE MOVING/OBJECTING PARTY IS TO GIVE NOTICE OF THESE DATES.

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

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

MATTERS FOR ARGUMENT

- | | | |
|----|---|--------------------|
| 1. | 17-27404-A-7 GRAND PACIFIC | MOTION TO |
| | TF-1 ENTERPRISES, L.L.C. | APPROVE COMPROMISE |
| | | 12-11-17 [16] |

Tentative Ruling: The motion will be denied without prejudice.

Creditor PPC Folsom Parkway, L.P. asks the court to approve a stipulation between PPC and the estate for the rejection of a lease of commercial real property on Blue Ravine Road in Folsom, California, for the abandonment of the personal property at the property, and for return of possession of the property to PPC. PPC owns the subject property.

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 motion will be denied without prejudice because, while the stipulation has been executed by the trustee and it states that the leased premises and personal property at the premises have no value to the estate, there is no evidence that permits the court to make that determination. Docket 19. For instance, there is no information from the trustee explaining why he believes the lease has no value to the estate. Nor is there any description or identifying information about the personal property. The court cannot order abandonment of property described generically and merely as "personal property." The motion will be denied.

- | | | |
|----|---------------------------------------|----------------------------|
| 2. | 17-27321-A-7 CANTECA FOODS, INC. | MOTION FOR |
| | ANF-1 | RELIEF FROM AUTOMATIC STAY |
| | DIRECT CAPITAL CORPORATION VS. | 12-12-17 [22] |

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, Direct Capital Corporation, seeks relief from the automatic stay with respect to eight commercial vehicles, including FRHT, ISU, and Peterbilt trucks, all securing a single claim held by the movant. The movant has

produced evidence that the vehicles have a total value of \$82,350 and its secured claim is approximately \$84,149. Dockets 24 & 26.

The trustee has filed a non-opposition to the motion and the debtor has not made one post-petition payment to the movant. Also, the movant has not been given evidence of insurance coverage for the equipment. This is cause for the granting of relief from stay.

The court concludes that there is no equity in the vehicle and no evidence exists that it is necessary to a reorganization or that the trustee can administer it for the benefit of the creditors.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (2) to permit the movant to repossess its collateral, dispose of it pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

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

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

3.	09-28425-A-7 JESUS/CHARLOTTE GALICIA CYB-1 VS. LVNV FUNDING, L.L.C.	MOTION TO AVOID JUDICIAL LIEN 12-6-17 [21]
----	--	--

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the debtor, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the respondent creditor 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.

A judgment was entered against debtor Charlotte Galicia in favor of LVNV Funding, L.L.C. for the sum of \$23,285.08 on October 30, 2008. The abstract of judgment was recorded with Solano County on February 13, 2009. That lien attached to the debtor's interest in a residential real property in Fairfield, 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 \$250,000 as of the petition date. Dockets 1, 22, 23, 28. The unavoidable liens totaled \$345,000 on that same date, consisting of a single mortgage in favor of Morequity. Dockets 1, 22, 23, 28. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of \$1.00 in Amended Schedule C filed and served on all creditors on December 1, 2017. Dockets 17, 18, 22, 23.

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).

4. 11-26681-A-7 NESHAN/SUSAN MERIC MOTION TO
DJC-1 AVOID JUDICIAL LIEN
VS. CITIBANK (SOUTH DAKOTA), N.A. 12-19-17 [31]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the debtor, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the respondent creditor 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.

A judgment was entered against the debtors in favor of Citibank (South Dakota), N.A. for the sum of \$2,677.76 on May 25, 2010. The abstract of judgment was recorded with Solano County on July 2, 2010. That lien attached to the debtor's interest in a residential real property in Benicia, 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 \$519,000 as of the petition date. Docket 1. The unavoidable liens totaled \$544,000 on that same date, consisting of a single mortgage in favor of Wachovia Mortgage. Docket 1. The debtors claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.140 in the amount of \$1 in Schedule C. Dockets 37 & 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).

5. 11-26681-A-7 NESHAN/SUSAN MERIC MOTION TO
DJC-2 AVOID JUDICIAL LIEN
VS. CITIBANK (SOUTH DAKOTA), N.A. 12-19-17 [39]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the debtor, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the respondent creditor 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.

A judgment was entered against the debtors in favor of Citibank (South Dakota), N.A. for the sum of \$2,390.43 on October 18, 2010. The abstract of judgment was recorded with Solano County on November 30, 2010. That lien attached to the debtor's interest in a residential real property in Benicia, 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 \$519,000 as of the petition date. Docket 1. The unavoidable liens totaled \$544,000 on that same date, consisting of a single mortgage in favor of Wachovia Mortgage. Docket 1. The debtors claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.140 in the amount of \$1 in Schedule C. Dockets 37 & 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).

6.	17-27499-A-7 KRYSTAL CLEMENTS VVF-1 HONDA LEASE TRUST VS.	MOTION FOR RELIEF FROM AUTOMATIC STAY 12-12-17 [15]
----	---	---

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, Honda Lease Trust, seeks relief from the automatic stay with respect to a 2017 Honda Accord. The vehicle has a value of \$18,525 and its secured claim is approximately \$20,836.

The court concludes that there is no equity in the vehicle and no evidence exists that it is necessary to a reorganization or that the trustee can administer it for the benefit of the creditors. The court also notes that the trustee filed a report of no distribution on December 15, 2017. Further, the debtors have not made one pre-petition and one post-petition payments to the movant. This is cause for the granting of relief from stay.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (2) to permit the movant to repossess its collateral, dispose of it pursuant to applicable law and to use the proceeds from its disposition to satisfy its

claim. No other relief is awarded.

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

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

FINAL RULINGS BEGIN HERE

7. 17-27136-A-7 ERIN JONES MOTION FOR
MSK-1 RELIEF FROM AUTOMATIC STAY
CONSUMER PORTFOLIO SERVICES, INC. VS. 12-4-17 [15]

Final Ruling: The motion will be dismissed without prejudice.

The notice of hearing is deficient and inaccurate. It says nothing about whether written opposition need to be filed by the respondent. Docket 16. The notice advises the respondent to oppose the motion by appearing at the hearing and raising any opposition orally at the hearing. Id. This is appropriate only for a motion set for hearing on less than 28 days of notice. See Local Bankruptcy Rule 9014-1(f)(2). However, because 28 days or more of notice of the hearing was given in this instance, Local Bankruptcy Rule 9014-1(f)(1) is applicable. It specifies that written opposition must be filed and served at least 14 days prior to the hearing. Local Bankruptcy Rule 9014-1(f)(1)(B). The respondent was told nothing about whether to file and serve written opposition even though this was necessary. Therefore, notice was materially deficient. See Local Bankruptcy Rule 9014-1(d)(3)(B)(i) (mandating that "[t]he notice of hearing shall advise potential respondents whether and when written opposition must be filed").

In short, if the movant gives 28 days or more of notice of the hearing, it does not have the option of pretending the motion has been set for hearing on less than 28 days of notice and dispensing with the court's requirement that written opposition be filed, and the respondent be advised of such.

8. 17-26140-A-7 LEWIS/LISA CLINTON MOTION FOR
ASW-1 RELIEF FROM AUTOMATIC STAY
U.S. BANK, N.A. VS. 11-21-17 [20]

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, seeks relief from the automatic stay as to real property in Vallejo, California. The property has a value of \$700,000 and it is encumbered by claims totaling approximately \$966,852. Dockets 12, 20, 22. The movant's deed is in first priority position and secures a claim of approximately \$966,852.

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 non-opposition to the motion.

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.

9.	15-27448-A-7 JOHN/SHAWNTA ODUM GMR-2	MOTION TO APPROVE COMPENSATION OF ACCOUNTANT 12-1-17 [74]
----	---	---

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

The motion will be granted.

Gabrielson & Company, accountant for the estate, has filed its first and final application for approval of compensation. The requested compensation consists of \$5,523.50 in fees and \$142.76 in expenses, for a total of \$5,666.26. This motion covers the period from May 5, 2016 through November 30, 2017. The court approved the movant's employment as the estate's accountant on May 10, 2016. In performing its services, the movant charged hourly rates of \$365 and \$375.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant's services included reviewing and analyzing business financial records, identifying missing records, and reconstructing financial transfers and banking activities.

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

10. 17-25152-A-7 KEITH JONES
EMM-1
THE BANK OF NEW YORK MELLON VS.

MOTION FOR
RELIEF FROM AUTOMATIC STAY
11-22-17 [20]

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, The Bank of New York Mellon, seeks relief from the automatic stay as to real property in Sacramento, California. The property has a value of \$235,786 and it is encumbered solely by movant's deed of trust securing a claim of approximately \$265,476.

Given the entry of debtor's discharge on November 20, 2017, the automatic stay has expired as to debtor and any interest debtor may have in the property. See 11 U.S.C. § 362(c). Thus, the motion is dismissed as to debtor.

As to the trustee, 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 statement of nonopposition on November 27, 2017.

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.

11. 17-25874-A-7 JUSTIN THAYER
APN-1
WELLS FARGO BANK, N.A. VS.

MOTION FOR
RELIEF FROM AUTOMATIC STAY
11-28-17 [14]

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, Wells Fargo Bank, seeks relief from the automatic stay with respect to a 2009 Lexus IS-V6. The vehicle has a value of \$10,375, and its secured claim is approximately \$14,295.

The court concludes that there is no equity in the vehicle and no evidence exists that it is necessary to a reorganization or that the trustee can administer it for the benefit of the creditors. The court also notes that the trustee filed a statement of nonopposition on December 8, 2017. Further, the debtors have not made five pre-petition and two post-petition payments to the movant. This is cause for the granting of relief from stay.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (2) to permit the movant to repossess its collateral, dispose of it pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

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

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

12. 17-27392-A-7 PAUL/NANCY KLISIEWICZ
MBS-1

MOTION TO
COMPEL ABANDONMENT
12-5-17 [11]

Final Ruling: The motion will be continued to January 29, 2018 at 10:00 a.m.

The debtors seek an order compelling the trustee to abandon the estate's interest in their property located at 4107 Hackberry Place, Davis, California. Most of the equity in the property is encumbered by consensual liens, and the debtors wish to sell the property for \$850,000. The motion is not opposed. The trustee filed an opposition but later dismissed it. Dockets 16 & 18.

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.

The debtors have scheduled the value of the property at \$850,000. The property is encumbered by a first deed of trust in favor of Bayview Loan Servicing in the amount of \$612,817 and a second mortgage in favor of SLS in the amount of \$170,909, for a total of \$783,726. The debtors have listed an exemption in the property in the amount of \$0 pursuant to Cal. Code Civ. Proc. § 704.140(b)(1).

The trustee has requested that the court continue this matter to allow the trustee to obtain additional information and evaluate this asset before it is abandoned. Docket 19 at 2.

Given the trustee's incomplete investigation of the asset, the court cannot conclude that the property is of inconsequential value to the estate. The court will continue the matter per the trustee's request. The motion will be continued to January 29, 2018 at 10:00 a.m.