



**UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable Jennifer E. Niemann  
Hearing Date: Wednesday, January 10, 2024  
Department A – Courtroom #11  
Fresno, California**

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## INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

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, and all parties will need to appear at the hearing unless otherwise ordered. 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.

**THE COURT ENDEAVORS TO PUBLISH ITS RULINGS AS SOON AS POSSIBLE. HOWEVER, CALENDAR PREPARATION IS ONGOING AND THESE RULINGS MAY BE REVISED OR UPDATED AT ANY TIME PRIOR TO 4:00 P.M. THE DAY BEFORE THE SCHEDULED HEARINGS. PLEASE CHECK AT THAT TIME FOR POSSIBLE UPDATES.**

1. [23-12226](#)-A-13     **IN RE: CARI THORNTON**  
[MHM-2](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER  
12-20-2023    [\[31\]](#)

JOEL WINTER/ATTY. FOR DBT.  
WITHDRAWN

FINAL RULING:                    There will be no hearing on this matter.

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED.

Trustee withdrew the motion on December 20, 2023. Doc. #38.

2. [20-10945](#)-A-12     **IN RE: AJITPAL SINGH AND JATINDERJEET SIHOTA**  
[FDA-4](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FENNEMORE DOWLING AARON  
FOR JOHN W. PHILLIPS, SPECIAL COUNSEL(S)  
12-13-2023    [\[351\]](#)

LEONARD WELSH/ATTY. FOR DBT.

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                    Granted in part, the apportioned amount of fees and  
expenses awarded will be reduced by \$6,000.00 from the  
amount requested in the motion.

ORDER:                            The minutes of the hearing will be the court's findings  
and conclusions. The Moving Party shall submit a proposed  
order after hearing.

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the non-responding parties in interest are entered. Because there is a calculation error with respect to the apportioned amount of fees and expenses to be awarded to the moving party, the matter will proceed as scheduled.

As a procedural matter, the certificate of service form was not completed correctly. The declarant checked the box indicating that service was made pursuant to Federal Rule of Bankruptcy Procedure ("Rule") 7004. Doc. #357. The declarant also checked the box indicating the declarant included an Attachment 6A1, which is required if service is effectuated under Rule 7004. However, the attachment with the certificate of service was a Clerk's Matrix of

Creditors instead of "a list of the persons served, including their names/capacity to receive service, and address is appended [to motion] and numbered Attachment 6A1." To the extent the movant intended to effectuate service pursuant to Rule 7004, the declarant should have attached the correct item. When the movant served all creditors with notice of the hearing only, that service was made pursuant to Rule 7005, and the appropriate box in section 6B should have been checked and the Clerk's Matrix of Creditors should have been labeled as Attachment 6B1.

Fennemore Dowling Aaron ("Movant"), special litigation counsel for Ajitpal Singh and Jatinderjeet Kaur Sihota (collectively, "Debtors"), the debtors in this chapter 12 case, requests allowance of interim compensation in the amount of \$98,569.50 and reimbursement for expenses of \$7,188.20 for services rendered from April 1, 2023 through October 31, 2023. Doc. #351. This is Movant's second interim application for allowance of fees and expenses. One prior fee application has been granted, allowing interim compensation to Movant pursuant to 11 U.S.C. § 331 for fees and expenses in the combined amount of \$18,487.10. Order, Doc. #330.

Movant is also employed by the debtors in the bankruptcy matter of In re Bhajan Singh and Balvinder Kaur, Case No. 20-10569-A-12 (Bankr. E.D. Cal.). Motion, Doc. #618. In light of the complexities of the joint and several obligations of the two bankruptcies, Debtors have agreed to split all fees and costs requested in this motion by 50%, and the remaining 50% of fees and costs requested will be applied for in the In re Bhajan Singh and Balvinder Kaur bankruptcy case (the "Agreement"). Id. Based on this Agreement, Movant requests to be paid \$58,878.85 by Debtors. Id. Debtors have reviewed Movant's interim fee application and have no objections. Decl. of Jatinderjeet Kaur Sihota, Doc. #353. However, the court notes a calculation error on the part of Movant. Splitting the total fees and costs requested of \$105,757.70 by 50% results in \$52,878.85, not \$58,878.85, as set forth in the motion. Doc. #351.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a debtor's attorney in a chapter 12 case. 11 U.S.C. § 330(a)(1), (4)(B). In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Here, Movant demonstrates services rendered relating to: (1) filing a motion for relief from stay to pursue and prosecute an appeal and defending that motion against opposition from creditor, the Toronto Group; (2) strategizing with Debtors regarding the claims asserted by the Toronto Group; (3) negotiating with Farm Credit West regarding its loan with Debtors; (4) conducting various meeting and correspondence to support relief sought; (5) conducting legal research in support of various strategies; (6) preparing and filing the fee application; and (7) general case administration. Decl. of John W. Phillips, Doc. #355; Exs. A-C, Doc. #354. The court finds the compensation and reimbursement sought are reasonable, actual, and necessary, and will approve the motion on an interim basis.

This motion will GRANTED on an interim basis. Subject to the recalculation of the 50% portion of the total fees and costs awarded, the court will authorize the reduced payment for interim compensation in the amount of \$49,284.75 and reimbursement for expenses in the amount of \$3,594.10, for a total combined payment of \$52,878.85 for services rendered from April 1, 2023 through October 31, 2023. The interim compensation and reimbursement of expenses is to be paid in a manner consistent with the terms of the confirmed plan and the

Agreement. Movant is allowed interim fees and costs pursuant to 11 U.S.C. § 331, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure. Movant may draw on any retainer held.

3. [19-12557](#)-A-12     **IN RE: FRANK/SUSAN FAGUNDES**  
[WJH-20](#)

MOTION FOR ENTRY OF DISCHARGE  
12-1-2023    [\[232\]](#)

SUSAN FAGUNDES/MV  
RILEY WALTER/ATTY. FOR DBT.

FINAL RULING:     There will be no hearing on this matter.

DISPOSITION:     Granted.

ORDER:             The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition 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. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Frank G. Fagundes and Susan A. Fagundes (together, "Debtors"), the chapter 12 debtors in this case, move this court for an order authorizing the entry of discharge. Motion, Doc. #232.

Section 1228 of the Bankruptcy Code contains the discharge provision applicable to chapter 12 cases. Section 1228 provides that a discharge of all debts provided for in the plan shall be granted as soon as practicable after completion by the debtor of all payments under the plan. 11 U.S.C. § 1228(a); In re Grimes, 117 B.R. 531, 533 (B.A.P. 9th Cir. 1990).

The court finds no reasonable cause to believe that § 522(q)(1) may be applicable to Debtors. There is no reasonable cause to believe that there is pending any proceeding in which Debtors may be found guilty of a felony of the kind described in § 522(a)(1)(A) or liable for a debt of the kind described in § 522(q)(1)(B). Decl. of Frank G. Fagundes, Doc. #234.

The court finds that Debtors have made all payments under the confirmed chapter 12 plan and notes that no opposition has been filed. Fagundes Decl., Doc. #234. Pursuant to § 1228(a), Debtors' discharge shall be entered.

Accordingly, this motion is GRANTED.

4. [20-10569](#)-A-12      **IN RE: BHAJAN SINGH AND BALVINDER KAUR**  
[FDA-4](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FENNEMORE DOWLING AARON  
FOR JOHN W. PHILLIPS, SPECIAL COUNSEL(S)  
12-13-2023    [[618](#)]

LEONARD WELSH/ATTY. FOR DBT.  
JOHN PHILLIPS/ATTY. FOR MV.

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                Granted in part, the apportioned amount of fees and  
expenses awarded will be reduced by \$6,000.00 from the  
amount requested in the motion.

ORDER:                        The minutes of the hearing will be the court's findings  
and conclusions. The Moving Party shall submit a proposed  
order after hearing.

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the non-responding parties in interest are entered. Because there is a calculation error with respect to the apportioned amount of fees and expenses to be awarded to the moving party, the matter will proceed as scheduled.

As a procedural matter, the certificate of service form was not completed correctly. The declarant checked the box indicating that service was made pursuant to Federal Rule of Bankruptcy Procedure ("Rule") 7004. Doc. #624. The declarant also checked the box indicating the declarant included an Attachment 6A1, which is required if service is effectuated under Rule 7004. However, the attachment with the certificate of service was a Clerk's Matrix of Creditors instead of "a list of the persons served, including their names/capacity to receive service, and address is appended [to motion] and numbered Attachment 6A1." To the extent the movant intended to effectuate service pursuant to Rule 7004, the declarant should have attached the correct item. When the movant served all creditors with notice of the hearing only, that service was made pursuant to Rule 7005, and the appropriate box in section 6B should have been checked and the Clerk's Matrix of Creditors should have been labeled as Attachment 6B1.

Fennemore Dowling Aaron ("Movant"), special litigation counsel for Bhajan Singh and Balvinder Kaur (collectively, "Debtors"), the debtors in this chapter 12 case, requests allowance of interim compensation in the amount of \$98,569.50 and reimbursement for expenses of \$7,188.20 for services rendered from April 1, 2023 through October 31, 2023. Doc. #618. This is Movant's second interim application for allowance of fees and expenses. One prior fee application has been granted, allowing interim compensation to Movant pursuant to 11 U.S.C. § 331 for fees and expenses in the combined amount of \$18,487.10. Order, Doc. #597.

Movant is also employed by the debtors in the bankruptcy matter of In re Ajitpal Singh and Jatinderjeet Kaur Sihota, Case No. 20-10945-A-12 (Bankr. E.D. Cal.). Motion, Doc. #618. In light of the complexities of the joint and several obligations of the two bankruptcies, Debtors have agreed to split all fees and costs requested in this motion by 50%, and the remaining 50% of fees and costs requested will be applied for in the In re Ajitpal Singh and Jatinderjeet Kaur Sihota bankruptcy case (the "Agreement"). Id. Based on this Agreement, Movant requests to be paid \$58,878.85 by Debtors. Id. Debtors have reviewed Movant's interim fee application and have no objections. Decl. of Bhajan Singh, Doc. #623. However, the court notes a calculation error on the part of Movant. Splitting the total fees and costs requested of \$105,757.70 by 50% results in \$52,878.85, not \$58,878.85, as set forth in the motion. Doc. #618.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a debtor's attorney in a chapter 12 case. 11 U.S.C. § 330(a)(1), (4)(B). In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Here, Movant demonstrates services rendered relating to: (1) filing a motion for relief from stay to pursue and prosecute an appeal and defending that motion against opposition from creditor, the Toronto Group; (2) strategizing with Debtors regarding the claims asserted by the Toronto Group; (3) negotiating with Farm Credit West regarding its loan with Debtors; (4) conducting various meeting and correspondence to support relief sought; (5) conducting legal research in support of various strategies; (6) preparing and filing the fee application; and (7) general case administration. Decl. of John W. Phillips, Doc. #620; Exs. A-C, Doc. #622. The court finds the compensation and reimbursement sought are reasonable, actual, and necessary, and will approve the motion on an interim basis.

This motion will GRANTED on an interim basis. Subject to the recalculation of the 50% portion of the total fees and costs awarded, the court will authorize the reduced payment for interim compensation in the amount of \$49,284.75 and reimbursement for expenses in the amount of \$3,594.10, for a total combined payment of \$52,878.85 for services rendered from April 1, 2023 through October 31, 2023. The interim compensation and reimbursement of expenses is to be paid in a manner consistent with the terms of the confirmed plan and the Agreement. Movant is allowed interim fees and costs pursuant to 11 U.S.C. § 331, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure. Movant may draw on any retainer held.

FINAL HEARING RE: MOTION TO USE CASH COLLATERAL  
12-15-2023    [7]

KODIAK TRUCKING INC./MV  
PETER FEAR/ATTY. FOR DBT.

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                Granted.

ORDER:                        The minutes of the hearing will be the court's findings  
and conclusions. The Moving Party shall submit a proposed  
order after the hearing.

This motion was set for final hearing on January 10, 2024 pursuant to the initial motion papers and an interim order authorizing use of cash collateral ("Interim Order"). Doc. #28. The final hearing was set on at least 14 days' notice prior to the hearing date pursuant to Federal Rule of Bankruptcy Procedure 4001(b)(2) and Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the requested use of cash collateral on a final basis. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Kodiak Trucking, Inc. ("Debtor" or "DIP"), the chapter 11 debtor and debtor-in-possession, moves the court for an order authorizing DIP to use the cash collateral of: (i) Triple E Trucking, LLC; (ii) U.S. Small Business Administration; (iii) Corporation Service Company, as representative for one or more unknown entities; (iv) EC Master Trust; (v) eCapital Freight Factoring Corp.; (vi) California Employment Development Department; (vii) Mint Business Capital; (viii) Vivian Capital Group, and (ix) the Internal Revenue Service (collectively, "Secured Creditors") through March 2024 on a monthly basis subject to a budget. Motion, Doc. #7. DIP seeks court authorization to use cash collateral to pay expenses incurred by DIP in the normal course of its business that provides construction trucking service, primarily for highway construction. As adequate protection for DIP's use of cash collateral, DIP will grant a replacement lien against its post-petition accounts receivable for the Secured Creditors with valid liens to the extent cash collateral is actually used. Motion, Doc. #7.

Pursuant to 11 U.S.C. § 363, a debtor in possession can use property of the estate that is cash collateral by obtaining either the consent of each entity that has an interest in such cash collateral or court authorization after notice and a hearing. 11 U.S.C. § 363(c)(2). "The primary concern of the court in determining whether cash collateral may be used is whether the secured creditors are adequately protected." In re Plaza Family P'ship, 95 B.R. 166 (E.D. Cal. 1989) (citing 11 U.S.C. § 363(e)). Bankruptcy Code section 361(1) states that adequate protection may be provided by "requiring the [debtor in possession] to make a cash payment or periodic cash payments to such entity, to the extent that the stay under section 362 of this title, use, sale, or lease under section 363 of this title, or any grant of a lien under section 364 of this title results in a decrease in the value of such entity's interest in such



property." 11 U.S.C. § 361(1). Pursuant to 11 U.S.C. § 363(p), DIP carries the burden of proof on the issue of adequate protection.

The court finds DIP has met its burden of showing that Secured Creditors are adequately protected for DIP's use of their cash collateral by the proposed replacement liens. Moreover, DIP needs to use the cash collateral to continue its post-petition business operations. Decl. of Marco Arambula, Doc. #10.

Accordingly, the court is inclined to GRANT DIP's request to use cash collateral on a final basis on the terms set forth in the motion.

6. [23-12784](#)-A-11 **IN RE: KODIAK TRUCKING INC.**  
[FW-3](#)

CONTINUED MOTION TO PAY  
12-15-2023 [\[11\]](#)

KODIAK TRUCKING INC./MV  
PETER FEAR/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The Moving Party shall submit a proposed order after the hearing.

This motion was set for final hearing pursuant to an interim order authorizing the debtor to pay pre-petition priority wage claims owed to employees for the period of December 4 through December 15, 2023 ("Interim Order"). Doc. #34. The final hearing was set on at least 14 days' notice prior to the hearing date pursuant to Federal Rule of Bankruptcy Procedure 4001(b)(2) and Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion on a final basis. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Kodiak Trucking, Inc. ("DIP"), the chapter 11 debtor and debtor-in-possession, moves the court for an order authorizing Debtor to pay pre-petition priority wage claims owed to employees for the period of December 4 through December 15, 2023. Doc. #11. DIP operates a business that provides construction trucking service, primarily for highway construction. Decl. of Marco Arambula, Doc. #13. Debtor employs approximately 48 employees in its business operations. Id. Debtor's employees are paid every other Tuesday. Id. The pay period covers the two weeks ending on the Saturday that is approximately 10 days before the pay date. Id. The first payroll to be paid after the petition date will be paid on approximately December 26, 2023, and will cover the time period of December 4 through December 17, 2023. Id.

Payment of pre-petition wages is necessary for Debtor to retain its skilled employees and continue its business operations. Id. The administrative costs to hire new employees and/or turnover costs in losing skilled employees will have a significant impact on Debtor's ability to operate. Payment of pre-petition wages at this time is necessary to alleviate the hardship that employees might

suffer if not paid now. Id. All pre-petition wages to be paid pursuant to the motion have priority under 11 U.S.C. § 507(a)(4). Id. Payment of pre-petition wages includes the bi-weekly paycheck for Debtor's sole owner and president, Marco Arambula. Id.

The motion was heard initially on December 21, 2023 and was granted on an interim basis by the Interim Order. Doc. #34. A final hearing was set for January 10, 2024 pursuant to the Interim Order. Id.

This court interprets the bankruptcy court's equitable powers under 11 U.S.C. § 105(a) to permit pre-petition wage claims not to exceed the priority amount to be paid prior to confirmation of a plan. See In re Adams Apple, 829 F.2d 1484, 1490 (9th Cir. 1987) (in dictum noting the payment of pre-petition wages to key employees prior to confirmation of a plan when necessary for the debtor's rehabilitation). Based on the evidence before the court, the court finds good cause exists under 11 U.S.C. § 105 to authorize Debtor to pay pre-petition priority wage claims owed to employees for the period of December 4 through December 15, 2023 on a final basis.

Accordingly, the motion will be GRANTED on a final basis.

1. [23-12503](#)-A-7     **IN RE: VINCENT LANDOLINA**

PRO SE REAFFIRMATION AGREEMENT WITH SIWELL INC.  
12-13-2023    [\[20\]](#)

FINAL RULING:     There will be no hearing on this matter.

DISPOSITION:     Dropped.

ORDER:             The court will issue an order.

This matter is dropped from calendar. This matter was automatically set for a hearing because the reaffirmation agreement is not signed by an attorney. However, this reaffirmation agreement appears to relate to a consumer debt secured by real property. Pursuant to 11 U.S.C. §524(c)(6)(B), the court is not required to hold a hearing and approve this agreement. The court will issue an order.

2. [23-12716](#)-A-7     **IN RE: MARISELA/FERNANDO ALCANTAR**

PRO SE REAFFIRMATION AGREEMENT WITH GOLDEN 1 CREDIT UNION  
12-21-2023    [\[10\]](#)

OSCAR SWINTON/ATTY. FOR DBT.

FINAL RULING:     There will be no hearing on this matter.

DISPOSITION:     Denied.

ORDER:             The court will issue an order.

The debtors' counsel will inform the debtors that no appearance is necessary.

The debtors were represented by counsel when they entered into the reaffirmation agreement. Pursuant to 11 U.S.C. § 524(c)(3), "'if the debtor is represented by counsel, the agreement must be accompanied by an affidavit of the debtor's attorney' attesting to the referenced items before the agreement will have legal effect." In re Minardi, 399 B.R. 841, 846 (Bankr. N.D. Okla. 2009) (citation omitted). In this case, the debtors' attorney affirmatively represented that he could not recommend the reaffirmation agreement. Therefore, the agreement does not meet the requirements of 11 U.S.C. § 524(c) and is not enforceable. Minardi, 399 B.R. at 847 ("If a debtor was represented during the course of negotiating a reaffirmation agreement, but debtor's counsel is unable or unwilling to make the required certifications, then the agreement does not satisfy § 524(c)(3) and is unenforceable.").

3. [23-12367](#)-A-7      **IN RE: EVANGELINA DOMINGUEZ**

PRO SE REAFFIRMATION AGREEMENT WITH NOBLE CREDIT UNION  
12-8-2023    [[19](#)]

NO RULING.

1. [23-11106](#)-A-7     **IN RE: SONIA OLIVERA**  
[ICE-3](#)

MOTION TO AVOID LIEN OF CITIBANK, N.A.  
11-29-2023    [\[43\]](#)

SONIA OLIVERA/MV  
IRMA EDMONDS/ATTY. FOR DBT.

**FINAL RULING:**     There will be no hearing on this matter.

**DISPOSITION:**     Granted.

**ORDER:**             The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition 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. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Sonia Silva Olivera ("Debtor"), the debtor in this chapter 7 case, moves pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014 to avoid the judicial lien of Citibank, N.A. ("Creditor") on the residential real property commonly referred to as 1399 N. Esther Way, Fresno, California 93728 (the "Property"). Doc. #43; Am. Schedule C, Doc. #10; Schedule D, Doc. #1.

In order to avoid a lien under 11 U.S.C. § 522(f)(1), the movant must establish four elements: (1) there must be an exemption to which the debtor would be entitled under § 522(b); (2) the property must be listed on the debtors' schedules as exempt; (3) the lien must impair the exemption; and (4) the lien must be either a judicial lien or a non-possessory, non-purchase money security interest in personal property listed in § 522(f)(1)(B). 11 U.S.C. § 522(f)(1); Goswami v. MTC Distrib. (In re Goswami), 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003) (quoting In re Mohring, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992)).

Debtor filed the bankruptcy petition on May 24, 2023. Doc. #1. A judgment was entered against Sonia Olivera in the amount of \$5,014.62 in favor of Creditor on March 16, 2023. Ex. A, Doc. #46. The abstract of judgment was recorded pre-petition in Fresno County on April 28, 2023, as document number 2023-0039960. Id. The lien attached to Debtor's interest in the Property located in Fresno County. Id. The Property also is encumbered by a lien in favor of Guidance Residential/U.S. Bank in the amount \$96,748.00. Schedule D, Doc. #1. Debtor

claimed an exemption of \$154,252.00 in the Property under California Code of Civil Procedure § 704.730. Am. Schedule C, Doc. #10. Debtor asserts a market value for the Property as of the petition date at \$251,000.00. Decl. of Sonia Olivera, Doc. #45.

Applying the statutory formula:

|   |   |              |
|---|---|--------------|
| Amount of Creditor's judicial lien  |   | \$5,014.62   |
| Total amount of all other liens on the Property (excluding junior judicial liens) | + | \$96,748.00  |
| Amount of Debtor's claim of exemption in the Property                             | + | \$154,252.00 |
|   |   | \$256,014.62 |
| Value of Debtor's interest in the Property absent liens                           | - | \$251,000.00 |
| Amount Creditor's lien impairs Debtor's exemption                                 |   | \$5,014.62   |

After application of the arithmetical formula required by § 522(f)(2)(A), the court finds there is insufficient equity to support Creditor's judicial lien. Therefore, the fixing of this judicial lien impairs Debtor's exemption in the Property and its fixing will be avoided.

Debtor has established the four elements necessary to avoid a lien under 11 U.S.C. § 522(f)(1). Accordingly, this motion is GRANTED.

2. [23-11126](#)-A-7     **IN RE: LEONEL GERONIMO-SEPULVEDA**  
[MJP-3](#)

MOTION TO AVOID LIEN OF BANK OF AMERICA, N.A.  
12-7-2023    [\[31\]](#)

LEONEL GERONIMO-SEPULVEDA/MV  
MICHAEL PRIMUS/ATTY. FOR DBT.

FINAL RULING:     There will be no hearing on this matter.

DISPOSITION:     Denied without prejudice.

ORDER:             The court will issue an order.

This matter is DENIED WITHOUT PREJUDICE for improper notice.

Federal Rule of Bankruptcy Procedure ("Rule") 9014(b) requires a motion to avoid a lien under 11 U.S.C. § 522(f) be served "in the manner provided for service of a summons and complaint by Rule 7004." Rule 7004(h) provides that service on an insured depository institution, such as Bank of America N.A., "shall be made by certified mail addressed to an officer of the institution unless" an appearance by an attorney of the institution has been entered, the court orders otherwise, or the institution waives its entitlement to service by designating an officer to receive service. There has been no appearance by Bank of America, N.A. in this bankruptcy case.

There is no certificate of service filed with the court showing when and how the motion was served on Bank of America, N.A. Therefore, the motion filed by the debtor does not comply with Local Rule of Practice 9014-1(e)(3), which requires that proof of service of all pleadings be filed with the court not more than three (3) days after the pleading is filed with the court.

MOTION FOR RELIEF FROM AUTOMATIC STAY  
11-30-2023    [\[20\]](#)

FREEDOM MORTGAGE CORPORATION/MV  
R. BELL/ATTY. FOR DBT.  
DANE EXNOWSKI/ATTY. FOR MV.  
DISCHARGED 12/7/23

FINAL RULING:      There will be no hearing on this matter.

DISPOSITION:      Granted in part and denied as moot in part.

ORDER:              The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition 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. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The motion will be GRANTED IN PART as to the trustee's interest and DENIED AS MOOT IN PART as to the debtor's interest pursuant to 11 U.S.C. § 362(c)(2)(C). The debtor's discharge was entered on December 7, 2023. Doc. #27. The motion will be GRANTED IN PART for cause shown as to the chapter 7 trustee.

The movant, Freedom Mortgage Corporation ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to a piece of real property located at 705 S. Chester Avenue, Bakersfield, CA 93304 (the "Property"). Doc. #20

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

After review of the included evidence, the court finds that "cause" exists to lift the stay because the debtor has been in default since September 2023, and the debtor owes at least \$3,826.17. Decl. of Damian Panto, Doc. #22.

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

The order shall also provide that the bankruptcy proceeding has been finalized for purposes of California Civil Code § 2923.5.

4. [23-10637](#)-A-7     **IN RE: RICKY/KAELA GONZALES**  
[SL-5](#)

MOTION TO AVOID LIEN OF SRS DISTRIBUTION GROUP, INC.  
11-30-2023    [\[59\]](#)

KAELA GONZALES/MV  
SCOTT LYONS/ATTY. FOR DBT.

FINAL RULING:     There will be no hearing on this matter.

DISPOSITION:     Granted.

ORDER:             The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition on at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition 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 were entered and the matter was resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Ricky Jesus Gonzales and Kaela Suzanne Gonzales (together, "Debtors"), the debtors in this chapter 7 case, move pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014 to avoid the judicial lien of SRS Distribution Group, Inc. referred to as 34009 Road 144, Visalia, CA 93292 (the "Property"). Doc. #59; Schedule C, Doc. #1; Am. Schedule D, Doc. #31.

In order to avoid a lien under 11 U.S.C. § 522(f)(1), the movant must establish four elements: (1) there must be an exemption to which the debtor would be entitled under § 522(b); (2) the property must be listed on the debtor's schedules as exempt; (3) the lien must impair the exemption; and (4) the lien must be either a judicial lien or a non-possessory, non-purchase money security interest in personal property listed in § 522(f)(1)(B). 11 U.S.C. § 522(f)(1); Goswami v. MTC Distrib. (In re Goswami), 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003) (quoting In re Mohring, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992)).

Debtors filed their bankruptcy petition on March 30, 2023. Doc. #1. A judgment was entered against Ricky Jesus Gonzales in the amount of \$50,502.66 in favor of Creditor on October 22, 2020. Ex. C, Doc. #62. The abstract judgment was recorded pre-petition in Tulare County on December 10, 2020, as document number 2020-0080274. Id. The lien attached to Debtors' interest in the Property located in Tulare County. Id. Debtors estimate the judicial lien to be \$50,502.66 as of the petition date. Decl. of Ricky Gonzales, Doc. #61. Debtors



assert the market value for the Property as of the petition date at \$544,100.00. Am. Schedule A/B, Doc. #28. The Property also is encumbered by a first deed of trust in favor of Right Start Mt/dovenmu in the amount of \$316,667.00. Gonzales Decl., Doc. #61. Debtors claimed an exemption of \$339,189.00 in the Property under California Code of Civil Procedure § 704.730. Schedule C, Doc. #1.

In the case of fractionally-owned property, all consensual encumbrances on the co-owned property must be deducted from the total value of the property before a debtor's fractional interest is determined. All Points Cap. Corp. v. Meyer (In re Meyer), 373 B.R. 84, 91 (B.A.P. 9th Cir. 2007). Once the debtor's fractional interest is determined, the consensual encumbrances on the co-owned property are excluded from the calculation of "all other liens on the property" under § 522(f)(2)(A)(ii). *Id.* at 90.

Here, the value of the encumbrance against the entire Property held by Right Start Mt/dovenmu is \$316,667.00, and the Property is valued at \$533,100.00. See Am. Schedule A/B, Doc. #28; Am. Schedule D, Doc. #31. Applying the Meyer formula requires deducting the \$316,667.00 encumbrance on the co-owned Property from the total value of the Property, \$533,100.00. This amount totals \$216,433.00. Dividing this value of the Property by Debtors' 50% ownership interest in the Property establishes that Debtors' interest in the Property for purposes of § 522(f) is \$108,216.50.

Where the movant seeks to avoid multiple liens as impairing the debtor's exemption, the liens must be avoided in the reverse order of their priority. Bank of Am. Nat'l Tr. & Sav. Ass'n v. Hanger (In re Hanger), 217 B.R. 592, 595 (B.A.P. 9th Cir. 1997). Liens 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 "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." Meyer, 373 B.R. at 88. "Judicial liens are avoided in reverse order until the marginal lien, i.e., the junior lien supported in part by equity, is reached." *Id.*

Applying the statutory formula:

|   |   |              |
|---|---|--------------|
| Amount of Creditor's judicial lien  |   | \$50,502.66  |
| Total amount of all other liens on the Property (excluding junior judicial liens) | + | \$0          |
| Amount of Debtors' claim of exemption in the Property                             | + | \$339,189.00 |
|   |   | \$389,691.66 |
| Value of Debtors' interest in the Property absent liens                           | - | \$108,216.50 |
| Amount Creditor's lien impairs Debtors' exemption                                 |   | \$281,475.16 |

After application of the arithmetical formula required by § 522(f)(2)(A), the court finds there is insufficient equity to support Creditor's judicial lien. Therefore, the fixing of this judicial lien impairs Debtors' exemption in the Property and its fixing will be avoided.

Debtors have established the four elements necessary to avoid a lien under 11 U.S.C. § 522(f)(1). Accordingly, this motion is GRANTED.

MOTION TO AVOID LIEN OF ABC SUPPLY CO., INC.  
11-30-2023    [\[54\]](#)

KAELA GONZALES/MV  
SCOTT LYONS/ATTY. FOR DBT.

FINAL RULING:     There will be no hearing on this matter.

DISPOSITION:     Granted.

ORDER:             The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition on at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition 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 were entered and the matter was resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Ricky Jesus Gonzales and Kaela Suzanne Gonzales (together, "Debtors"), the debtors in this chapter 7 case, move pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014 to avoid the judicial lien of ABC Supply Co., Inc. ("Creditor") on the residential real property commonly referred to as 34009 Road 144, Visalia, CA 93292 (the "Property"). Doc. #54; Schedule C, Doc. #1; Am. Schedule D, Doc. #31.

In order to avoid a lien under 11 U.S.C. § 522(f)(1), the movant must establish four elements: (1) there must be an exemption to which the debtor would be entitled under § 522(b); (2) the property must be listed on the debtor's schedules as exempt; (3) the lien must impair the exemption; and (4) the lien must be either a judicial lien or a non-possessory, non-purchase money security interest in personal property listed in § 522(f)(1)(B). 11 U.S.C. § 522(f)(1); Goswami v. MTC Distrib. (In re Goswami), 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003) (quoting In re Mohring, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992)).

Debtors filed their bankruptcy petition on March 30, 2023. Doc. #1. A judgment was entered against Ricky Jesus Gonzales in the amount of \$23,329.56 in favor of Creditor on September 4, 2020. Ex. C, Doc. #57. The abstract judgment was recorded pre-petition in Tulare County on January 28, 2021, as document number 2021-0007051. Id. The lien attached to Debtors' interest in the Property located in Tulare County. Id. Debtors estimate the judicial lien to be \$26,207.60 as of the petition date. Decl. of Ricky Gonzales, Doc. #56. Debtors assert the market value for the Property as of the petition date at \$544,100.00. Am. Schedule A/B, Doc. #28. The Property also is encumbered by a first deed of trust in favor of Right Stary Mt/dovenmu in the amount of

\$316,667.00. Gonzales Decl., Doc. #56. Debtors claimed an exemption of \$339,189.00 in the Property under California Code of Civil Procedure § 704.730. Schedule C, Doc. #1.

In the case of fractionally-owned property, all consensual encumbrances on the co-owned property must be deducted from the total value of the property before a debtor's fractional interest is determined. All Points Cap. Corp. v. Meyer (In re Meyer), 373 B.R. 84, 91 (B.A.P. 9th Cir. 2007). Once the debtor's fractional interest is determined, the consensual encumbrances on the co-owned property are excluded from the calculation of "all other liens on the property" under § 522(f)(2)(A)(iii). *Id.* at 90.

Here, the value of the encumbrance against the entire Property held by Right Start Mt/dovenmu is \$316,667.00, and the Property is valued at \$533,100.00. See Am. Schedule A/B, Doc. #28; Am. Schedule D, Doc. #31. Applying the Meyer formula requires deducting the \$316,667.00 encumbrance on the co-owned Property from the total value of the Property, \$533,100.00. This amount totals \$216,433.00. Dividing this value of the Property by Debtors' 50% ownership interest in the Property establishes that Debtors' interest in the Property for purposes of § 522(f) is \$108,216.50.

Where the movant seeks to avoid multiple liens as impairing the debtor's exemption, the liens must be avoided in the reverse order of their priority. Bank of Am. Nat'l Tr. & Sav. Ass'n v. Hanger (In re Hanger), 217 B.R. 592, 595 (B.A.P. 9th Cir. 1997). Liens 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 "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." Meyer, 373 B.R. at 88. "Judicial liens are avoided in reverse order until the marginal lien, i.e., the junior lien supported in part by equity, is reached." Id.

There appears to be two senior judicial liens on the Property. The first senior judicial lien was recorded in Tulare County on December 10, 2020 with respect to a judgment filed in favor of SRS Distribution Group, Inc. for \$50,502.66. Ex. C, Doc. #62. Debtors estimate the first senior judicial lien to be \$50,502.66 as of the petition date. Gonzales Decl., Doc. #61. The second senior judicial lien was recorded in Tulare County on December 16, 2020 with respect to a judgment filed in favor of Pacific Western Bank for \$59,997.63. Ex. C, Doc. #41. Debtors estimate the second senior judicial lien to be \$59,997.63 as of the petition date. Gonzales Decl., Doc. #40.

Applying the statutory formula:

|   |   |              |
|---|---|--------------|
| Amount of Creditor's judicial lien  |   | \$26,207.60  |
| Total amount of all other liens on the Property (excluding junior judicial liens) | + | \$110,500.29 |
| Amount of Debtors' claim of exemption in the Property                             | + | \$339,189.00 |
|   |   | \$475,896.89 |
| Value of Debtors' interest in the Property absent liens                           | - | \$108,216.50 |
| Amount Creditor's lien impairs Debtors' exemption                                 |   | \$367,680.39 |

After application of the arithmetical formula required by § 522(f)(2)(A), the court finds there is insufficient equity to support Creditor's judicial lien. Therefore, the fixing of this judicial lien impairs Debtors' exemption in the Property and its fixing will be avoided.

Debtors have established the four elements necessary to avoid a lien under 11 U.S.C. § 522(f)(1). Accordingly, this motion is GRANTED.

MOTION TO AVOID LIEN OF COMMERCIAL TRADE, INC.  
11-29-2023    [\[59\]](#)

AMARJIT KAUR/MV  
ANDEEP GREWAL/ATTY. FOR DBT.

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                Denied.

ORDER:                        The minutes of the hearing will be the court's findings and conclusions. The court will issue an order after the hearing.

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the non-responding parties in interest are entered. Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movants have not done here.

Kuldip Singh and Amarjit Kaur (together, "Debtors"), the debtors in this chapter 7 case, move pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014 to avoid the judicial lien of Commercial Trade, Inc. ("Creditor") on the residential real property commonly referred to as 5107 Hambleton Hills Ln., Bakersfield, CA 93307 (the "Property"). Doc. #59.

In order to avoid a lien under 11 U.S.C. § 522(f)(1), the movant must establish four elements: (1) there must be an exemption to which the debtor would be entitled under § 522(b); (2) the property must be listed on the debtor's schedules as exempt; (3) the lien must impair the exemption; and (4) the lien must be either a judicial lien or a non-possessory, non-purchase money security interest in personal property listed in section 522(f)(1)(B). 11 U.S.C. § 522(f)(1); Goswami v. MTC Distrib. (In re Goswami), 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003) (quoting In re Mohring, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992)).

The debtor's eligibility to claim a homestead exemption and right to avoid a judicial lien is determined as of the date the bankruptcy petition is filed. Culver, LLC v. Chiu (In re Chiu), 266 B.R. 743, 751 (B.A.P. 9th Cir. 1998), aff'd, 304 F.3d 905 (9th Cir. 2002). "[T]he debtor, as the exemption claimant, bears the burden of proof which requires the debtor to establish by a preponderance of the evidence that [the property] claimed as exempt in Schedule C is exempt under [California law] and the extent to which that exemption applies." In re Pashenee, 531 B.R. 834, 837 (Bankr. E.D. Cal. 2015).

Debtors filed their bankruptcy petition on July 20, 2015. Doc. #1; Ex. B, Doc. #62. However, Debtors did not list the Property in Schedule A or anywhere else on the schedules and also did not claim any exemption to the Property under Schedule C. Doc. #1. It appears that Debtors did not own or reside at the

Property when Debtors filed their bankruptcy petition. Doc. #1; Ex. B, Doc. #62; Decl. of Andeep K. Grewal, Doc. #61.

Accordingly, Debtors have failed to prove entitlement to claim an exemption in the Property as of the date Debtors filed their bankruptcy petition and have failed to establish the first and second elements required to avoid a lien that impairs Debtors' exemption.

For all of the reasons set forth above, the motion is DENIED.

7. [23-12242](#)-A-7     **IN RE: JASON WILLIAMS**  
[ICE-1](#)

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO APPEAR AT  
SEC. 341(A) MEETING OF CREDITORS  
11-22-2023    [\[26\]](#)

FINAL RULING:        There will be no hearing on this matter.

DISPOSITION:        Conditionally denied.

ORDER:                The court will issue the order.

The chapter 7 trustee's motion to dismiss is CONDITIONALLY DENIED.

The debtor shall attend the meeting of creditors rescheduled for January 29, 2024 at 1:00 p.m. If the debtor fails to do so, the chapter 7 trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

The time prescribed in Federal Rules of Bankruptcy Procedure 1017(e)(1) and 4004(a) for the chapter 7 trustee and the U.S. Trustee to object to the debtor's discharge or file motions for abuse, other than presumed abuse, under 11 U.S.C. § 707, is extended to 60 days after the conclusion of the meeting of creditors.