

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable Jennifer E. Niemann
Hearing Date: Wednesday, January 12, 2022
Place: Department A – Courtroom #11
Fresno, California

Beginning the week of June 28, 2021, and in accordance with District Court General Order No. 631, the court resumed in-person courtroom proceedings in Fresno. Parties to a case may still appear by telephone, provided they comply with the court's telephonic appearance procedures, which can be found on the court's website.

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. [20-10010](#)-A-11 **IN RE: EDUARDO/AMALIA GARCIA**
[LKW-30](#)

MOTION FOR COMPENSATION FOR LEONARD K. WELSH, DEBTORS ATTORNEY(S)
12-17-2021 [[855](#)]

LEONARD WELSH/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 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.

The Law Offices of Leonard K. Welsh ("Movant"), counsel for the debtors and debtors in possession Eduardo Zavala Garcia and Amalia Perez Garcia (collectively, "DIP"), requests allowance of interim compensation in the amount of \$11,197.50 and reimbursement for expenses in the amount of \$551.25 for services rendered from November 1, 2021 through November 30, 2021. Doc. #855.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a professional person. 11 U.S.C. § 330(a)(1). According to the order authorizing employment of Movant, Movant may submit monthly applications for interim compensation pursuant to 11 U.S.C. § 331. Order, Doc. #33. In determining the amount of reasonable compensation to be awarded to counsel, 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).

Movant's services included, without limitation: (1) providing general case administration; (2) working with DIP and real estate broker to sell 478.18 acres of real property identified as the "Hacienda 1 Ranch" and "Hacienda West Ranch" for which escrow closed November 30, 2021; (3) consulting with DIP regarding chapter 11 financing options and the payments needed to complete DIP's plan; (4) preparing and prosecuting fee and employment applications; (5) prosecuting plan confirmation; and (6) assisting DIP and special counsel in prosecuting objections to allowance of claims. Decl. of Leonard K. Welsh, Doc. #859; Ex. B, Doc. #857. DIP reviewed the compensation application and has no objection to the court granting this

motion. Doc. #858. The court finds the compensation and reimbursement sought by Movant to be reasonable, actual, and necessary.

This motion is GRANTED. The court allows interim compensation in the amount of \$11,197.50 and reimbursement of expenses in the amount of \$551.25. 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. DIP is authorized to pay the fees allowed by this order from available funds only if the estate is administratively solvent and such payment will be consistent with the priorities of the Bankruptcy Code.

2. [21-11814](#)-A-11 **IN RE: MARK FORREST**
[LKW-10](#)

MOTION FOR COMPENSATION FOR LEONARD K. WELSH, DEBTORS ATTORNEY(S)
12-13-2021 [[118](#)]

LEONARD WELSH/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 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.

The Law Offices of Leonard K. Welsh ("Movant"), counsel for the debtor and debtor in possession Mark Alan Forrest ("DIP"), requests allowance of interim compensation in the amount of \$4,777.50 and reimbursement for expenses in the amount of \$104.01 for services rendered from November 1, 2021 through November 30, 2021. Doc. #118.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a professional person. 11 U.S.C. § 330(a)(1). According to the order authorizing employment of Movant, Movant may submit monthly applications for interim compensation pursuant to 11 U.S.C. § 331. Order, Doc. #33. In determining the amount of reasonable compensation to be awarded to

counsel, 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).

Movant's services included, without limitation: (1) providing general case administration; (2) assisting DIP and his accountant in preparing and filing monthly operating reports; (3) consulting with the United States Trustee regarding DIP's bank accounts; (4) reviewing proofs of claim and communicating with the creditor's counsel; (5) prosecuting plan confirmation; and (6) preparing and prosecuting ex parte applications to continue hearings and deadlines. Decl. of Leonard K. Welsh, Doc. #120; Ex. B, Doc. #122. DIP reviewed the compensation application and has no objections to the court granting this motion. Doc. #121. The court finds the compensation and reimbursement sought by Movant to be reasonable, actual, and necessary.

This motion is GRANTED. The court allows interim compensation in the amount of \$4,777.50 and reimbursement of expenses in the amount of \$104.01. 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. DIP is authorized to pay the fees allowed by this order from available funds only if the estate is administratively solvent and such payment will be consistent with the priorities of the Bankruptcy Code.

11:00 AM

1. [21-12767](#)-A-7 **IN RE: MARCOS/MARIA ZARATE**

PRO SE REAFFIRMATION AGREEMENT WITH MERCED SCHOOL EMPLOYEES FCU
12-20-2021 [[15](#)]

NO RULING.

1. [21-12205](#)-A-7 **IN RE: EDUARDO/JESSICA MACIAS**
[PBB-1](#)

MOTION TO AVOID LIEN OF BANK OF AMERICA, N.A.
11-30-2021 [\[14\]](#)

JESSICA MACIAS/MV
PETER BUNTING/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 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.

Eduardo Macias and Jessica Elizabeth Macias (collectively, "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 Bank of America N.A. ("Creditor") on their residential real property commonly referred to as 2037 Carillo Court, Atwater, CA 95301 (the "Property"). Doc. #14; Schedule C, 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)).

Debtors filed their bankruptcy petition on September 15, 2021. Doc. #1. A judgment was entered against Eduardo Macias in the amount of \$6,553.98 in favor of Creditor on March 18, 2021. Ex. D, Doc. #17. The abstract of judgment was recorded pre-petition in Merced County on May 4, 2021 as docket no. 2021020205. Ex. D, Doc. #17. The lien attached to Debtors' interest in the Property located in Merced County. Doc. #16. The Property also is encumbered by a lien in favor of PennyMac Loan Services LLC in the amount \$239,864.00. Schedule D, Doc. #1. Debtors claimed an exemption of \$300,000.00 in the Property under California

Code of Civil Procedure § 704.730. Schedule C, Doc. #1. Debtors assert a market value for the Property as of the petition date at \$456,000.00. Schedule A/B, Doc. #1.

Applying the statutory formula:

Amount of Creditor's judicial lien		\$6,553.98
Total amount of all other liens on the Property (excluding junior judicial liens)	+	239,864.00
Amount of Debtors' claim of exemption in the Property	+	300,000.00
		\$546,417.98
Value of Debtors' interest in the Property absent liens	-	456,000.00
Amount Creditor's lien impairs Debtors' exemption		\$90,417.98

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.

2. [21-10721](#)-A-7 **IN RE: LUIS CAMPOS LOPEZ AND JENNIFER RAMOS**
[DWE-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-3-2021 [\[28\]](#)

FREEDOM MORTGAGE CORPORATION AUTHORITY/MV
SCOTT LYONS/ATTY. FOR DBT.
DANE EXNOWSKI/ATTY. FOR MV.
DISCHARGED 06/22/2021; RESPONSIVE PLEADING

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 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The debtors timely filed written opposition on December 28, 2021. Doc. #35. The failure of the chapter 7 trustee, 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.

The motion will be DENIED. First, the debtors' discharge was entered on June 22, 2021 and the stay against debtors terminated pursuant to 11 U.S.C. § 362(c)(2)(C). Doc. #19. Second, as to the trustee's interest, there is no cause shown as required by § 362(d)(1).

Luis Gerardo Campos Lopez and Jennifer Kayla Ramos (together, "Debtors"), filed for relief under chapter 7 of the Bankruptcy Code on March 26, 2021 and were

granted a discharge on June 22, 2021. The movant, Freedom Mortgage Corporation Authority ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to Debtors' real property located at 977 N. Hartnell Place, Hanford, CA 93230 (the "Property"). Doc. #28.

Section 362(d)(1) allows the court to grant relief from the stay for cause. "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).

Movant submitted a declaration asserting that Debtors failed to make four mortgage payments beginning with the monthly payment for August 2021. Doc. #31. Debtors responded and provided persuasive evidence demonstrating that Debtors were unable to make online payments to Movant because Movant refused to accept online payments from bankruptcy debtors with a pending case. Decl. of Luis Gerardo Campos Lopez, Doc. #36. Debtors tried repeatedly to resolve this issue, and Debtors submitted evidence of at least one email sent to Movant requesting Movant to lift the payment prohibition since Debtors were granted a discharge. Ex. A, Doc. #37. Additionally, Debtors sent via certified mail a cashier's check to Movant for the delinquent amount. Exs. B & C, Doc. #37. An agent for Movant confirmed to Debtors that the check was received, that payments were current, and that Debtors could make payments over the telephone going forward. Decl., Doc. #36. To the extent the stay remains in force, the court finds no cause to grant relief from the automatic stay.

Accordingly, the motion will be DENIED.

3. [21-11624](#)-A-7 **IN RE: ROBERTO FLORES**
[JES-2](#)

MOTION TO SELL
11-24-2021 [\[34\]](#)

JAMES SALVEN/MV
DAVID JENKINS/ATTY. FOR DBT.
JAMES SALVEN/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled for higher and better offers.

DISPOSITION: Granted.

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

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1) and will proceed as scheduled for higher and better offers. 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 above-mentioned parties in interest are entered. 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.

James Salven ("Trustee"), the chapter 7 trustee of the bankruptcy estate of Roberto Flores ("Debtor"), moves the court pursuant to 11 U.S.C. § 363 for an order authorizing the sale of the bankruptcy estate's interest in a 2016 Chevrolet Colorado truck VIN 1GCHSCE35G1137117 (the "Vehicle") to Debtor for the purchase price of \$2,000, subject to higher and better bids at the hearing. Doc. #34. The total sale amount was determined by an estimated fair market value of \$13,388.73, less a lien to Capital One Auto Finance for \$11,388.73, resulting in a total net to the estate of \$2,000. Doc. #36. The sale of the Vehicle is subject to all liens and encumbrances. Doc. #36.

Pursuant to 11 U.S.C. § 363(b)(1), the trustee, after notice and a hearing, may "use, sell, or lease, other than in the ordinary course of business, property of the estate." Proposed sales under § 363(b) are reviewed to determine whether they are: (1) in the best interests of the estate resulting from a fair and reasonable price; (2) supported by a valid business judgment; and (3) proposed in good faith. In re Alaska Fishing Adventure, LLC, 594 B.R. 883, 887 (Bankr. D. Alaska 2018) (citing 240 N. Brand Partners, Ltd. v. Colony GFP Partners, L.P. (In re 240 N. Brand Partners, Ltd.), 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996)). "In the context of sales of estate property under § 363, a bankruptcy court 'should determine only whether the trustee's judgment [is] reasonable and whether a sound business justification exists supporting the sale and its terms.'" Alaska Fishing Adventure, 594 B.R. at 889 (quoting 3 COLLIER ON BANKRUPTCY ¶ 363.02[4] (Richard Levin & Henry J. Sommer eds., 16th ed.)). "[T]he trustee's business judgment is to be given great judicial deference." Id. at 889-90 (quoting In re Psychometric Sys., Inc., 367 B.R. 670, 674 (Bankr. D. Colo. 2007)).

Trustee believes that approval of the sale on the terms set forth in the motion is in the best interests of creditors and the estate. Doc. #36. Trustee's proposed sale to Debtor is made in consideration of the full and fair market value of the Vehicle. Doc. #36. Debtor offered to buy the Vehicle for a total net to the estate of \$2,000.00, subject to overbid at the hearing. Doc. #36. The court recognizes that no commission will need to be paid because the sale is to Debtor.

It appears that the sale of the estate's interest in the Vehicle is in the best interests of the estate, the Vehicle will be sold for a fair and reasonable price, and the sale is supported by a valid business judgment and proposed in good faith.

Accordingly, subject to overbid offers made at the hearing, the court is inclined to GRANT Trustee's motion and authorize the sale of the estate's interest in the Vehicle to Debtor on the terms set forth in the motion.

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-28-2021 [\[26\]](#)

MECHANICS BANK AUTO FINANCE/MV
MARK ZIMMERMAN/ATTY. FOR DBT.
VINCENT FROUNJIAN/ATTY. FOR MV.

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 hearing.

This motion was filed and served pursuant to 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. 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.

The movant, Mechanics Bank Auto Finance ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to a 2017 Chevrolet Silverado ("Vehicle"). Doc. #26.

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 debtors are three payments past due in the amount of \$1,490.55 plus late fees of \$49.68. Doc. #28.

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 chapter 7 trustee does not oppose. Doc. #33.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the debtors have failed to make at least three pre- and post-petition payments and the Vehicle is a depreciating asset.

5. [21-10530](#)-A-7 **IN RE: CHRISTOPHER METAS**
[EJT-1](#)

OBJECTION TO CLAIM OF MELAINE METAS, CLAIM NUMBER 8
11-24-2021 [\[47\]](#)

LAW OFFICE OF EDWARD J. THOMAS/MV
LEONARD WELSH/ATTY. FOR DBT.
EDWARD THOMAS/ATTY. FOR MV.
CONT'D TO 2/3/22 BY ORDER, DOC. #55

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

DISPOSITION: Continued to February 3, 2022 at 1:30 p.m.

NO ORDER REQUIRED.

On December 21, 2021, the court issued an order continuing the hearing on the objection to claim to February 3, 2022 at 1:30 p.m. Doc. #55.

The parties shall file a joint status conference statement no later than January 27, 2022.

6. [19-11236](#)-A-7 **IN RE: ROBERT GARFIAS**
[RTW-2](#)

MOTION FOR COMPENSATION FOR RATZLAFF TAMBERI & WONG, ACCOUNTANT(S)
12-10-2021 [\[101\]](#)

RATZLAFF TAMBERI & WONG/MV
PETER BUNTING/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 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 moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Ratzlaff Tamberi & Wong, an accountancy corporation ("Movant"), accountant for chapter 7 trustee James E. Salven ("Trustee"), requests allowance of final

compensation and reimbursement for expenses for services rendered from September 27, 2021 through November 16, 2021. Doc. #101; Ex. A, Doc. #105. Movant incurred expenses and provided accounting services valued at \$1,436.58, and requests compensation for that amount. Doc. #101. This is Movant's first and final fee application.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a "professional person." 11 U.S.C. § 330(a)(1). 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).

Movant's services included, without limitation: (1) reviewing the bankruptcy petition and Trustee's accounting; (2) preparing federal and state fiduciary income tax returns and underlying workpapers; and (3) preparing and filing the fee applications Decl. of D. Christopher A. Ratzlaff, Doc. #103; Ex. A, Doc. #105. Trustee has no objection to the fees and expenses requested. Doc. #104. The court finds the compensation and reimbursement sought are reasonable, actual, and necessary.

This motion is GRANTED on a final basis. The court allows final compensation in the amount of \$1,417.50 and reimbursement for expenses in the amount of \$19.08. Trustee is authorized to make a combined payment of \$1,436.58, representing compensation and reimbursement, to Movant. Trustee is authorized to pay the amount allowed by this order from available funds only if the estate is administratively solvent and such payment is consistent with the priorities of the Bankruptcy Code.

7. [21-12640](#)-A-7 **IN RE: GREGORY STEWART**
[JHK-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-9-2021 [\[19\]](#)

EXETER FINANCE LLC/MV
GEORGE BURKE/ATTY. FOR DBT.
JOHN KIM/ATTY. FOR MV.

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 28 days' notice as required by 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 movant, Exeter Finance LLC ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2014 Mazda 3 ("Vehicle"). Doc. #19.

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).

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtor does not have any equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, the court finds that "cause" exists to lift the stay because the debtor has failed to make at least four complete pre- and post-petition payments. Movant has produced evidence that the debtor is delinquent by at least \$1,700.90 plus late fees in the amount of \$77.96. Doc. #22.

The court also finds that the debtor does not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because the debtor is in chapter 7. The Vehicle is valued at \$11,225.00 and the debtor owes \$16,114.49. Doc. #22.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) 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.

8. [21-11463](#)-A-7 **IN RE: RICHARD/LOURDES TORRES**
[JDR-3](#)

MOTION TO AVOID LIEN OF THE BEST SERVICE CO., INC.
11-19-2021 [\[33\]](#)

LOURDES TORRES/MV
JEFFREY ROWE/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 pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtors, 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.

Richard Emanuel Torres and Lourdes Deroma Torres (collectively, "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 The Best Service Co., Inc. ("Creditor") on their residential real property commonly referred to as 3924 N. Tollhouse Road, Fresno, CA 93726 (the "Property"). Doc. #33; Am. Schedule C, Doc. #29.

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)).

Debtors filed their bankruptcy petition on June 4, 2021. A judgment was entered against Richard E. Torres in the amount of \$311,230.19 in favor of Creditor on August 13, 2019. Ex. B, Doc. #36. The abstract of judgment was recorded pre-petition in Fresno County on December 11, 2019 as docket no. 2019-0149732. Ex. B, Doc. #36. The lien attached to Debtors' interest in the Property located in Fresno County. Doc. #35. One senior judicial lien also encumbers the Property and is subject to a lien avoidance motion (DCN JDR-4, No. 9 below). The senior judicial lien is valued at \$1,813.53 and attached to the Property in Fresno County in 2010. Ex. C, Doc. #36. The Property also is encumbered by a mortgage lien in favor of NewRez in the amount \$141,014.00. Schedule D, Doc. #1. Debtors claimed an exemption of \$300,000.00 in the Property under California Code of Civil Procedure § 704.730. Am. Schedule C, Doc. #29. Debtors assert a market value for the Property as of the petition date at \$296,071.00. Am. Schedule A/B, Doc. #29.

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		\$311,230.19
Total amount of all other liens on the Property (excluding junior judicial liens)	+	142,827.53
Amount of Debtors' claim of exemption in the Property	+	300,000.00
		\$754,057.72
Value of Debtors' interest in the Property absent liens	-	296,071.00
Amount Creditor's lien impairs Debtors' exemption		\$457,986.72

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.

9. [21-11463](#)-A-7 **IN RE: RICHARD/LOURDES TORRES**
[JDR-4](#)

MOTION TO AVOID LIEN OF DISCOVER BANK, ISSUER OF THE DISCOVER CARD
11-19-2021 [38]

LOURDES TORRES/MV
JEFFREY ROWE/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 pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtors, 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.

Richard Emanuel Torres and Lourdes Deroma Torres (collectively, "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 Discover Bank, Issuer of the Discover Card ("Creditor"), on their residential real property commonly referred to as 3924 N. Tollhouse Road, Fresno, CA 93726 (the "Property"). Doc. #38; Am. Schedule C, Doc. #29.

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)).

Debtors filed their bankruptcy petition on June 4, 2021. A judgment was entered against Lourdes Deroma Torres in the amount of \$1,813.53 in favor of Creditor

on October 15, 2009. Ex. C, Doc. #41. The abstract of judgment was recorded pre-petition in Fresno County on December 20, 2010 as docket no. 2010-0168458. Ex. C, Doc. #41. The lien attached to Debtors' interest in the Property located in Fresno County. Doc. #40. One junior judicial lien also encumbers the Property and is subject to a lien avoidance motion (DCN JDR-3, No. 8 above). The junior judicial lien is valued at \$311,230.19 and attached to the Property in Fresno County in 2019. Ex. B, Doc. #41. The Property also is encumbered by a lien in favor of NewRez in the amount \$141,014.00. Schedule D, Doc. #1. Debtors claimed an exemption of \$300,000.00 in the Property under California Code of Civil Procedure § 704.730. Am. Schedule C, Doc. #29. Debtors assert a market value for the Property as of the petition date at \$296,071.00. Am. Schedule A/B, Doc. #29.

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.

Because the lien sought to be avoided in this motion is the most senior, and the court disposes of the more junior lien in order of reverse priority in matter number 8, above, the statutory formula is applied as follows:

Applying the statutory formula:

Amount of Creditor's judicial lien		\$1,813.53
Total amount of all other liens on the Property (excluding junior judicial liens)	+	141,014.00
Amount of Debtors' claim of exemption in the Property	+	300,000.00
		\$442,827.53
Value of Debtors' interest in the Property absent liens	-	296,071.00
Amount Creditor's lien impairs Debtors' exemption		\$146,756.53

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 FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL, P.C.
FOR GABRIEL J. WADDELL, TRUSTEES ATTORNEY(S)
12-10-2021 [\[55\]](#)

PETER BUNTING/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 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 moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Fear Waddell P.C. ("Movant"), general counsel for chapter 7 trustee James Salven ("Trustee"), requests allowance of final compensation and reimbursement for expenses for services rendered from May 15, 2021 through December 9, 2021. Doc. #55; Ex. B, Doc. #59; Order, Doc. #34. Movant provided legal services valued at \$6,927.00, and requests compensation for that amount. Doc. #55. Movant requests reimbursement for expenses in the amount of \$146.77. Doc. #55. This is Movant's first and final fee application.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a "professional person." 11 U.S.C. § 330(a)(1). 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).

Movant's services included, without limitation: (1) providing counsel to Trustee as to the administration of the chapter 7 case; (2) conducting legal research and negotiations related to the sale of an aircraft; and (3) preparing and filing employment and fee applications. Exs. A & B, Doc. #59. Trustee has no objection. Doc. #58. The court finds the compensation and reimbursement sought are reasonable, actual, and necessary.

This motion is GRANTED on a final basis. The court allows final compensation in the amount of \$6,927.00 and reimbursement for expenses in the amount of \$146.77. Trustee is authorized to make a combined payment of \$7,073.77, representing compensation and reimbursement, to Movant. Trustee is authorized to pay the amount allowed by this order from available funds only if the estate

is administratively solvent and such payment is consistent with the priorities of the Bankruptcy Code.

11. [17-12070](#)-A-7 **IN RE: THOMAS RICE**
[FW-3](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FEAR WADDELL, P.C.
FOR GABRIEL J. WADDELL, TRUSTEES ATTORNEY(S)
12-14-2021 [\[33\]](#)

PETER BUNTING/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted in part, the compensation awarded will be reduced by \$49.00.

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 hearing on 28 days' notice as required by 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). 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 movant has not done here.

Fear Waddell P.C. ("Movant"), attorney for chapter 7 trustee Peter L. Fear ("Trustee"), requests allowance of final compensation and reimbursement for expenses for services rendered from July 29, 2021 through December 9, 2021. Doc. #33; Ex. B, Doc. #37. Movant provided legal services valued at \$2,310.00, and requests compensation for that amount. Doc. #33. Movant requests reimbursement for expenses in the amount of \$91.49. Doc. #33. This is Movant's first and final fee application.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a "professional person." 11 U.S.C. § 330(a)(1). 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).

The court notes that the Order Granting Authorization to Employ General Counsel authorized Movant's employment for services rendered on or after August 1, 2021, yet Movant billed some time on July 29, 2021. Order, Doc. #19; Ex. B, Doc. #37. Professionals who perform services for a chapter 7 trustee "cannot recover fees for services rendered to the estate unless those services have been previously authorized by a court order." Atkins v. Wain, Samuel & Co. (In re Atkins), 69 F.3d 970, 973 (9th Cir. 1995). Because services rendered prior to August 1, 2021 were not authorized by the bankruptcy court, the court will reduce the award of compensation by the amount billed to the estate prior to August 1, 2021, a total of \$49.00. Ex. B, Doc. #37.

Movant's authorized services included, without limitation: (1) providing counsel to Trustee as to the administration of the chapter 7 case; (2) preparing and finalizing a settlement agreement between the debtor and the estate; and (3) preparing and filing employment and fee applications. Exs. A & B, Doc. #37. Trustee has no objection. Doc. #36. Subject to the reduction of \$49.00, the court finds the compensation and reimbursement sought are reasonable, actual, and necessary.

This motion will be GRANTED on a final basis. The court will allow final compensation in the amount of \$2,261.00 and reimbursement for expenses in the amount of \$91.49. Trustee is authorized to make a combined payment of \$2,352.49, representing compensation and reimbursement, to Movant. Trustee is authorized to pay the amount allowed by this order from available funds only if the estate is administratively solvent and such payment is consistent with the priorities of the Bankruptcy Code.

12. [17-12272](#)-A-7 **IN RE: LEONARD/SONYA HUTCHINSON**
[JES-5](#)

MOTION FOR COMPENSATION FOR JAMES SALVEN, CHAPTER 7 TRUSTEE(S)
12-1-2021 [[140](#)]

JAMES SALVEN/MV
DAVID JENKINS/ATTY. FOR DBT.
RUSSELL REYNOLDS/ATTY. FOR MV.
RESPONSIVE PLEADING

NO RULING.

13. [17-12272](#)-A-7 **IN RE: LEONARD/SONYA HUTCHINSON**
[RWR-4](#)

MOTION FOR COMPENSATION FOR RUSSELL W. REYNOLDS, TRUSTEES
ATTORNEY(S)
12-7-2021 [[145](#)]

DAVID JENKINS/ATTY. FOR DBT.
RESPONSIVE PLEADING

NO RULING.

MOTION FOR COMPENSATION FOR ANTHONY D. JOHNSTON, TRUSTEES
ATTORNEY(S)
11-18-2021 [\[74\]](#)

LE'ROY ROBERSON/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 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 moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Anthony D. Johnston ("Movant"), attorney for chapter 7 trustee James E. Salven ("Trustee"), requests allowance of final compensation and reimbursement for expenses for services rendered from June 21, 2021 through November 18, 2021. Doc. #74; Ex. A, Doc. #78; Order, Doc. #41. Movant provided legal services valued at \$2,795.00, and requests compensation for that amount. Doc. #74. Movant requests reimbursement for expenses in the amount of \$143.90. Doc. #74. This is Movant's first and final fee application.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a "professional person." 11 U.S.C. § 330(a)(1). 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).

Movant's services included, without limitation: (1) providing counsel to Trustee as to the administration of the chapter 7 case; (2) prosecuting motion for authority to sell real property and ancillary documents; and (3) preparing and filing employment and fee applications. Exs. A & B, Doc. #78. Trustee has no objection. Doc. #77. The court finds the compensation and reimbursement sought are reasonable, actual, and necessary.

This motion is GRANTED on a final basis. The court allows final compensation in the amount of \$2,795.00 and reimbursement for expenses in the amount of \$143.90. Trustee is authorized to make a combined payment of \$2,938.90, representing compensation and reimbursement, to Movant. Trustee is authorized to pay the amount allowed by this order from available funds only if the estate

is administratively solvent and such payment is consistent with the priorities of the Bankruptcy Code.

15. [21-11577](#)-A-7 **IN RE: JUDITH DIMODANA**
[SLL-3](#)

MOTION TO COMPEL ABANDONMENT
12-6-2021 [\[43\]](#)

JUDITH DIMODANA/MV
STEPHEN LABIAK/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 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the trustee, 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 Systems, 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.

Judith A. Dimodana ("Debtor"), the chapter 7 debtor in this case, moves the court to order the trustee to abandon property of the estate, Debtor's residence located at 3726 W. Palmer Court, Visalia, CA 93291 (the "Property"). Doc. #43. Debtor asserts that no non-exempt equity exists in the Property and the Property therefore has no value to the bankruptcy estate. Doc. #43. No opposition has been filed in response to this motion.

11 U.S.C. § 554(b) permits the court, on request of a party in interest and after notice and a hearing, to order the trustee to abandon property that is burdensome to the estate or of inconsequential value and benefit to the estate. Vu v. Kendall (In re Vu), 245 B.R. 644, 647 (B.A.P. 9th Cir. 2000). To grant a motion to abandon property, the bankruptcy court must find either that the property is (1) burdensome to the estate or (2) of inconsequential value and inconsequential benefit to the estate. Id. (citing In re K.C. Machine & Tool Co., 816 F.2d 238, 245 (6th Cir. 1987)). However, "an order compelling abandonment [under § 554(b)] is the exception, not the rule. Abandonment should only be compelled in order to help the creditors by assuring some benefit in the administration of each asset. . . . Absent an attempt by the trustee to churn property worthless to the estate just to increase fees, abandonment should rarely be ordered." Id. (quoting K.C. Machine & Tool Co., 816 F.2d at 246).

Here, Debtor does not allege that the Property is burdensome to the estate. Therefore, Debtor must establish that the Property is of inconsequential value and benefit to the estate. 11 U.S.C. § 554(b); Vu, 245 B.R. at 647. Debtor's Property is valued at \$310,000 and is encumbered by a mortgage totaling \$282,000. Schedule D, Doc. #39; Decl. of Debtor, Doc. #45. Under California Civil Procedure Code § 703.140(b)(1), Debtor claimed a \$28,000.00 exemption in the Property. Am. Schedule C, Doc. #39; Decl., Doc. #45. The court finds that Debtor has met her burden of establishing by a preponderance of the evidence that the Property is of inconsequential value and benefit to the estate.

Accordingly, this motion is GRANTED. The order shall specifically identify the property abandoned.

16. [21-12578](#)-A-7 **IN RE: JOSE MADRIGAL MARTINEZ**
[APN-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-17-2021 [\[13\]](#)

TOYOTA LEASE TRUST/MV
OSCAR SWINTON/ATTY. FOR DBT.
AUSTIN NAGEL/ATTY. FOR MV.

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.

Notice by mail of this motion was sent December 17, 2021, with a hearing date set for January 12, 2022. Doc. #14. The motion was set for hearing on less than 28 days' notice and is governed by Local Rule of Practice ("LBR") 9014-1(f)(2). Pursuant to LBR 9014-1(f)(2), written opposition was not required, and any opposition may be raised at the hearing. However, the Notice of Hearing filed with the motion cited LBR 9014-1(f)(1) and stated that opposition must be filed and served no later than fourteen days before the hearing and that failure to file written response may result in the court granting the motion prior to the hearing. The Notice of Hearing does not comply with LBR 9014-1(f)(2).

17. [21-12684](#)-A-7 **IN RE: LAURENCE MCGINTY**

MOTION FOR EXEMPTION FROM FINANCIAL MANAGEMENT COURSE
12-8-2021 [\[14\]](#)

LAURENCE MCGINTY/MV
LAURENCE MCGINTY/ATTY. FOR MV.

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

DISPOSITION: Denied as moot.

ORDER: The court will issue an order.

On January 5, 2022, the debtor filed a Certificate of Debtor Education which satisfies the requirement under 11 U.S.C. § 727. Doc. #19. Debtor's motion for exemption from financial management course is DENIED AS MOOT.