

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

January 16, 2018 at 10:00 a.m.

MOTIONS ARE ARRANGED ON THIS CALENDAR IN TWO SEPARATE SECTIONS. A CASE MAY HAVE A MOTION IN EITHER OR BOTH SECTIONS. THE FIRST SECTION INCLUDES ALL MOTIONS THAT WILL BE RESOLVED WITH A HEARING. A TENTATIVE RULING IS GIVEN FOR EACH MOTION. THE SECOND SECTION INCLUDES ALL MOTIONS THAT HAVE BEEN RESOLVED BY THE COURT WITHOUT A HEARING. A FINAL RULING IS GIVEN FOR EACH MOTION. WITHIN EACH SECTION, CASES ARE ORGANIZED BY THE LAST TWO DIGITS OF THE CASE NUMBER.

ITEMS WITH TENTATIVE RULINGS: IF A CALENDAR ITEM HAS BEEN SET FOR HEARING BY THE COURT PURSUANT TO AN ORDER TO SHOW CAUSE OR AN ORDER SHORTENING TIME, OR BY A PARTY PURSUANT TO LOCAL BANKRUPTCY RULE 3007-1(c)(1) OR LOCAL BANKRUPTCY RULE 9014-1(f)(1), AND IF ALL PARTIES AGREE WITH THE TENTATIVE RULING, THERE IS NO NEED TO APPEAR FOR ARGUMENT. HOWEVER, IT IS INCUMBENT ON EACH PARTY TO ASCERTAIN WHETHER ALL OTHER PARTIES WILL ACCEPT A RULING AND FOREGO ORAL ARGUMENT. IF A PARTY APPEARS, THE HEARING WILL PROCEED WHETHER OR NOT ALL PARTIES ARE PRESENT. AT THE CONCLUSION OF THE HEARING, THE COURT WILL ANNOUNCE ITS DISPOSITION OF THE ITEM AND IT MAY DIRECT THAT THE TENTATIVE RULING, AS ORIGINALLY WRITTEN OR AS AMENDED BY THE COURT, BE APPENDED TO THE MINUTES OF THE HEARING AS THE COURT'S FINDINGS AND CONCLUSIONS.

IF THE COURT CONTINUES THE HEARING OR IF IT SETS A FINAL HEARING, UNLESS THE PARTIES REQUEST A DIFFERENT SCHEDULE THAT IS APPROVED BY THE COURT, THE HEARING WILL TAKE PLACE ON FEBRUARY 12, 2018 AT 10:00 A.M. OPPOSITION MUST BE FILED AND SERVED BY JANUARY 29, 2018, AND ANY REPLY MUST BE FILED AND SERVED BY FEBRUARY 5, 2018. THE MOVING/OBJECTING PARTY IS TO GIVE NOTICE OF THESE DATES.

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

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

January 16, 2018 at 10:00 a.m.

MATTERS FOR ARGUMENT

1. 17-23509-A-7 JESSEE NAYLOR MOTION TO
NF-2 COMPEL ABANDONMENT
11-28-17 [34]

Tentative Ruling: The motion will be denied without prejudice.

The debtor seeks an order compelling the trustee to abandon the estate's 50% interest in 1715 Sherman Ave., Chico, California.

However, the only property listed in the attached schedules is a property on Lobinger Avenue in Corning, California. The debtor has no interest in real property in Chico, California according to the schedules. Given this discrepancy, the court cannot grant the motion.

2. 17-23510-A-7 KEVIN NAYLOR MOTION TO
NF-2 COMPEL ABANDONMENT
11-28-17 [28]

Tentative Ruling: The motion will be denied without prejudice.

The debtor seeks an order compelling the trustee to abandon the estate's 50% interest in 1028 Dayton Road, Chico, California.

However, the only property listed in the attached schedules is a property on Lobinger Avenue in Corning, California. The debtor has no interest in real property in Chico, California according to the schedules. Given this discrepancy, the court cannot grant the motion.

3. 17-22622-A-7 FRED HIBDON MOTION TO
DMW-3 SELL
12-14-17 [32]

Tentative Ruling: The motion will be granted.

The chapter 7 trustee seeks authorization to sell a manufactured home located at space 248, Casa De Flores Mobile Home Park, 701 East Lassen Avenue in Chico, California for \$20,500, subject to overbids. Overbids will be in increments of \$500 and will require a \$1,000 deposit. According to the trustee, the following items will be paid out of the sales proceeds: (1) sales costs; (2) a fixed real estate commission of \$3,000; (3) pro-rata taxes or home owner's fees; and (4) any liens discovered through a title search. Even though the trustee has not disclosed any liens against the property, assuming that all liens of record will be paid from escrow, the court does not need to approve the sale free and clear of liens.

11 U.S.C. § 363(b) allows the trustee to sell property of the estate, other than in the ordinary course of business. The sale will generate some proceeds for distribution to creditors of the estate. Hence, the sale will be approved pursuant to section 363(b), as it is in the best interests of the creditors and the estate. And, the court will approve the payment of the real estate commission.

4. 17-28425-A-7 JULIE KAHL
MOH-1

MOTION TO
COMPEL ABANDONMENT O.S.T.
1-5-18 [12]

Tentative Ruling: The motion will be granted.

The debtor requests an order compelling the trustee to abandon the estate's interest in her 50% interest in a sole proprietorship bar business, Bubba's Place.

11 U.S.C. § 554(b) provides that on request of a party in interest and after notice and a hearing, the court may order the trustee to abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate.

According to the motion, the business assets include \$5,000 in alcohol inventory and \$179 in bar tabs. The identified assets have been claimed fully exempt in Schedule C. Docket 14. The debtor has exempted an additional \$13,000 in her interest in the business. Given the exemption claims, the court concludes that the business, to the extent of the assets listed in the motion, is of inconsequential value to the estate. The motion will be granted.

5. 16-25229-A-7 CRAIG ANDERSON
MPD-2

MOTION TO
APPROVE COMPROMISE AND/OR SALE
12-18-17 [24]

Tentative Ruling: The motion will be granted.

The trustee seeks approval of a sale and settlement agreement with Michael Powell. The agreement resolves a judgment obtained by the debtor against Mr. Powell in the original amount of \$19,430 - the abstract of judgment was recorded on February 28, 2012 in Butte County. The tangible personal property assets are described in more detail in the motion.

The debtor's Schedule A/B, Item 30, listed the judgment, stated the amount owed was uncollectible and valued it at \$0.00. The debtor's Schedule C did not exempt any value in the judgment underlying the abstract. The trustee contacted Mr. Powell and determined only small payments had been made on the judgment and confirmed an outstanding balance of approximately \$19,430 in principal, \$8,175 in interest, for a total of \$27,605. The trustee also determined that Mr. Powell was in the process of getting divorced and poor financial condition. Based on these facts, the trustee determined a fair value to settle the amount owed under the judgment was \$9,000. Unable to make the payment directly, Mr. Powell has agreed to allow the trustee to sell his mobile/manufactured home to satisfy the amount owed. Mr. Powell is the listed buyer.

After some settlement negotiations, the parties have agreed to enter into the subject agreement.

The sale is "as is," "where is" and "with all faults." The proposed purchase price is \$9,000 to Mr. Powell, with overbids in increments of \$1,000.

11 U.S.C. Section 363(b) allows trustee to sell property of the estate, other than in the ordinary course of business.

On a motion by the trustee and after notice and a hearing, the court may

approve a compromise or settlement. Fed. R. Bankr. P. 9019. Approval of a compromise must be based upon considerations of fairness and equity. In re A & C Properties, 784 F.2d 1377, 1381 (9th Cir. 1986). The court must consider and balance four factors: 1) the probability of success in the litigation; 2) the difficulties, if any, to be encountered in the matter of collection; 3) the complexity of the litigation involved; and 4) the paramount interest of the creditors with a proper deference to their reasonable views. In re Woodson, 839 F.2d 610, 620 (9th Cir. 1988). The court may give weight to the opinions of the trustee, the parties, and their attorneys. In re Blair, 538 F.2d 849, 851 (9th Cir. 1976). Furthermore, the law favors compromise and not litigation for its own sake. Id.

As the proposed sale will generate some funds for distribution to creditors, will avoid the further costs of a public auction of the tangible assets, and will cut short the expenses the estate is incurring in litigating the pending claims, sale of the assets is in the best interest of the creditors and the estate. Accordingly, the sale will be approved under 11 U.S.C. § 363(b).

In addition, the court will waive the 14-day period of Fed. R. Bankr. P. 6004(h) and will make a good faith finding under 11 U.S.C. § 363(m) with respect to Mr. Williams.

Assuming the asset sells to Mr. Powell, the court will approve the agreement also as a compromise.

The court concludes that the Woodson factors balance in favor of approving the compromise. That is, given the small amount at stake, given that Mr. Powell's poor financial condition, pending divorce, and child support obligations and given the inherent costs, risks, delay and inconvenience of further litigation, the subject agreement is equitable and fair.

Therefore, the court concludes the compromise to be in the best interests of the creditors and the estate. The court may give weight to the opinions of the trustee, the parties, and their attorneys. In re Blair, 538 F.2d 849, 851 (9th Cir. 1976). Furthermore, the law favors compromise and not litigation for its own sake. Id. Accordingly, the motion will be granted.

FINAL RULINGS BEGIN HERE

6. 17-26125-A-11 FIRST CAPITAL RETAIL, MOTION FOR
BAL-1 LLC RELIEF FROM AUTOMATIC STAY
ARDEN FAIR ASSOCIATES, L.P. VS. 10-23-17 [69]

Amended Final Ruling: Counsel for the movant has filed notice that the state court has determined that the debtor is not entitled to relief from the lease forfeiture. Accordingly, the motion will be granted.

The movant, Arden Fair Associates, L.P., seeks relief from the automatic stay with respect to commercial real property in Sacramento, California formerly leased to the debtor.

The debtor failed to make pre-petition payments to the movant under the lease agreement. On or about May 11, 2017, the movant served the debtor with a 10-day notice to pay or quit. The notice declared a forfeiture of the lease. He debtor did not pay or quit the premises, allowing the notice to expire.

The movant filed and unlawful detainer action against the debtor on July 3, 2017. Judgment for possession was entered on August 10, 2017 against the debtor, terminating the lease and entitling the movant to obtain possession of the property. Docket 74, Ex. 5. A writ of possession was issued on August 29, 2017. Docket 74, Ex. 6.

After the bankruptcy case was filed, the debtor sought relief from the lease forfeiture. The debtor was not successful. Therefore, the motion will be granted to allow the movant to obtain possession of the subject property, in accordance with the state court's orders and judgment. Given the lease forfeiture, the debtor has no interest in the property. The debtor is unable to assume the lease because its tenancy interest terminated before this case was filed upon expiration of the ten-day notice on or about May 22, 2017. See In re Windmill Farms, Inc., 841 F.2d 1467, 1470 (9th Cir. 1988); In re Smith, 105 B.R. 50, 53 (Bankr. C.D. Cal. 1989).

7. 17-26202-A-7 WILLIAM/FRAYBA TIPTON MOTION TO
PSB-1 AVOID JUDICIAL LIEN
VS. BMW BANK OF NORTH AMERICA 12-12-17 [21]

Final Ruling: The court continues the hearing to permit the debtor to serve amended Schedule C on all creditors and give those creditors an opportunity to object to the debtors' amended exemptions. Such service shall take place no later than January 22, 2018 and a certificate of service shall be filed no later than January 25. The debtor also shall give new notice to the respondent indicating that the continued hearing on this motion will be on March 26, 2018 at 10:00 a.m. and that the respondent shall, if it has not already done so, file written opposition to the motion no later than March 12, 2018 if it wishes to oppose the motion. The debtor shall take care that re-service of the motion corrects any deficiencies noted in this ruling.

A judgment was entered against the debtor Frayba Tipton in favor of BMW Bank of North America for the sum of \$103,200.51 on November 23, 2010. The abstract of judgment was recorded with San Joaquin County on January 19, 2011. That lien attached to the debtor's interest in residential real property in Tracy, California.

The subject real property had an approximate value of \$750,000 as of the

petition date. Dockets 1, 24, 25. The unavoidable liens totaled \$869,174.60 on that same date, consisting of a single mortgage in favor of Nationstar Mortgage. Dockets 1, 24, 25. The debtor claimed an exemption pursuant to Cal. Civ. Pro. Code § 703.140(b)(5) in the amount of \$1.00 in Amended Schedule C filed on December 1, 2017. Dockets 18, 24, 25.

The motion cannot be granted because the debtor amended Schedule C on December 1, 2017, to add an exemption in the subject property, but did not serve the Amended Schedule on all creditors. Dockets 3, 18, 19. Parties in interest have 30 days from an exemption amendment to object to any added or altered exemptions. Fed. R. Bankr. P. 4003(b)(1). Because the debtor has not afforded all parties in interest such an opportunity, the motion cannot be entertained at this time.

The court notes that there are serious service issues with the motion. The motion was not served on the respondent creditor, BMW Bank of North America. It was served rather on an affiliate, "BMW Financial Services, LLC." Docket 82.

The motion also was not served on the respondent creditor in accordance with Fed. R. Bankr. P. 7004(h), which requires service on insured depository institutions (as defined by section 3 of the Federal Deposit Insurance Act) to be made by certified mail and addressed to an officer of the institution.

The proof of service accompanying the motion indicates that the notice was not addressed solely to an officer of the creditor. It was addressed to "Officer, Managing, or General Agent, or Agent for Service of Process" and was mailed to an agent for service of process, The Corporation Trust Company, and an attorney. Docket 82.

Unless the attorney agreed to accept service, service was improper. See, e.g., Beneficial California, Inc. v. Villar (In re Villar), 317 B.R. 88, 92-94 (B.A.P. 9th Cir. 2004).

8.	17-26202-A-7 WILLIAM/FRAYBA TIPTON PSB-10 VS. FORD MOTOR CREDIT CO., L.L.C.	MOTION TO AVOID JUDICIAL LIEN 12-12-17 [66]
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Final Ruling: The court continues the hearing to permit the debtor to serve amended Schedule C on all creditors and give those creditors an opportunity to object to the debtors' amended exemptions. Such service shall take place no later than January 22, 2018 and a certificate of service shall be filed no later than January 25. The debtor also shall give new notice to the respondent indicating that the continued hearing on this motion will be on March 26, 2018 at 10:00 a.m. and that the respondent shall, if it has not already done so, file written opposition to the motion no later than March 12, 2018 if it wishes to oppose the motion. The debtor shall take care that re-service of the motion corrects any deficiencies noted in this ruling.

A judgment was entered against the debtors in favor of Ford Motor Credit Company for the sum of \$89,931.07 on August 20, 2010. The abstract of judgment was recorded with San Joaquin County on October 13, 2010. That lien attached to the debtors' interest in residential real property in Tracy, California. The debtors are asking for avoidance of the lien under 11 U.S.C. § 522(f)(1).

The subject real property had an approximate value of \$340,000 as of the petition date. Dockets 1, 69, 70. The unavoidable liens totaled \$359,365.73

on that same date, consisting of a mortgage for \$250,298.31 in favor of Wells Fargo Home Mortgage, a mortgage for \$100,000 in favor of Citimortgage, and a claim for \$9,067.42 in favor of Eastlake Owners Association. Dockets 1, 69, 70. The debtor claimed an exemption pursuant to Cal. Civ. Pro. Code § 703.140(b)(5) in the amount of \$1.00 in Amended Schedule C filed on December 1, 2017. Dockets 18, 69, 70.

The motion cannot be granted because the debtor amended Schedule C on December 1, 2017, to add an exemption in the subject property, but did not serve the Amended Schedule on all creditors. Dockets 3, 18, 19. Parties in interest have 30 days from an exemption amendment to object to any added or altered exemptions. Fed. R. Bankr. P. 4003(b)(1). Because the debtor has not afforded all parties in interest such an opportunity, the motion cannot be entertained at this time.

9. 17-26202-A-7 WILLIAM/FRAYBA TIPTON MOTION TO
PSB-11 AVOID JUDICIAL LIEN
VS. PORTFOLIO RECOVERY ASSOC., L.L.C. 12-12-17 [71]

Final Ruling: The court continues the hearing to permit the debtor to serve amended Schedule C on all creditors and give those creditors an opportunity to object to the debtors' amended exemptions. Such service shall take place no later than January 22, 2018 and a certificate of service shall be filed no later than January 25. The debtor also shall give new notice to the respondent indicating that the continued hearing on this motion will be on March 26, 2018 at 10:00 a.m. and that the respondent shall, if it has not already done so, file written opposition to the motion no later than March 12, 2018 if it wishes to oppose the motion. The debtor shall take care that re-service of the motion corrects any deficiencies noted in this ruling.

A judgment was entered against the debtor Frayba Tripton in favor of Portfolio Recovery Associates, L.L.C. for the sum of \$16,363.57 on September 14, 2011. The abstract of judgment was recorded with San Joaquin County on October 24, 2011. That lien attached to the debtor's interest in residential real property in Tracy, California. The debtor is asking for avoidance of the lien under 11 U.S.C. § 522(f)(1).

The subject real property had an approximate value of \$340,000 as of the petition date. Dockets 1, 74, 75. The unavoidable liens totaled \$359,365.73 on that same date, consisting of a mortgage for \$250,298.31 in favor of Wells Fargo Home Mortgage, a mortgage for \$100,000 in favor of Citimortgage, and a claim for \$9,067.42 in favor of Eastlake Owners Association. Dockets 1, 74, 75. The debtor claimed an exemption pursuant to Cal. Civ. Pro. Code § 703.140(b)(5) in the amount of \$1.00 in Amended Schedule C filed on December 1, 2017. Dockets 18, 74, 75.

The motion cannot be granted because the debtor amended Schedule C on December 1, 2017, to add an exemption in the subject property, but did not serve the Amended Schedule on all creditors. Dockets 3, 18, 19. Parties in interest have 30 days from an exemption amendment to object to any added or altered exemptions. Fed. R. Bankr. P. 4003(b)(1). Because the debtor has not afforded all parties in interest such an opportunity, the motion cannot be entertained at this time.

10. 17-26202-A-7 WILLIAM/FRAYBA TIPTON
PSB-12
VS. TRACY FEDERAL CREDIT UNION

MOTION TO
AVOID JUDICIAL LIEN
12-12-17 [76]

Final Ruling: The court continues the hearing to permit the debtor to serve amended Schedule C on all creditors and give those creditors an opportunity to object to the debtors' amended exemptions. Such service shall take place no later than January 22, 2018 and a certificate of service shall be filed no later than January 25. The debtor also shall give new notice to the respondent indicating that the continued hearing on this motion will be on March 26, 2018 at 10:00 a.m. and that the respondent shall, if it has not already done so, file written opposition to the motion no later than March 12, 2018 if it wishes to oppose the motion. The debtor shall take care that re-service of the motion corrects any deficiencies noted in this ruling.

A judgment was entered against the debtor William Tripton in favor of Tracy Federal Credit Union for the sum of \$22,853.79 on March 4, 2008. The abstract of judgment was recorded with San Joaquin County on August 18, 2008. That lien attached to the debtor's interest in residential real property in Tracy, California. The debtor is asking for avoidance of the lien under 11 U.S.C. § 522(f)(1).

The subject real property had an approximate value of \$340,000 as of the petition date. Dockets 1, 79, 80. The unavoidable liens totaled \$359,365.73 on that same date, consisting of a mortgage for \$250,298.31 in favor of Wells Fargo Home Mortgage, a mortgage for \$100,000 in favor of Citimortgage, and a claim for \$9,067.42 in favor of Eastlake Owners Association. Dockets 1, 79, 80. The debtor claimed an exemption pursuant to Cal. Civ. Pro. Code § 703.140(b)(5) in the amount of \$1.00 in Amended Schedule C filed on December 1, 2017. Dockets 18, 79, 80.

The motion cannot be granted because the debtor amended Schedule C on December 1, 2017, to add an exemption in the subject property, but did not serve the Amended Schedule on all creditors. Dockets 3, 18, 19. Parties in interest have 30 days from an exemption amendment to object to any added or altered exemptions. Fed. R. Bankr. P. 4003(b)(1). Because the debtor has not afforded all parties in interest such an opportunity, the motion cannot be entertained at this time.

Finally, the motion was not served on the respondent creditor in accordance with Fed. R. Bankr. P. 7004(h), which requires service on insured depository institutions (as defined by section 3 of the Federal Deposit Insurance Act) to be made by certified mail and addressed to an officer of the institution.

Pursuant to 11 U.S.C. § 101(35)(B), the term "insured depository institution" includes an insured credit union. Thus, Fed. R. Bankr. P. 7004(h) required service to be made upon the respondent by certified mail addressed to an officer of the credit union.

The proof of service accompanying the motion indicates that the notice was not addressed solely to an officer of the creditor. It was addressed to "Officer, Managing, or General Agent, or Agent for Service of Process." Docket 81.

11. 17-26202-A-7 WILLIAM/FRAYBA TIPTON MOTION TO
PSB-2 AVOID JUDICIAL LIEN
VS. SAN JOAQUIN TREASURER & TAX COLLECTOR 12-12-17 [26]

Final Ruling: The court continues the hearing to permit the debtor to serve amended Schedule C on all creditors and give those creditors an opportunity to object to the debtors' amended exemptions. Such service shall take place no later than January 22, 2018 and a certificate of service shall be filed no later than January 25. The debtor also shall give new notice to the respondent indicating that the continued hearing on this motion will be on March 26, 2018 at 10:00 a.m. and that the respondent shall, if it has not already done so, file written opposition to the motion no later than March 12, 2018 if it wishes to oppose the motion. The debtor shall take care that re-service of the motion corrects any deficiencies noted in this ruling.

A judgment was entered against the debtors in favor of County of San Joaquin for the sum of \$4,904.32 on March 16, 2015. The abstract of judgment was recorded with San Joaquin County on May 29, 2015. That lien attached to the debtors' interest in residential real property in Tracy, California. The debtors are asking for avoidance of the lien under 11 U.S.C. § 522(f)(1).

The subject real property had an approximate value of \$750,000 as of the petition date. Dockets 1, 29, 30. The unavoidable liens totaled \$869,174.60 on that same date, consisting of a single mortgage in favor of Nationstar Mortgage. Dockets 1, 29, 30. The debtor claimed an exemption pursuant to Cal. Civ. Pro. Code § 703.140(b)(5) in the amount of \$1.00 in Amended Schedule C filed on December 1, 2017. Dockets 18, 29, 30.

The motion cannot be granted because the debtor amended Schedule C on December 1, 2017, to add an exemption in the subject property, but did not serve the Amended Schedule on all creditors. Dockets 3, 18, 19. Parties in interest have 30 days from an exemption amendment to object to any added or altered exemptions. Fed. R. Bankr. P. 4003(b)(1). Because the debtor has not afforded all parties in interest such an opportunity, the motion cannot be entertained at this time.

Finally, the motion was not served properly on the respondent creditor, County of San Joaquin, as prescribed by Fed. R. Bankr. P. 7004(b)(6), which requires service:

"[u]pon a state or municipal corporation or other governmental organization thereof subject to suit, by mailing a copy of the summons and complaint to the person or office upon whom process is prescribed to be served by the law of the state in which service is made when an action is brought against such a defendant in the courts of general jurisdiction of that state, or in the absence of the designation of any such person or office by state law, then to the chief executive officer thereof."

Cal. Civ. Pro. Code § 416.50 prescribes that:

"(a) A summons may be served on a public entity by delivering a copy of the summons and of the complaint to the clerk, secretary, president, presiding officer, or other head of its governing body."

"(b) As used in this section, 'public entity' includes the state and any office, department, division, bureau, board, commission, or agency of the state, the Regents of the University of California, a county, city, district,

public authority, public agency, and any other political subdivision or public corporation in this state."

Here, although the debtors attempted to serve the motion on the respondent, the notice was not addressed to the attention of the "clerk, secretary, president, presiding officer, or other head of" San Joaquin County. Service was not addressed to anyone in particular. The debtors merely served "County of San Joaquin - Treasurer and Tax Collector." Docket 83. This does not satisfy Rule 7004(b) (6) .

12. 17-26202-A-7 WILLIAM/FRAYBA TIPTON MOTION TO
PSB-3 AVOID JUDICIAL LIEN
VS. FORD MOTOR CREDIT CO., L.L.C. 12-12-17 [31]

Final Ruling: The court continues the hearing to permit the debtor to serve amended Schedule C on all creditors and give those creditors an opportunity to object to the debtors' amended exemptions. Such service shall take place no later than January 22, 2018 and a certificate of service shall be filed no later than January 25. The debtor also shall give new notice to the respondent indicating that the continued hearing on this motion will be on March 26, 2018 at 10:00 a.m. and that the respondent shall, if it has not already done so, file written opposition to the motion no later than March 12, 2018 if it wishes to oppose the motion. The debtor shall take care that re-service of the motion corrects any deficiencies noted in this ruling.

A judgment was entered against the debtor Frayba Tipton in favor of Ford Motor Credit Company for the sum of \$63,458.86 on December 16, 2011. The abstract of judgment was recorded with San Joaquin County on April 30, 2015. That lien attached to the debtor's interest in residential real property in Tracy, California. The debtor is asking for avoidance of the lien under 11 U.S.C. § 522(f)(1) .

The subject real property had an approximate value of \$750,000 as of the petition date. Dockets 1, 34, 35. The unavoidable liens totaled \$869,174.60 on that same date, consisting of a single mortgage in favor of Nationstar Mortgage. Dockets 1, 34, 35. The debtor claimed an exemption pursuant to Cal. Civ. Pro. Code § 703.140(b)(5) in the amount of \$1.00 in Amended Schedule C filed on December 1, 2017. Dockets 18, 34, 35.

The motion cannot be granted because the debtor amended Schedule C on December 1, 2017, to add an exemption in the subject property, but did not serve the Amended Schedule on all creditors. Dockets 3, 18, 19. Parties in interest have 30 days from an exemption amendment to object to any added or altered exemptions. Fed. R. Bankr. P. 4003(b)(1). Because the debtor has not afforded all parties in interest such an opportunity, the motion cannot be entertained at this time.

13. 17-26202-A-7 WILLIAM/FRAYBA TIPTON MOTION TO
PSB-4 AVOID JUDICIAL LIEN
VS. FORD MOTOR CREDIT COMPANY 12-12-17 [36]

Final Ruling: The court continues the hearing to permit the debtor to serve amended Schedule C on all creditors and give those creditors an opportunity to object to the debtors' amended exemptions. Such service shall take place no later than January 22, 2018 and a certificate of service shall be filed no later than January 25. The debtor also shall give new notice to the respondent indicating that the continued hearing on this motion will be on March 26, 2018

at 10:00 a.m. and that the respondent shall, if it has not already done so, file written opposition to the motion no later than March 12, 2018 if it wishes to oppose the motion. The debtor shall take care that re-service of the motion corrects any deficiencies noted in this ruling.

A judgment was entered against the debtors in favor of Ford Motor Credit Company for the sum of \$89,931.07 on August 20, 2010. The abstract of judgment was recorded with San Joaquin County on October 13, 2010. That lien attached to the debtors' interest in residential real property in Tracy, California. The debtors are asking for avoidance of the lien under 11 U.S.C. § 522(f)(1).

The subject real property had an approximate value of \$750,000 as of the petition date. Dockets 1, 39, 40. The unavoidable liens totaled \$869,174.60 on that same date, consisting of a single mortgage in favor of Nationstar Mortgage. Dockets 1, 39, 40. The debtor claimed an exemption pursuant to Cal. Civ. Pro. Code § 703.140(b)(5) in the amount of \$1.00 in Amended Schedule C filed on December 1, 2017. Dockets 18, 39, 40.

The motion cannot be granted because the debtor amended Schedule C on December 1, 2017, to add an exemption in the subject property, but did not serve the Amended Schedule on all creditors. Dockets 3, 18, 19. Parties in interest have 30 days from an exemption amendment to object to any added or altered exemptions. Fed. R. Bankr. P. 4003(b)(1). Because the debtor has not afforded all parties in interest such an opportunity, the motion cannot be entertained at this time.

14. 17-26202-A-7 WILLIAM/FRAYBA TIPTON MOTION TO
PSB-5 AVOID JUDICIAL LIEN
VS. PORTFOLIO RECOVERY ASSOC., L.L.C. 12-12-17 [41]

Final Ruling: The court continues the hearing to permit the debtor to serve amended Schedule C on all creditors and give those creditors an opportunity to object to the debtors' amended exemptions. Such service shall take place no later than January 22, 2018 and a certificate of service shall be filed no later than January 25. The debtor also shall give new notice to the respondent indicating that the continued hearing on this motion will be on March 26, 2018 at 10:00 a.m. and that the respondent shall, if it has not already done so, file written opposition to the motion no later than March 12, 2018 if it wishes to oppose the motion. The debtor shall take care that re-service of the motion corrects any deficiencies noted in this ruling.

A judgment was entered against the debtor Frayba Tripton in favor of Portfolio Recovery Associates, L.L.C. for the sum of \$16,363.57 on September 14, 2011. The abstract of judgment was recorded with San Joaquin County on October 24, 2011. That lien attached to the debtor's interest in residential real property in Tracy, California. The debtor is asking for avoidance of the lien under 11 U.S.C. § 522(f)(1).

The subject real property had an approximate value of \$750,000 as of the petition date. Dockets 1, 44, 45. The unavoidable liens totaled \$869,174.60 on that same date, consisting of a single mortgage in favor of Nationstar Mortgage. Dockets 1, 44, 45. The debtor claimed an exemption pursuant to Cal. Civ. Pro. Code § 703.140(b)(5) in the amount of \$1.00 in Amended Schedule C filed on December 1, 2017. Dockets 18, 44, 45.

The motion cannot be granted because the debtor amended Schedule C on December 1, 2017, to add an exemption in the subject property, but did not serve the

Amended Schedule on all creditors. Dockets 3, 18, 19. Parties in interest have 30 days from an exemption amendment to object to any added or altered exemptions. Fed. R. Bankr. P. 4003(b)(1). Because the debtor has not afforded all parties in interest such an opportunity, the motion cannot be entertained at this time.

15. 17-26202-A-7 WILLIAM/FRAYBA TIPTON MOTION TO
PSB-6 AVOID JUDICIAL LIEN
VS. TRACY FEDERAL CREDIT UNION 12-12-17 [46]

Final Ruling: The court continues the hearing to permit the debtor to serve amended Schedule C on all creditors and give those creditors an opportunity to object to the debtors' amended exemptions. Such service shall take place no later than January 22, 2018 and a certificate of service shall be filed no later than January 25. The debtor also shall give new notice to the respondent indicating that the continued hearing on this motion will be on March 26, 2018 at 10:00 a.m. and that the respondent shall, if it has not already done so, file written opposition to the motion no later than March 12, 2018 if it wishes to oppose the motion. The debtor shall take care that re-service of the motion corrects any deficiencies noted in this ruling.

A judgment was entered against the debtor William Tripton in favor of Tracy Federal Credit Union for the sum of \$22,853.79 on March 4, 2008. The abstract of judgment was recorded with San Joaquin County on August 18, 2008. That lien attached to the debtor's interest in residential real property in Tracy, California. The debtor is asking for avoidance of the lien under 11 U.S.C. § 522(f)(1).

The subject real property had an approximate value of \$750,000 as of the petition date. Dockets 1, 49, 50. The unavoidable liens totaled \$869,174.60 on that same date, consisting of a single mortgage in favor of Nationstar Mortgage. Dockets 1, 49, 50. The debtor claimed an exemption pursuant to Cal. Civ. Pro. Code § 703.140(b)(5) in the amount of \$1.00 in Amended Schedule C filed on December 1, 2017. Dockets 18, 49, 50.

The motion cannot be granted because the debtor amended Schedule C on December 1, 2017, to add an exemption in the subject property, but did not serve the Amended Schedule on all creditors. Dockets 3, 18, 19. Parties in interest have 30 days from an exemption amendment to object to any added or altered exemptions. Fed. R. Bankr. P. 4003(b)(1). Because the debtor has not afforded all parties in interest such an opportunity, the motion cannot be entertained at this time.

Finally, the motion was not served on the respondent creditor in accordance with Fed. R. Bankr. P. 7004(h), which requires service on insured depository institutions (as defined by section 3 of the Federal Deposit Insurance Act) to be made by certified mail and addressed to an officer of the institution.

Pursuant to 11 U.S.C. § 101(35)(B), the term "insured depository institution" includes an insured credit union. Thus, Fed. R. Bankr. P. 7004(h) required service to be made upon the respondent by certified mail addressed to an officer of the credit union.

The proof of service accompanying the motion indicates that the notice was not addressed solely to an officer of the creditor. It was addressed to "Officer, Managing, or General Agent, or Agent for Service of Process." Docket 87.

16. 17-26202-A-7 WILLIAM/FRAYBA TIPTON MOTION TO
PSB-7 AVOID JUDICIAL LIEN
VS. BMW BANK OF NORTH AMERICA 12-12-17 [51]

Final Ruling: The court continues the hearing to permit the debtor to serve amended Schedule C on all creditors and give those creditors an opportunity to object to the debtors' amended exemptions. Such service shall take place no later than January 22, 2018 and a certificate of service shall be filed no later than January 25. The debtor also shall give new notice to the respondent indicating that the continued hearing on this motion will be on March 26, 2018 at 10:00 a.m. and that the respondent shall, if it has not already done so, file written opposition to the motion no later than March 12, 2018 if it wishes to oppose the motion. The debtor shall take care that re-service of the motion corrects any deficiencies noted in this ruling.

A judgment was entered against the debtor Frayba Tipton in favor of BMW Bank of North America for the sum of \$103,200.51 on November 23, 2010. The abstract of judgment was recorded with San Joaquin County on January 19, 2011. That lien attached to the debtor's interest in residential real property in Tracy, California. The debtor is asking for avoidance of the lien under 11 U.S.C. § 522(f)(1).

The subject real property had an approximate value of \$340,000 as of the petition date. Dockets 1, 54, 55. The unavoidable liens totaled \$359,365.73 on that same date, consisting of a mortgage for \$250,298.31 in favor of Wells Fargo Home Mortgage, a mortgage for \$100,000 in favor of Citimortgage, and a claim for \$9,067.42 in favor of Eastlake Owners Association. Dockets 1, 54, 55. The debtor claimed an exemption pursuant to Cal. Civ. Pro. Code § 703.140(b)(5) in the amount of \$1.00 in Amended Schedule C filed on December 1, 2017. Dockets 18, 54, 55.

The motion cannot be granted because the debtor amended Schedule C on December 1, 2017, to add an exemption in the subject property, but did not serve the Amended Schedule on all creditors. Dockets 3, 18, 19. Parties in interest have 30 days from an exemption amendment to object to any added or altered exemptions. Fed. R. Bankr. P. 4003(b)(1). Because the debtor has not afforded all parties in interest such an opportunity, the motion cannot be entertained at this time.

17. 17-26202-A-7 WILLIAM/FRAYBA TIPTON MOTION TO
PSB-8 AVOID JUDICIAL LIEN
VS. SAN JOAQUIN TREASURER & TAX COLLECTOR 12-12-17 [56]

Final Ruling: The court continues the hearing to permit the debtor to serve amended Schedule C on all creditors and give those creditors an opportunity to object to the debtors' amended exemptions. Such service shall take place no later than January 22, 2018 and a certificate of service shall be filed no later than January 25. The debtor also shall give new notice to the respondent indicating that the continued hearing on this motion will be on March 26, 2018 at 10:00 a.m. and that the respondent shall, if it has not already done so, file written opposition to the motion no later than March 12, 2018 if it wishes to oppose the motion. The debtor shall take care that re-service of the motion corrects any deficiencies noted in this ruling.

A judgment was entered against the debtors in favor of County of San Joaquin for the sum of \$4,904.32 on March 16, 2015. The abstract of judgment was recorded with San Joaquin County on May 29, 2015. That lien attached to the

debtors' interest in residential real property in Tracy, California. The debtors are asking for avoidance of the lien under 11 U.S.C. § 522(f)(1).

The subject real property had an approximate value of \$340,000 as of the petition date. Dockets 1, 59, 60. The unavoidable liens totaled \$359,365.73 on that same date, consisting of a mortgage for \$250,298.31 in favor of Wells Fargo Home Mortgage, a mortgage for \$100,000 in favor of Citimortgage, and a claim for \$9,067.42 in favor of Eastlake Owners Association. Dockets 1, 59, 60. The debtor claimed an exemption pursuant to Cal. Civ. Pro. Code § 703.140(b)(5) in the amount of \$1.00 in Amended Schedule C filed on December 1, 2017. Dockets 18, 59, 60.

The motion cannot be granted because the debtor amended Schedule C on December 1, 2017, to add an exemption in the subject property, but did not serve the Amended Schedule on all creditors. Dockets 3, 18, 19. Parties in interest have 30 days from an exemption amendment to object to any added or altered exemptions. Fed. R. Bankr. P. 4003(b)(1). Because the debtor has not afforded all parties in interest such an opportunity, the motion cannot be entertained at this time.

Finally, the motion was not served properly on the respondent creditor, County of San Joaquin, as prescribed by Fed. R. Bankr. P. 7004(b)(6), which requires service:

"[u]pon a state or municipal corporation or other governmental organization thereof subject to suit, by mailing a copy of the summons and complaint to the person or office upon whom process is prescribed to be served by the law of the state in which service is made when an action is brought against such a defendant in the courts of general jurisdiction of that state, or in the absence of the designation of any such person or office by state law, then to the chief executive officer thereof."

Cal. Civ. Pro. Code § 416.50 prescribes that:

"(a) A summons may be served on a public entity by delivering a copy of the summons and of the complaint to the clerk, secretary, president, presiding officer, or other head of its governing body."

"(b) As used in this section, 'public entity' includes the state and any office, department, division, bureau, board, commission, or agency of the state, the Regents of the University of California, a county, city, district, public authority, public agency, and any other political subdivision or public corporation in this state."

Here, although the debtors attempted to serve the motion on the respondent, the notice was not addressed to the attention of the "clerk, secretary, president, presiding officer, or other head of" San Joaquin County. Service was not addressed to anyone in particular. The debtors merely served "County of San Joaquin - Treasurer and Tax Collector." Docket 89. This does not satisfy Rule 7004(b)(6).

18.	17-26202-A-7	WILLIAM/FRAYBA TIPTON	MOTION TO
	PSB-9		AVOID JUDICIAL LIEN
	VS. FORD MOTOR CREDIT COMPANY		12-12-17 [61]

Final Ruling: The court continues the hearing to permit the debtor to serve amended Schedule C on all creditors and give those creditors an opportunity to

object to the debtors' amended exemptions. Such service shall take place no later than January 22, 2018 and a certificate of service shall be filed no later than January 25. The debtor also shall give new notice to the respondent indicating that the continued hearing on this motion will be on March 26, 2018 at 10:00 a.m. and that the respondent shall, if it has not already done so, file written opposition to the motion no later than March 12, 2018 if it wishes to oppose the motion. The debtor shall take care that re-service of the motion corrects any deficiencies noted in this ruling.

A judgment was entered against the debtor Frayba Tipton in favor of Ford Motor Credit Company for the sum of \$63,458.86 on December 16, 2011. The abstract of judgment was recorded with San Joaquin County on April 30, 2015. That lien attached to the debtor's interest in residential real property in Tracy, California. The debtor is asking for avoidance of the lien under 11 U.S.C. § 522(f)(1).

The subject real property had an approximate value of \$340,000 as of the petition date. Dockets 1, 64, 65. The unavoidable liens totaled \$359,365.73 on that same date, consisting of a mortgage for \$250,298.31 in favor of Wells Fargo Home Mortgage, a mortgage for \$100,000 in favor of Citimortgage, and a claim for \$9,067.42 in favor of Eastlake Owners Association. Dockets 1, 64, 65. The debtor claimed an exemption pursuant to Cal. Civ. Pro. Code § 703.140(b)(5) in the amount of \$1.00 in Amended Schedule C filed on December 1, 2017. Dockets 18, 64, 65.

The motion cannot be granted because the debtor amended Schedule C on December 1, 2017, to add an exemption in the subject property, but did not serve the Amended Schedule on all creditors. Dockets 3, 18, 19. Parties in interest have 30 days from an exemption amendment to object to any added or altered exemptions. Fed. R. Bankr. P. 4003(b)(1). Because the debtor has not afforded all parties in interest such an opportunity, the motion cannot be entertained at this time.

19.	13-27404-A-7 DERWIN/ELIZABETH TERRY PGM-1 VS. LVNV FUNDING, L.L.C.	MOTION TO AVOID JUDICIAL LIEN 12-8-17 [29]
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Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent creditor and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

A judgment was entered against the debtor Derwin Terry in favor of LVNV Funding, L.L.C. for the sum of \$14,373.18 on November 16, 2011. The abstract of judgment was recorded with Sacramento County on February 7, 2012. That lien attached to the debtor's interest in a residential real property in Elk Grove, California.

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject

real property had an approximate value of \$280,000 as of the petition date. Dockets 1, 31, 33. The unavoidable liens totaled \$521,105 on that same date, consisting of a single mortgage in favor of OneWest Bank. Dockets 1, 31, 33. The debtor claimed an exemption pursuant to Cal. Civ. Pro. Code § 703.140(b)(1) in the amount of \$1.00 in Amended Schedule C filed on December 11, 2017. Dockets 33, 35, 37.

The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the subject real property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtor's exemption of the real property and its fixing will be avoided subject to 11 U.S.C. § 349(b)(1)(B).

20. 17-22310-A-7 CAROLINE HEGARTY MOTION FOR
SNM-3 WAIVER OF DISCHARGE
12-1-17 [118]

Final Ruling: The motion will be dismissed without prejudice. The proof of service indicates that the debtor failed to serve any creditors. Accordingly, notice is defective.

21. 17-27321-A-7 CANTECA FOODS, INC. MOTION FOR
RAP-1 RELIEF FROM AUTOMATIC STAY
PACCAR FINANCIAL CORP. VS. 12-18-17 [30]

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

The motion will be granted in part and denied in part.

The movant, Paccar Financial Corp., seeks relief from the automatic stay with respect to a 2014 Peterbilt truck and a 2015 Peterbilt truck. The debtor has assigned the vehicles a combined value of \$85,000. Docket 17 at 10. The movant has assigned the vehicles a combined value of \$92,900. Docket 34. The 2014 vehicle secures a claim in the approximate amount of is \$23,072.15, and the 2015 vehicle secures a claim in the approximate amount of is \$49,754.86. The combined total of the claims is approximately \$72,827.

This leaves a combined equity cushion for the movant in the amount of \$12,173 according to the debtor's valuation of the vehicles and \$20,073 according to the movant's valuation. Given this equity in the property, relief from stay under 11 U.S.C. § 362(d)(2) is not appropriate.

The court will grant relief under 11 U.S.C. § 362(d)(1) as to the debtor and the estate.

The movant has an equity cushion of approximately \$12,173 to \$20,073. This equity cushion is not sufficient to adequately protect the movant's interest in

the property until the debtor obtains a discharge or the case is closed without entry of a discharge and the automatic stay will expire. See 11 U.S.C. § 362(c)(1) & (c)(2). The trustee filed a notice of assets on December 20, 2017. The debtor is not scheduled to obtain a discharge soon, and the vehicles are depreciating in value. The debtor is also not maintaining insurance coverage on the vehicle as required by the sales contracts, and the vehicles are being stored outside without security. This is cause to grant relief from stay as to the debtor.

As to the estate, the analysis is different. To the extent there is equity in the vehicles, the movant will account to the trustee as to the sales proceeds and will remit to the trustee all excess proceeds received from the sale of the vehicles. The court also notes that the trustee filed a statement of nonopposition on December 19, 2017. This is cause for the granting of relief from stay as to the estate.

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

No fees are awarded because none have been requested.

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

22.	16-25229-A-7 CRAIG ANDERSON MPD-3	MOTION TO APPROVE COMPENSATION OF TRUSTEE'S ATTORNEY 12-18-17 [29]
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Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor, the trustee, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

Michael P. Dacquisto, attorney for the trustee, has filed its first and final motion for approval of compensation. The requested compensation consists of \$4,790.50 in fees and \$154.84 in expenses, for a total of \$4,945.34. This motion covers the period from December 9, 2016 through January 16, 2018. The court approved the movant's employment as the trustee's attorney on December 12, 2016. In performing its services, the movant charged a fixed fee of \$3,000.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant's services included, without limitation: (1) assisting the estate with the sale of

property and related settlement agreement; (2) reviewing schedules and other petition documents, (3) analysis of pre-petition judgment in favor of the debtor, and (4) preparing and filing employment and compensation motions.

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

To the extent applicable, the movant shall deduct from the allowed compensation any fees or costs that have been estimated but not incurred.

23. 17-27143-A-7 SOTERO/MARIA AMAYA MOTION FOR
SBL-1 RELIEF FROM AUTOMATIC STAY
READYCAP LENDING, L.L.C. VS. 12-18-17 [10]

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

The motion will be granted.

The movant, ReadyCap Lending, L.L.C., seeks relief from the automatic stay as to real property in Chico, California. The property has a value of \$155,000 and it is encumbered by claims totaling approximately \$502,845. The movant's deed is in first priority position and secures a claim of approximately \$166,913.

The court concludes that there is no equity in the property and there is no evidence that it is necessary to a reorganization or that the trustee can administer it for the benefit of creditors. The court also notes that the trustee filed a statement of nonopposition on December 19, 2017. And, in the statement of intention, the debtors have indicated an intent to surrender the property.

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

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

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

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

24. 17-25461-A-7 CINDY CUNNINGHAM MOTION TO
HSM-3 EXTEND TIME
12-11-17 [24]

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

The motion will be granted.

The trustee asks for an 62-day extension, from December 14, 2017 to February 14, 2018, of the deadline for objecting to the debtor's exemptions. The debtor has a long-running dissolution action pending in state court and a related claim of homestead exemption, and the trustee needs additional time to investigate the debtor's financial affairs.

Fed. R. Bankr. P. 4003(b)(1) provides that:

"[A] party in interest may file an objection to the list of property claimed as exempt within 30 days after the meeting of creditors held under § 341(a) is concluded or within 30 days after any amendment to the list or supplemental schedules is filed, whichever is later. The court may, for cause, extend the time for filing objections if, before the time to object expires, a party in interest files a request for an extension."

The meeting of creditors was concluded on November 14, 2017. The 30-day deadline fell on December 14, 2017. This motion was filed on December 11, 2017, before the expiration of the deadline. Hence, the motion is timely.

Turning to the merits of the motion, the trustee requires a reasonable opportunity to make determinations regarding assets in this case and the debtor's claims of exemption, including whether objections are or may become appropriate, given the pending dissolution action. As a result, the trustee needs additional time to investigate the debtor's financial affairs.

Given the foregoing, there is cause for the requested extension. The deadline for objecting to the debtor's exemptions will be extended to February 14, 2018.

25. 11-22573-A-7 JAMES/KATHERINE FINEBERG MOTION TO
CLH-1 AVOID JUDICIAL LIEN
VS. GLOBAL ACCEPTANCE CREDIT COMPANY, L.P. 12-8-17 [25]

Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent creditor and any other party in interest to file written opposition at least 14 days prior

to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

A judgment was entered against the debtor in favor of Global Acceptance Credit Company, LP, for the sum of \$15,464.75 on October 13, 2010. The abstract of judgment was recorded with San Joaquin County on December 10, 2010. That lien attached to the debtor's interest in a residential real property in Stockton, California.

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of \$199,108 as of the petition date. Dockets 27 & 1. The unavoidable liens totaled \$209,906 on that same date, consisting of a single mortgage in favor of Citi Mortgage. Dockets 27 & 1. The debtor claimed an exemption pursuant to Cal. Civ. Pro. Code § 704.140(b)(1) in the amount of \$1 in the Amended Schedule C. Docket 22.

The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the subject real property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtor's exemption of the real property and its fixing will be avoided subject to 11 U.S.C. § 349(b)(1)(B).

26.	17-24884-A-7	SAINI TRUCKING INC.	MOTION FOR
	SS-2		RELIEF FROM AUTOMATIC STAY
	CHRISTOPHER CHAVEZ VS.		12-12-17 [40]

Final Ruling: Movant has given 42 days notice of the hearing on this motion, but has not set a deadline for when written opposition was due. The notice does not cite or comply with the court's local rules, including Local Bankruptcy Rule 9014-1(f)(1). Accordingly, the motion is dismissed without prejudice.

27.	16-21585-A-11	AIAD/HODA SAMUEL	STATUS CONFERENCE
			3-15-16 [1]

Final Ruling: The court continues the conference to January 22, 2018 at 10:00 a.m.

28.	17-22988-A-7	BRIAN ANDERSON	MOTION TO
	KJH-2		APPROVE COMPENSATION OF ACCOUNTANT
			12-7-17 [66]

Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor, the trustee, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving

party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

Gabrielson & Company, accountant for the estate, has filed its first and final motion for approval of compensation. The requested compensation consists of \$1,762.50 in fees and \$75.15 in expenses, for a total of \$1,837.65. This motion covers the period from August 1, 2017 through December 5, 2017. The court approved the movant's employment as the estate's accountant on August 15, 2017. In performing its services, the movant charged an hourly rate of \$375.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant's services included the preparation of 2017 estate tax returns and related employment and fee application documents.

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