

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Tuesday, March 15, 2022
Place: Department B - Courtroom #13
Fresno, California

The court resumed in-person courtroom proceedings in Fresno ONLY on June 28, 2021. Parties may still appear telephonically provided that they comply with the court's telephonic appearance procedures. For more information click [here](#).

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.

9:30 AM

1. [22-10061](#)-B-11 IN RE: CALIFORNIA ROOFS AND SOLAR, INC.
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 SUBCHAPTER V
VOLUNTARY PETITION
1-17-2022 [[1](#)]

MICHAEL BERGER/ATTY. FOR DBT.

NO RULING.

11:00 AM

1. [22-10042](#)-B-7 **IN RE: JOSE LOZANO AND ELVIRA RUELAS**

PRO SE REAFFIRMATION AGREEMENT WITH WESTLAKE SERVICES, LLC
2-23-2022 [[15](#)]

MONICA ROBLES/ATTY. FOR DBT.

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

DISPOSITION: Denied.

ORDER: The court will issue an order.

A reaffirmation agreement between the debtors and Westlake Services, LLC, and Jefferson Capital Systems, LLC was filed on February 23, 2022. Doc. #15. Debtors were represented by counsel when they entered into the reaffirmation agreement. Pursuant to 11 U.S.C. § 524(c)(3), “if the debtor is represented by counsel, the agreement *must* be accompanied by an affidavit of the debtor’s attorney’ attesting to the referenced items before the agreement will have legal effect.” *In re Minardi*, 399 B.R. 841, 846 (Bankr. N.D. Ok. 2009) (*emphasis in original*). The reaffirmation agreement, in the absence of a declaration by debtors’ counsel, does not meet the requirements of 11 U.S.C. § 524(c) and is not enforceable. Therefore, the reaffirmation agreement will be DENIED.

No appearance is necessary at this hearing.

2. [21-12780](#)-B-7 **IN RE: TINA CASTANEDA**

PRO SE REAFFIRMATION AGREEMENT WITH LENDMARK FINANCIAL
SERVICES, LLC
2-23-2022 [[20](#)]

NO RULING.

1:30 PM

1. [21-12604](#)-B-7 IN RE: ROBERTO/SOCORRO RANGEL
[JES-1](#)

MOTION TO SELL
2-11-2022 [[28](#)]

JAMES SALVEN/MV
JAMES SALVEN/ATTY. FOR MV.

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

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.

Chapter 7 trustee James E. Salven ("Trustee") requests an order authorizing the sale of the bankruptcy estate's interest in (a) a 2000 GMC Savana and (b) a 2009 Honda Pilot (collectively "Vehicles") to Roberto M. Rangel and Socorro Rangel ("Debtors") for \$6,425.00, subject to higher and better bids at the hearing. Doc. #28.

No party in interest timely filed written opposition. This motion will be GRANTED and proceed for higher and better bids only.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1) and Fed. R. Bankr. P. 2002(a)(2). The failure of the 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). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will proceed for higher and better bids only. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

11 U.S.C. § 363(b)(1) allows the trustee to "sell or lease, other than in the ordinary course of business, property of the estate." Proposed sales under 11 U.S.C. § 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 North Brand Partners v. Colony GFP Partners, Ltd. P'Ship (In re 240 N. Brand Partners)*, 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996); *In re Wilde Horse Enters., Inc.*, 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991). In the context of sales of estate property under § 363, a bankruptcy court "should determine only whether the trustee's judgment was reasonable and whether a sound business justification exists supporting the sale and its terms." *Alaska Fishing Adventure, LLC*, 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.*, citing *In re Psychometric Sys.*, 367 B.R. 670, 674 (Bankr. D. Colo. 2007); *In re Bakalis*, 220 B.R. 525, 531-32 (Bankr. E.D.N.Y. 1998).

Sales to an insider are subject to heightened scrutiny. *Alaska Fishing Adventure, LLC*, 594 B.R. at 887, citing *Mission Product Holdings, Inc. v. Old Cold, LLC (In re Old Cold LLC)*, 558 B.R. 500, 516 (B.A.P. 1st Cir. 2016). This sale is to the Debtors. The Vehicles are listed in the schedules as follows:

2000 GMC Savana 2500: "Fair" condition and valued at \$2,412.00 with no claimed exemptions.

2009 Honda Pilot SUV: "Good" condition and valued at \$7,258.00 with a claimed exemption of \$3,325.00 under Cal. Code Civ. Proc. § 704.010.

Docs. #1, *Sched. A/B*; #24, *Am. Sched. C*. Neither of the Vehicles appear to be encumbered by any liens or security interests. Doc. #1, *Sched. D*. However, this sale is subject to any liens and encumbrances, if any, known or unknown. Doc. #28.

Trustee declares that Debtors offered to purchase Vehicles for \$6,424.00, which he accepted subject to court approval and higher and better bids. Doc. #30. Trustee has not agreed to pay a commission to any party in connection with the sale and it is subject to any liens and encumbrances, known or unknown. *Id.* The sale prices were determined by estimating the fair market value of each vehicle. The GMC Savana will net \$1,450.00 to the estate with no claimed exemption credit, and the Honda Pilot will net \$1,650.00 to the estate after application of Debtors' exemption credit of \$3,325.00. *Id.* Combined, the total net to the estate will be \$3,100.00 absent any overbidders. Trustee is in receipt of \$3,100.00 in funds and is awaiting court approval. *Id.* Trustee believes the proposed sale is in the best interests of creditors and the estate. *Id.*

The sale appears to be in the best interests of creditors and the estate, for a fair and reasonable price, supported by a valid exercise of Trustee's business judgment, and proposed in good faith. The sale subject to higher and better bids will maximize estate recovery and yield the best possible sale price. There is no opposition to the sale.

Accordingly, this motion will be GRANTED. The hearing will proceed for higher and better bids only. Trustee is authorized to sell Vehicles to the highest bidder as determined at the hearing.

Any party wishing to overbid must appear at the hearing and acknowledge that the sale is subject to all liens and encumbrances, known or unknown, and no warranties or representations are included with the sale; it is being sold "as-is, where-is."

2. [16-12132](#)-B-7 **IN RE: JOSEPH RONCZYK**
[RSW-1](#)

MOTION TO AVOID LIEN OF BALBOA CAPITAL CORPORATION
3-1-2022 [[20](#)]

JOSEPH RONCZYK/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

Joseph Wayne Ronczyk ("Debtor") seeks to avoid a judicial lien in favor of Balboa Capital Corporation ("Creditor") in the sum of \$17,294.11 and encumbering residential real property located at 3406 Moss St., Bakersfield, CA 93312 ("Property").¹ Doc. #20.

Written opposition was not required and may be presented at the hearing. In the absence of opposition, this motion will be GRANTED.

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.

To avoid a lien under 11 U.S.C. § 522(f)(1), the movant must establish four elements: (1) there must be an exemption to which the debtor would be entitled under § 522(b); (2) the property must be listed on the debtor's schedules as exempt; (3) the lien must impair the exemption; and (4) the lien must be either a judicial lien or a non-possessory, non-purchase money security interest in personal property listed in § 522(f)(1)(B). § 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), *aff'd*, 24 F.3d 247 (9th Cir. 1994)).

Here, a judgment was entered against Debtor dba Joe's Lock and Key, a business entity of unknown form, and Debtor individually, in favor of Creditor in the sum of \$17,294.11 on September 18, 2014. Doc. #23, Ex. 4. The abstract of judgment was issued on October 30, 2015 and recorded in Kern County on November 19, 2015. *Id.* That lien attached to Debtor's interest in Property and appears to be the only non-consensual judgment lien encumbering Property. Docs. #1, *Sched. D*; #22.

As of the petition date, Property had an approximate value of \$201,338.00. Doc. #1, *Sched. A/B*. Property is encumbered by a single \$128,238.00 deed of trust in favor of Cenlar Loan Admin & Reporting. *Id.*, *Sched. D*. Debtor claimed a "homestead" exemption pursuant to Cal. Code. Civ. Proc. § 704.730 in the amount of \$75,000.00. *Id.*, *Sched. C*.

Strict application of the § 522(f)(2) formula is as follows:

Amount of Creditor's judicial lien	\$17,294.11
Total amount of unavoidable liens	+ \$128,238.00
Amount of Debtor's claimed exemption in Property	+ \$75,000.00
<i>Sum</i>	= \$220,532.11
Value of Debtors' interest absent liens	- \$201,338.00
Amount Creditor's lien impairs Debtor's exemption	= \$19,194.11

All Points Capital Corp. v. Meyer (In re Meyer), 373, B.R. 84, 91 (B.A.P. 9th Cir. 2006). The § 522(f)(2) formula can be simplified by going through the same order of operations in the reverse, provided that determinations of fractional interests, if any, and lien deductions are completed in the correct order. Property's encumbrances can be re-illustrated as follows:

Fair market Value of Property	\$201,338.00
Total amount of unavoidable liens	- \$128,238.00
Homestead exemption	- \$75,000.00
Remaining equity for judicial liens	= (\$1,900.00)
Creditor's original judicial lien	- \$17,294.11
Extent Debtor's exemption impaired	= (\$19,194.11)

After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is insufficient equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs Debtor's exemption in the Property and its fixing will be avoided.

Debtor has established the four elements necessary to avoid a lien under § 522(f)(1). This motion will be GRANTED. The proposed order

shall include a copy of the abstract of judgment attached as an exhibit.

¹ Debtor complied with Fed. R. Bankr. P. 7004(b) (3) by serving (a) Patrick Byrne, Creditor's CEO, and (b) Registered Agent Solutions, Inc., Creditor's registered agent for service of process, by U.S. mail at their respective mailing addresses on March 1, 2022. Doc. #24.

3. [21-11754](#)-B-7 **IN RE: MICHAEL ANARADIAN**
[FW-3](#)

MOTION TO SELL
2-11-2022 [[36](#)]

PETER FEAR/MV
LEONARD WELSH/ATTY. FOR DBT.
GABRIEL WADDELL/ATTY. FOR MV.

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

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.

Chapter 7 trustee Peter L. Fear ("Trustee") requests an order authorizing the sale of the bankruptcy estate's 5.859000% interest in oil & gas royalties with Sequoia Exploration, Inc., 13001 Nantucket Place, Bakersfield, California 93314 ("Royalties"), to Michael Peter Anaradian ("Debtor") for \$2,000.00, subject to higher and better bids at the hearing. Doc. #36. Trustee also requests waiver of the 14-day stay as permitted by Federal Rule of Bankruptcy Procedure ("Rule") 6004(h).

No party in interest timely filed written opposition. This motion will be GRANTED.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1) and Fed. R. Bankr. P. 2002(a)(2). The failure of the 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). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will proceed for higher and better bids only. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*,

826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

11 U.S.C. § 363(b) (1) allows the trustee to "sell or lease, other than in the ordinary course of business, property of the estate." Proposed sales under 11 U.S.C. § 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 North Brand Partners v. Colony GFP Partners, Ltd. P'Ship (In re 240 N. Brand Partners)*, 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996); *In re Wilde Horse Enters., Inc.*, 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991). In the context of sales of estate property under § 363, a bankruptcy court "should determine only whether the trustee's judgment was reasonable and whether a sound business justification exists supporting the sale and its terms." *Alaska Fishing Adventure, LLC*, 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.*, citing *In re Psychometric Sys.*, 367 B.R. 670, 674 (Bankr. D. Colo. 2007); *In re Bakalis*, 220 B.R. 525, 531-32 (Bankr. E.D.N.Y. 1998).

Sales to an insider are subject to heightened scrutiny. *Alaska Fishing Adventure, LLC*, 594 B.R. at 887, citing *Mission Product Holdings, Inc. v. Old Cold, LLC (In re Old Cold LLC)*, 558 B.R. 500, 516 (B.A.P. 1st Cir. 2016). This sale is to the Debtor. The Royalties are listed in the schedules with a value of \$3,000.00 and the following entry:

Oil & Gas Royalties (2% interest)

Sequoia Exploration, Inc.
13001 Nantucket Place
Bakersfield, CA 93314

Docs. #1, #14, *Sched. A/B* at ¶ 53. Debtor did not exempt the Royalties and they do not appear to be encumbered by any security interests. Doc. #1, *Sched. C, D*.

Debtor wishes to retain the Royalties and offered to purchase the estate's interest from Trustee for \$2,000.00, to be paid by February 15, 2022. Doc. #38. Trustee accepted the offer subject to court approval and higher and better bids at the hearing. Doc. #39, *Ex. A*. To date, the estate has received payments from the Royalties totaling \$765.68. Doc. #38. Debtor and Trustee agreed that the bankruptcy estate will keep the received payments, as well as any other payments made from the Royalties until the sale is approved. *Id.*

Trustee declares that Debtor's \$2,000.00 offer is the best and highest offer received and based on Trustee's business judgment, Trustee believes the offer is reasonable.

The sale appears to be in the best interests of creditors and the estate, for a fair and reasonable price, supported by a valid exercise of Trustee's business judgment, and proposed in good faith. The sale will provide at least \$2,000.00 in liquidity to the estate, since it is subject to higher and better bids, will maximize estate recovery and yield the best possible sale price. Further, there is no opposition to the sale.

Accordingly, this motion will be GRANTED. The hearing will proceed for higher and better bids only. Trustee is authorized to sell the Royalties to the highest bidder as determined at the hearing.

The Trustee has requested a waiver of the stay provided by Fed. R. Banky. Proc. 6004 (h). The order confirming the sale to the debtor may contain the waiver. No party has filed an objection to the sale. This is also not an exempt asset. The stay will not be waived if the sale is confirmed to an overbidder.

Any party wishing to overbid must appear at the hearing and be prepared to pay in certified funds to be received by the Trustee's office no later than five business days following the conclusion of the auction. Back-up bids will be taken and once a back-up bidder is notified that the prior bidder has failed to perform, payment of the purchase price from the back-up bidder must be received by Trustee within five business days of the date the back-up bidder was notified that the back-up bid is now the winning bid.

Prospective bidders must acknowledge that the estate will not be required to incur additional work or expenses related to transfer of the asset, and no warranties or representations are included with the sale; it is "as-is, where-is" and the winning bidder is responsible for obtaining possession of the asset with no assistance from the Trustee.

4. [18-12362](#)-B-7 **IN RE: FREDDY/ESTHER AMAYA**
[BBR-4](#)

MOTION TO AVOID LIEN OF TARGET NATIONAL BANK AND/OR MOTION
TO AVOID LIEN OF UNIFUND CCR PARTNERS
2-15-2022 [[65](#)]

ESTHER AMAYA/MV
T. BELDEN/ATTY. FOR DBT.

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

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

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

Freddy R. Amaya and Esther Araceli Amaya ("Debtors") seek to avoid the following judicial liens in favor of the creditors below, and encumbering residential real property located at 4612 Idlerock Avenue, Bakersfield, CA 93313 ("Property"):

1. Target National Bank² ("Target"): \$4,104.72;³ and
2. Unifund CCR Partners⁴ ("Unifund"): \$12,061.72.⁵

Doc. #65. On January 26, 2022, the court granted in part and avoided a junior lien in favor of Valley Pacific Petroleum Services, Inc. ("VPPS") in the amount of \$204,790.19. Doc. #63. The motion was denied in part as to Target and Unifund because those parties were not properly served under Federal Rule of Bankruptcy Procedure ("Rule") 7004. Debtors have cured the previous service defects in this motion.

No party in interest timely filed written opposition. This motion will be GRANTED IN PART as to the Unifund lien and DENIED AS MOOT IN PART as to the Target lien because it has expired.

BACKGROUND

As of the petition date, Property had an approximate value of \$329,000.00. Doc. #1, *Sched. A/B*. The only unavoidable lien is a deed of trust in favor of Chase Bank in the amount of \$259,205.38. *Id.*, *Sched. D*. Additionally, Debtors entered into a "Home Affordable Modification Agreement" with JPMorgan Chase Bank, N.A. on or about July 19, 2011. Doc. #71, *Ex. E*. As part of the loan modification, Chase Bank had agreed to defer any past due amounts as of the end of the trial period, including unpaid interest, real estate taxes, insurance premiums, and assessments. Doc. #67. This amount was estimated to be \$46,400.00, which is not included in the monthly statement provided by Chase during the chapter 7 case. *Id.* Chase Bank agreed to defer collection of this amount to reduce Debtors' monthly payment. The \$46,400.00 is due at the end of the loan term and is to be paid off at the time Debtors sell their interest in Property, refinance the loan, or when the last scheduled payment is made.

Debtors claimed a "homestead" exemption pursuant to Cal. Code Civ. Proc. ("C.C.P.") § 704.730 for up to 100% of the fair market value of Property, and up to any applicable statutory limit. *Id.*, *Sched. C*.

At the time Debtors filed bankruptcy on June 12, 2018, the homestead exemption under C.C.P. § 704.730 was \$75,000.00, or \$100,000.00 if the judgment debtor or spouse of the judgment debtor reside in the homestead as members of a family unit, and at least one member of the family unit owns either a community property interest or no interest in the homestead. C.C.P. § 704.730 (eff. Jan. 1, 2013). Here, Debtors are claiming a \$100,000.00 homestead exemption. Doc. #67. Since the meeting of creditors was concluded on August 7, 2018, the deadline for creditors to object to Debtors' claimed exemption was September 6, 2018 under Rule 4003(b)(1). No objections were ever filed.

Property is encumbered by multiple judicial liens with the following priorities:

Creditor	Amount	Entered	Recorded	Status
1. Target (TD Bank)	\$4,104.72	06/14/11	12/20/11	Expired
2. Unifund	\$12,061.72	03/29/13	06/27/13	Avoidable
3. VPPS	\$204,790.19	04/12/18	06/18/18	Avoided

Doc. #71, Exs. F, G, H. As noted above, the most junior VPPS judgment lien has already been avoided.

DISCUSSION

To avoid a lien under 11 U.S.C. § 522(f)(1), the movant must establish four elements: (1) there must be an exemption to which the debtor would be entitled under § 522(b); (2) the property must be listed on the debtor's schedules as exempt; (3) the lien must impair the exemption; and (4) the lien must be either a judicial lien or a non-possessory, non-purchase money security interest in personal property listed in § 522(f)(1)(B). § 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), *aff'd*, 24 F.3d 247 (9th Cir. 1994)).

When a debtor seeks to avoid multiple liens under § 522(f)(1), 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), *aff'd*, 196 F.3d 1292 (9th Cir. 1999). Liens already avoided are excluded from the exemption impairment calculation. *Ibid*.

Unifund Judgment Lien

First, the Unifund judgment was entered against joint debtor Freddy Amaya in the sum of \$12,061.72 on March 29, 2013. Doc. #71, Ex. G. The abstract of judgment was issued on May 17, 2013 and recorded in Kern County on June 27, 2013. *Id*. That lien attached to Debtors' interest in Property. Doc. #67.

Strict application of the § 522(f)(2) formula with respect to the Unifund judgment lien is as follows:

Amount of Unifund's judicial lien	\$12,061.72
Total amount of unavoidable liens ⁶	+ \$305,605.38
Amount of Debtor's claimed exemption in Property	+ \$100,000.00
<i>Sum</i>	= \$417,667.10
Value of Debtors' interest absent liens	- \$329,000.00
Amount Creditor's lien impairs Debtor's exemption	= \$88,667.10

Meyer, 373 B.R. at 91. The § 522(f)(2) formula can be simplified by going through the same order of operations in the reverse, provided that determinations of fractional interests, if any, and lien deductions are completed in the correct order. Property's encumbrances can be re-illustrated as follows:

Fair market value of Property	\$329,000.00
Chase Bank deed of trust	- \$259,205.38
Chase Bank deferred unpaid balances	- \$46,400.00
Remaining unencumbered equity	= \$23,394.62
Debtors' "homestead" exemption	- \$100,000.00
Remaining equity for judicial liens	= (\$76,605.38)
Unifund judgment lien	- \$12,061.72
Extent exemption impaired by Unifund lien	= (\$88,667.10)

After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is insufficient equity to support the Unifund judicial lien. Therefore, the fixing of the Unifund lien impairs Debtors' exemption in Property and its fixing will be avoided.

Target Judgment Lien

The Target judgment was entered against joint debtor Esther A. Amaya in the sum of \$4,104.72 on June 14, 2011. Doc. #71, *Ex. F*. An abstract of judgment was issued on December 5, 2011 and recorded in Kern County on December 20, 2011. *Id.* That lien attached to Debtors' interest in Property. Doc. #67. However, the judgment has now expired and is no longer enforceable.

California Code of Civil Procedure ("C.C.P.") 683.020 defines a 10-year period in which a judgment may be enforced:

[U]pon the expiration of 10 years after the date of entry of a money judgment or a judgment for possession or sale of property:

- (a) The judgment may not be enforced.
- (b) All enforcement procedures pursuant to the judgment or to a writ or order issued pursuant to the judgment shall cease.
- (c) Any lien created by an enforcement procedure pursuant to the judgment is extinguished.

C.C.P. § 683.020. The judgment was entered June 14, 2011. Absent tolling, the judgment would have expired on June 14, 2021 - 3,653 days later.⁷ The 10-year renewal period ran for 2,554 days (with 1,099 days remaining) from June 14, 2011 to June 11, 2018, the day that Debtors filed bankruptcy.

On filing this bankruptcy, Debtors triggered the automatic stay. 11 U.S.C. § 362(a) precludes creditors from renewing judgments while the automatic stay is in effect, so Target (TD Bank) was unable to renew the judgment during this time. *Spirtos v. Moreno (In re Spirtos)*, 221 F.3d 1079, 1080 (9th Cir. 2000); see also, *Kertesz v. Ostrovsky*, 115 Cal. App. 4th 369, 377-78 (2004) ("The suspension of a statute of limitations for a certain period is, in effect 'time taken out,' for that period and adds the same period of time to the limitation time provided in the statute.") (internal quotation omitted), citing *Schumacher v. Worcester*, 55 Cal. App. 4th 376, 380 (1997).

Section 108(c) preserves the period of renewal while the automatic stay is in effect and the bankruptcy case is pending:

[I]f applicable nonbankruptcy law . . . fixes a period for commencing or continuing a civil action . . . and such period has not expired before the date of the filing of the petition, then such period does not expire until the later of—

- (1) the end of such period, including any suspension of such period occurring on or after the commencement of the case, or
- (2) 30 days after the notice of termination or expiration of the stay under section 362 . . . with respect to such claim.

11 U.S.C. § 108(c).

The automatic stay remained in effect until 30 days after the case was closed or dismissed. See § 362(c)(1), (c)(2). The case was closed by final decree on October 19, 2018, so the stay continued to toll the renewal period until 30 days later, which is November 18, 2018 (160 days after the petition date). Doc. #38. As result, the period to renew the Target judgment was extended from June 14, 2021 to November 21, 2021.

So, unless Target (TD Bank) renewed the judgment lien on or before November 21, 2021, the judgment lien has expired and is not enforceable. No evidence of renewal of judgment has been presented, so the Target judgment lien appears to have expired.

CONCLUSION

Debtors have established the four elements necessary to avoid the Unifund lien under § 522(f)(1). This motion will be GRANTED IN PART as to the Unifund lien only.

Debtors have failed to prove that the Target lien is a valid, enforceable judgment lien impairing their exemption. Since the Target lien is expired, it cannot be avoided absent evidence of renewal. Accordingly, this motion will be DENIED AS MOOT IN PART as to the Target judgment lien. The order prepared by Debtors' counsel shall reflect this disposition.

² Target National Bank was acquired by TD Bank USA, National Association, an affiliate of The Toronto-Dominion Bank, on March 13, 2013. SEC Form 8-K, <https://www.sec.gov/Archives/edgar/data/27419/000110465913020208/a13-712418k.htm> (Mar. 8, 2022). For the purposes of this motion, "Target" refers to the interests acquired by TD Bank USA, N.A.

³ Debtors complied with Rule 7004(h) with respect to Target (as acquired by TD Bank USA, N.A.) by serving (a) Xihao Hu, the Vice President and CFO of TD Bank USA, N.A., and (b) Leo Salom, the President and CEO of TD Bank USA, N.A., by certified mail on February 15, 2022. Doc. #73; *cf.* Doc. #71, *Exs. L, M*.

⁴ Unifund CCR Partners is a trade name for Unifund Corporation, Unifund CCR, LLC, and Unifund Group. Doc. #71, *Ex. N, O*.

⁵ Debtors complied with Rule 7004(b)(3) with respect to Unifund by serving (a) Corporation Servicing Company, Unifund's registered agent for service of process; (b) Trudy Weiss Craig, Unifund's Vice President; and (c) David G. Rosenberg, Unifund's CEO, by certified mail on February 15, 2022. Doc. #73, *cf.* Doc. #71, *Exs. N, P, Q*.

⁶ This amount consists of the \$259,205.38 deed of trust in favor of Chase Bank and the \$46,400.00 in deferred past due amounts owed to Chase Bank as part of the Home Affordable Modification Agreement. The \$4,104.72 judgment lien in favor of Target, while "unavoidable" until all junior liens have been avoided, is not included because it has expired.

⁷ 3,653 days, rather than 3,650, to account for leap years in 2012, 2016, and 2020.

5. [21-11075](#)-B-7 **IN RE: ANGELICA ALCALA**
[BLF-5](#)

MOTION FOR COMPENSATION FOR LORIS L BAKKEN, TRUSTEES
ATTORNEY(S)
2-14-2022 [[43](#)]

MARK ZIMMERMAN/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.

Loris L. Bakken of the Bakken Law Firm ("Applicant"), general counsel for chapter 7 trustee Irma C. Edmonds ("Trustee"), seeks final compensation under 11 U.S.C. § 330 in the sum of \$3,173.50. Doc. #43. This amount consists of \$3,080.00 in fees (reduced from \$4,865.00) as reasonable compensation for services rendered and \$93.50 in reimbursement of actual, necessary expenses incurred between July 2, 2021 through March 15, 2022. *Id.*

Trustee has reviewed the application and supporting documents, consents to the proposed payment, and indicates that the bankruptcy

estate is currently holding funds in the amount of \$3,125.00.
Doc. #46.

No party in interest timely filed written opposition. This motion will be GRANTED.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1) and Fed. R. Bankr. P. ("Rule") 2002(a)96). The failure of the 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 amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Angelica M. Alcala ("Debtor") filed chapter 7 bankruptcy on April 29, 2021. Doc. #1. Trustee was appointed as interim trustee on that same date and became permanent trustee at the first § 341(a) meeting of creditors on June 28, 2021. Doc. #5. Trustee moved to employ Applicant on July 7, 2021. Doc. #17; BLF-1. The court authorized employment under 11 U.S.C. § 327 on July 15, 2021, effective July 2, 2021. Doc. #21. No compensation was permitted except upon court order following application pursuant to § 330(a) and compensation was set at the "lodestar rate" for legal services at the time that services are rendered in accordance with *In re Manoa Fin. Co.*, 853 F.2d 687 (9th Cir. 1988). *Id.* Requests for interim compensation under § 331 were permitted more than once every 120 days for good cause shown. *Id.* Applicant's services were performed within the authorized time period.

This case remains open pending Debtor's payment of \$15,000.00 over time with the final amount due on or before the close of business on October 1, 2023. Doc. #45. This payment is for Debtor's repurchase of the estate's interest in "Smog Shop Hanford Test Only" and avoidable pre-petition transfer claims of a portion of the business. Doc. #31; BLF-3. However, Applicant has accepted employment with a government agency, so Applicant must resign as counsel for the bankruptcy estate and file a fee application.⁸ Doc. #45. Thus, Applicant requests the payment to be deferred and paid at the same time as dividends pursuant to Federal Rule of Bankruptcy Procedure ("Rule") 3009.

Applicant and Trustee agreed that if there are no funds in the estate, or if Trustee determines that there are no assets to administer, Applicant will not receive compensation. *Id.*; Doc. #46. Further, if

Trustee is holding less than \$9,000.00 with no remaining assets to be administered, Applicant will reduce the compensation to one-third of the funds in the estate. *Id.*

This is Applicant's first and final fee application. Applicant's firm provided 13.9 hours of legal services at a rate of \$350.00 per hour, totaling \$4,865.00 in fees. Doc. #47, *Ex. A.* However, Applicant only billed for 8.8 hours and requests **\$3,080.00** in fees. Applicant also incurred **\$93.50** in expenses as follows:

Photocopying	\$42.40
Postage	+ \$51.10
Total Costs	= \$93.50

Id. These combined fees and expenses total **\$3,173.50**.

11 U.S.C. § 330(a)(1)(A) and (B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person, or attorney" and "reimbursement for actual, necessary expenses." 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, considering all relevant factors, including those enumerated in subsections (a)(3)(A) through (E). § 330(a)(3).

Applicant's services included, without limitation: (1) preparing the fee agreement and securing employment (BLF-1); (2) jointly stipulating to extend the deadline to file a complaint objecting to the debtor's discharge ((BLF-2; BLF-4); (3) investigating pre-petition transfers of property of the estate and preparing, filing, and prosecuting a motion to sell the estate's interest in a claim for avoidance of a pre-petition transfer and the estate's interest in Debtor's business back to the Debtor (BLF-3); and (4) preparing and filing this fee application (BLF-4). The court finds the services and expenses reasonable, actual, and necessary. As noted above, Trustee reviewed the fee application, consents to payment of the requested fees and expenses, and the bankruptcy estate is holding \$3,125.00 in funds, with additional funds to be received from Debtor monthly through October 1, 2023. Doc. #46 If there are no funds to administer, Applicant will not receive compensation, and if the estate has less than \$9,000.00 in assets to be administered, Applicant's compensation will be reduced to one-third of the funds in the estate.

No party in interest timely filed written opposition to this motion. Accordingly, this motion will be GRANTED. Applicant will be awarded on a final basis \$3,080.00 in reasonable fees and \$93.50 in actual, necessary expenses pursuant to § 330. Trustee will be authorized, in her discretion, to pay Applicant \$3,173.50 on the terms outlined above for services rendered and costs incurred from July 2, 2021 through March 15, 2022.

⁸ Attorney Anthony D. Johnston substituted in for Applicant as Trustee's general counsel on January 13, 2022, with employment authorized January 20, 2022, effective January 11, 2022. Docs. ##39-40.

6. [22-10082](#)-B-7 **IN RE: ANDRES ROSALES**
[VVF-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
2-23-2022 [[14](#)]

AMERICAN HONDA FINANCE
CORPORATION/MV
DAVID BOONE/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.

American Honda Finance Corp ("Movant") seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to a 2017 Honda Accord ("Vehicle"). Doc. #14.

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.

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 an 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 debtor is 3 payments past due in the amount of \$1,053.30 plus late fees of \$330.12. Doc. #17.

The court declines finding that debtor does not have any equity in the Vehicle. Although this is a chapter 7 case and the Vehicle is not necessary for an effective reorganization, the moving papers indicate that Debtor has approximately \$2,598.01 to \$6,248.01 in equity. Docs. #16, #17. Relief under § 362(d) (2) is moot because there is "cause" to grant the motion under § 362(d) (1).

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

The 14-day stay of Fed. R. Bankr. P. 4001(a) (3) will be ordered waived because debtor surrendered the Vehicle and movant recovered the Vehicle on February 3, 2022. No other relief is awarded.

7. [14-12594](#)-B-7 **IN RE: ALLEN/LISA FOWLER**
[SL-2](#)

MOTION TO AVOID LIEN OF BENEFICIAL FINANCIAL I, INC.
2-7-2022 [\[28\]](#)

LISA FOWLER/MV
SCOTT LYONS/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Continued to a date determined at the hearing.

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

Allen Whitt Fowler and Lisa Fowler ("Debtors") seek to avoid a judicial lien in favor of Beneficial Financial I, Inc. ("Creditor") in the sum of \$10,933.71 and encumbering residential real property located at 1310 N. Central St., Visalia, CA 93291 ("Property").⁹ Doc. #28.

Creditor filed opposition on March 3, 2022, but it was not timely. Doc. #37. The deadline to file written opposition to this motion was March 1, 2022 pursuant to Local Rule of Practice ("LBR") 9014-1(f) (1) (A). The court will inquire at the hearing about the reason this response was filed late.

This matter will be called and proceed as a scheduling conference. The court intends to CONTINUE the matter to a date to be determined at the hearing.

This motion was filed on 28 days' notice pursuant to LBR 9014-1(f) (1). The failure of the creditors, chapter 7 trustee, the U.S. Trustee, or

any other party in interest except Creditor 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 motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the above-mentioned parties in interest except Creditor are entered. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987).

The court notes that the original *Notice of Hearing* filed with this motion incorrectly stated that the motion would be heard at 10:00 a.m. on March 15, 2022. Doc. #29. The hearing date, location, and department were correct. Debtors filed an *Amended Notice of Hearing* on February 16, 2022 to correct the hearing time to 1:30 p.m. on the same date. Doc. #34. Although the amended notice was filed on only 27 days' notice, the hearing date in both notices is correctly stated to be March 15, 2022. So, the opposition deadline is unchanged, and the incorrect hearing time in the original notice appears to be *de minimis* since the hearing time has been corrected and opposition information was not modified.

The court also notes that Creditor's certificate of service is attached to the opposition and is not filed separately. Doc. #37. LBR 9004-2(e)(1), (e)(2), and LBR 9014-1(e)(3) require proofs of service to be filed as separate documents and not attached to copies of the pleadings and documents served. Counsel is advised to review the local rules on the court's website.¹⁰

To avoid a lien under 11 U.S.C. § 522(f)(1), the movant must establish four elements: (1) there must be an exemption to which the debtor would be entitled under § 522(b); (2) the property must be listed on the debtor's schedules as exempt; (3) the lien must impair the exemption; and (4) the lien must be either a judicial lien or a non-possessory, non-purchase money security interest in personal property listed in § 522(f)(1)(B). § 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), *aff'd*, 24 F.3d 247 (9th Cir. 1994)).

Here, a judgment was entered against joint debtor Lisa Fowler in favor of Creditor in the sum of \$10,933.71 on March 14, 2012. Doc. #30, *Ex. D*. The abstract of judgment was issued on October 10, 2013 and recorded in Tulare County on November 19, 2013. *Id.* That lien attached to Debtors' interest in Property and appears to be the only non-consensual judgment lien encumbering Property. Doc. #31.

Debtors claim that Property had an approximate value of \$88,865.00 as of the petition date. *Id.*; Doc. #24, *Am. Sched. A/B*. Property is encumbered by a single \$62,564.00 deed of trust in favor of Bank of America. *Id.*, *Am. Sched. D*. Debtor claimed a "homestead" exemption pursuant to Cal. Code Civ. Proc. § 704.730 in the amount of \$100,000.00.

However, Creditor contends that Debtors have “vastly understated” the valuation of Property and claims there is insufficient evidence to support that valuation. Doc. #37. Creditor accuses Debtors of unnecessarily delaying in bringing this motion, even though they knew or should have known years ago that it would be required. The court notes that Creditor was not originally listed in *Schedule D*, and was recently added to *Amended Schedule D* January 26, 2022, after the case was reopened. Doc. #24. Lastly, Creditor seeks discovery, including but not limited to access to Property, deposition of Debtors, and an opportunity to discover evidence in support of its defense. But Creditor does not propose any alternate valuation supporting its contention that Property is undervalued.

This matter will be called as scheduled to inquire about the reason Creditor’s opposition was untimely. If satisfactory, this matter will be deemed to be a contested matter and proceed as a scheduling conference. Pursuant to Federal Rule of Bankruptcy Procedure 9014(c), the federal rules of discovery apply to contested matters. The parties shall be prepared for the court to set an early evidentiary hearing.

Based on the record, the sole factual issue appears to be:

1. The retrospective fair market value of Property as of the petition date, May 16, 2014.

The legal issues include:

1. Whether there is any deadline by which Debtors were required to file this motion to avoid Creditor’s judgment lien.
2. Whether Creditor’s judgment lien impairs Debtors’ homestead exemption.

⁹ Debtors complied with Fed. R. Bankr. P. 7004(b)(3) by serving C T Corporation System, Creditor’s registered agent for service of process, by certified mail at its registered agent address: (i) the motion and supporting documents on February 7, 2022, and (b) the amended notice on February 16, 2022. Docs. #32; #35. Further, Creditor filed opposition and did not raise inadequate service. Doc. #37.

¹⁰ See LBR (eff. Apr. 12, 2021), <http://www.caeb.uscourts.gov/LocalRules.aspx>.

8. [21-12598](#)-B-7 **IN RE: YINGCHUN LOU**
[UST-1](#)

MOTION TO EXTEND DEADLINE TO FILE A COMPLAINT OBJECTING TO
DISCHARGE OF THE DEBTOR AND/OR MOTION TO EXTEND TIME TO FILE
A MOTION TO DISMISS CASE UNDER SEC. 707(B)
1-28-2022 [[51](#)]

TRACY DAVIS/MV
SAM WU/ATTY. FOR DBT.
JASON BLUMBERG/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.

Tracy Hope Davis, United States Trustee for Region 17 ("UST"), moves to extend the deadlines for filing (i) a motion to dismiss under § 707(b)(1) and/or (b)(3), or (ii) a complaint objecting to the debtors' discharge under § 727, up to and including March 31, 2022. Doc. #51. Yingchun Lou ("Debtor") has consented to this enlargement of time. Doc. #53.

No party in interest timely filed written opposition. The motion will be GRANTED.

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 the creditors, the debtor, the chapter 7 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 amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Federal Rule of Bankruptcy Procedure ("Rule") 1017(e)(1) governs dismissal of a case for abuse under § 707(b) or (c) and may only be filed within 60 days after the first date set for the § 341(a) meeting of creditors unless the court extends the time for cause.

Meanwhile, Rule 4004(a) requires a complaint objecting to the debtor's discharge under § 727 to be filed no later than 60 days after the first date set for the § 341(a) meeting of creditors unless an extension of time is requested. Rule 4004(b)(1) allows the court to extend the time to object to discharge, for cause, on motion of any party in interest, and after a noticed hearing. The motion shall be filed before the time has expired unless the conditions specified in Rule 4004(b)(2) are met.

The court is permitted to enlarge the time for acting under Rules 1017(e) and 4004(a) only to the extent and under the conditions stated in those rules. Rule 9006(b)(3).

Courts have analyzed "cause" for the purposes of requesting an extension of time to object to a debtor's discharge. These factors include:

- (1) Whether the moving party had sufficient notice of the deadline and information to file an objection;
- (2) The complexity of the case;
- (3) Whether the moving party has exercised diligence; and
- (4) Whether the debtor has been uncooperative or acted in bad faith.

In re Bomarito, 448 B.R. 242, 249 (Bankr. E.D. Cal. 2011), citing *In re Nowinski*, 291 B.R. 302 (Bankr. S.D. N.Y. 2004).

Here, Debtor filed chapter 7 bankruptcy on November 9, 2021. Doc. #1. The first date set for the meeting of creditors was first set for December 3, 2021, so the 60-day deadline to file a complaint objecting to discharge under § 727, or a motion to dismiss under § 707, was February 1, 2022. Doc. #7. The parties stipulated to extend the deadlines on January 27, 2022. Doc. #53. UST timely filed this motion on January 28, 2022. Doc. #51.

The first § 341 meeting was held on December 3, 2021, continued to January 4, 2022, and continued again to January 18, 2022, at which time it concluded. See docket generally. UST is investigating whether it is appropriate to file (i) a motion to dismiss this case for abuse pursuant to 11 U.S.C. §§ 707(b)(1) or (b)(3) (bad faith and totality of the circumstances abuse), or (ii) a complaint objecting to discharge pursuant to 11 U.S.C. § 727. Doc. #53.

An extension of time will provide UST with sufficient time to complete its evaluation of whether an adversary proceeding for non-dischargeability is necessary. Cause exists based on the stipulation and the status of this case.

Accordingly, this motion will be GRANTED. The deadlines for UST to file a motion to dismiss for abuse under § 707(b)(1) or (b)(3), or a complaint objecting to Debtor's discharge under § 727, is extended up to and including March 31, 2022.