



**UNITED STATES BANKRUPTCY COURT  
Eastern District of California**

**Chief Judge Fredrick E. Clement**  
Sacramento Federal Courthouse  
501 I Street, 7<sup>th</sup> Floor  
Courtroom 28, Department A  
Sacramento, California

**DAY: MONDAY**  
**DATE: MARCH 25, 2024**  
**CALENDAR: 10:30 A.M. CHAPTER 7 CASES**

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Unless otherwise ordered, all matters before Chief Judge Fredrick E. Clement shall be simultaneously: (1) **IN PERSON** at Sacramento Courtroom No. 28, (2) via **ZOOMGOV VIDEO**, (3) via **ZOOMGOV TELEPHONE**, and (4) via **COURTCALL**.

You may choose any of these options unless otherwise ordered or stated below.

All parties who wish to appear at a hearing remotely must sign up by 4:00 p.m. **one business** day prior to the hearing.

Information regarding how to sign up can be found on the **Remote Appearances** page of our website at:

<https://www.caeb.uscourts.gov/Calendar/RemoteAppearances>.

Each party who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

If the deadline to sign up has passed, parties who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest may connect to the video or audio feed free of charge and should select which method they will use to appear when signing up.
- Members of the public and the press appearing by **ZoomGov** may only listen in to the hearing using the zoom telephone number. Video appearances are not permitted.
- Members of the public and the press may not listen in to the trials or evidentiary hearings, though they may appear in person in most instances.

To appear remotely for law and motion or status conference proceedings, you must comply with the following guidelines and procedures:

- Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
- Review the court's [Zoom Procedures and Guidelines](#) for these, and additional instructions.
- Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#).

If you are appearing by ZoomGov phone or video, please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

**Unauthorized Recording is Prohibited:** Any recording of a court proceeding held by video or teleconference, including screen shots or other audio or visual copying of a hearing is prohibited. Violation may result in sanctions, including removal of court-issued media credentials, denial of entry to future hearings, or any other sanctions deemed necessary by the court. For more information on photographing, recording, or broadcasting Judicial Proceedings, please refer to Local Rule 173(a) of the United States District Court for the Eastern District of California.

## PRE-HEARING DISPOSITION INSTRUCTIONS

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### RULINGS

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling.

**"No Ruling"** means the likely disposition of the matter will not be disclosed in advance of the hearing. The matter will be called; parties wishing to be heard should rise and be heard.

**"Tentative Ruling"** means the likely disposition, and the reasons therefor, are set forth herein. The matter will be called. Aggrieved parties or parties for whom written opposition was not required should rise and be heard. Parties favored by the tentative ruling need not appear. However, non-appearing parties are advised that the court may adopt a ruling other than that set forth herein without further hearing or notice.

**"Final Ruling"** means that the matter will be resolved in the manner, and for the reasons, indicated below. The matter will not be called; parties and/or counsel need not appear and will not be heard on the matter.

### CHANGES TO PREVIOUSLY PUBLISHED RULINGS

On occasion, the court will change its intended ruling on some of the matters to be called and will republish its rulings. The parties and counsel are advised to recheck the posted rulings after 3:00 p.m. on the next business day prior to the hearing. Any such changed ruling will be preceded by the following bold face text: **"[Since posting its original rulings, the court has changed its intended ruling on this matter]"**.

### ERRORS IN RULINGS

Clerical errors of an insignificant nature, e.g., nomenclature ("2017 Honda Accord," rather than "2016 Honda Accord"), amounts, ("\$880," not "\$808"), may be corrected in (1) tentative rulings by appearance at the hearing; or (2) final rulings by appropriate ex parte application. Fed. R. Civ. P. 60(a) *incorporated by* Fed. R. Bankr. P. 9024. All other errors, including those occasioned by mistake, inadvertence, surprise, or excusable neglect, must be corrected by noticed motion. Fed. R. Bankr. P. 60(b), *incorporated by* Fed. R. Bankr. P. 9023.

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1. [23-23407](#)-A-7     **IN RE: RAYMOND/MARLEN GALLO**  
[TBG-5](#)

MOTION TO AVOID LIEN OF AKF, INC.  
2-13-2024    [65]

STEPHAN BROWN/ATTY. FOR DBT.  
DEBTORS DISCHARGED: 02/08/24

**Final Ruling**

**Motion:** Avoid Lien that Impairs Exemption  
**Notice:** LBR 9014-1(f)(1); written opposition required  
**Disposition:** Denied without prejudice  
**Order:** Civil minute order

**Subject:** 1624 Albatross Way, Rocklin, California

The debtors seek an order avoiding the judicial lien of AKF, Inc. The motion will be denied without prejudice as follows.

**LIEN-AVOIDANCE STANDARDS**

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

**REVERSE-PRIORITY ANALYSIS**

In cases in which there are multiple liens to be avoided, the liens must be avoided in the reverse order of their priority. See *In re Meyer*, 373 B.R. 84, 87-88 (B.A.P. 9th Cir. 2007). "[L]iens already avoided are excluded from the exemption-impairment calculation with respect to other liens." *Id.*; 11 U.S.C § 522(f)(2)(B).

Insufficient Evidence

The debtors have failed to support the motion with any exhibits which evidence the existence of a judicial lien held by the respondent. The court notes that multiple motions have been filed to avoid liens on the subject property. The court is required to determine the priority of each lien. Without an abstract of

judgment for each lien the court is unable to determine whether a lien exists, and the priority of a given judicial lien. The court will deny the motion without prejudice.

#### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

The debtors' Motion to Avoid Judicial Lien has been presented to the court. Having considered the motion together with papers filed in support and opposition, and having heard the arguments of counsel, if any,

IT IS ORDERED that the motion is denied without prejudice.

2. [23-23407](#)-A-7 **IN RE: RAYMOND/MARLEN GALLO**  
[TBG-6](#)

MOTION TO AVOID LIEN OF SYSCO SACRAMENTO, INC.  
2-13-2024 [[69](#)]

STEPHAN BROWN/ATTY. FOR DBT.  
DEBTORS DISCHARGED: 02/08/24

#### **Final Ruling**

**Motion:** Avoid Lien that Impairs Exemption

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Denied without prejudice

**Order:** Civil minute order

**Subject:** 1624 Albatross Way, Rocklin, California

The debtors seek an order avoiding the judicial lien of Sysco Sacramento, Inc. The motion will be denied without prejudice as follows.

#### **LIEN-AVOIDANCE STANDARDS**

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all

other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

#### **REVERSE-PRIORITY ANALYSIS**

In cases in which there are multiple liens to be avoided, the liens must be avoided in the reverse order of their priority. See *In re Meyer*, 373 B.R. 84, 87-88 (B.A.P. 9th Cir. 2007). "[L]iens already avoided are excluded from the exemption-impairment calculation with respect to other liens." *Id.*; 11 U.S.C § 522(f)(2)(B).

#### Insufficient Evidence

The debtors have failed to support the motion with any exhibits which evidence the existence of a judicial lien held by the respondent. The court notes that multiple motions have been filed to avoid liens on the subject property. The court is required to determine the priority of each lien. Without an abstract of judgment for each lien the court is unable to determine whether a lien exists, and the priority of a given judicial lien. The court will deny the motion without prejudice.

#### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

The debtors' Motion to Avoid Judicial Lien has been presented to the court. Having considered the motion together with papers filed in support and opposition, and having heard the arguments of counsel, if any,

IT IS ORDERED that the motion is denied without prejudice.

3. [23-23407](#)-A-7     **IN RE: RAYMOND/MARLEN GALLO**  
[TBG-7](#)

MOTION TO AVOID LIEN OF CREDITORS ADJUSTMENT BUREAU, INC.  
2-13-2024    [73]

STEPHAN BROWN/ATTY. FOR DBT.  
DEBTORS DISCHARGED: 02/08/24

**Final Ruling**

**Motion:** Avoid Lien that Impairs Exemption

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Denied without prejudice

**Order:** Civil minute order

**Subject:** 1624 Albatross Way, Rocklin, California

The debtors seek an order avoiding the judicial lien of Creditors Adjustment Bureau, Inc. The motion will be denied without prejudice as follows.

**LIEN-AVOIDANCE STANDARDS**

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

**REVERSE-PRIORITY ANALYSIS**

In cases in which there are multiple liens to be avoided, the liens must be avoided in the reverse order of their priority. See *In re Meyer*, 373 B.R. 84, 87-88 (B.A.P. 9th Cir. 2007). "[L]iens already avoided are excluded from the exemption-impairment calculation with respect to other liens." *Id.*; 11 U.S.C § 522(f)(2)(B).

Insufficient Evidence

The debtors have failed to support the motion with any exhibits which evidence the existence of a judicial lien held by the respondent. The court notes that multiple motions have been filed to avoid liens on the subject property. The court is required to

determine the priority of each lien. Without an abstract of judgment for each lien the court is unable to determine whether a lien exists, and the priority of a given judicial lien. The court will deny the motion without prejudice.

#### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

The debtors' Motion to Avoid Judicial Lien has been presented to the court. Having considered the motion together with papers filed in support and opposition, and having heard the arguments of counsel, if any,

IT IS ORDERED that the motion is denied without prejudice.

4. [23-23407](#)-A-7 **IN RE: RAYMOND/MARLEN GALLO**  
[TBG-8](#)

MOTION TO AVOID LIEN OF PERRIN BERNARD SUPOWITZ, LLC  
2-13-2024 [\[77\]](#)

STEPHAN BROWN/ATTY. FOR DBT.  
DEBTORS DISCHARGED: 02/08/24

#### **Final Ruling**

**Motion:** Avoid Lien that Impairs Exemption

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Denied without prejudice

**Order:** Civil minute order

**Subject:** 1624 Albatross Way, Rocklin, California

The debtors seek an order avoiding the judicial lien of Perrin Bernard Supowitz, LLC. The motion will be denied without prejudice as follows.

#### **LIEN-AVOIDANCE STANDARDS**

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all



other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

#### **REVERSE-PRIORITY ANALYSIS**

In cases in which there are multiple liens to be avoided, the liens must be avoided in the reverse order of their priority. See *In re Meyer*, 373 B.R. 84, 87-88 (B.A.P. 9th Cir. 2007). "[L]iens already avoided are excluded from the exemption-impairment calculation with respect to other liens." *Id.*; 11 U.S.C § 522(f)(2)(B).

#### Insufficient Evidence

The debtors have failed to support the motion with any exhibits which evidence the existence of a judicial lien held by the respondent. The court notes that multiple motions have been filed to avoid liens on the subject property. The court is required to determine the priority of each lien. Without an abstract of judgment for each lien the court is unable to determine whether a lien exists, and the priority of a given judicial lien. The court will deny the motion without prejudice.

#### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

The debtors' Motion to Avoid Judicial Lien has been presented to the court. Having considered the motion together with papers filed in support and opposition, and having heard the arguments of counsel, if any,

IT IS ORDERED that the motion is denied without prejudice.

5. [24-20325](#)-A-7    **IN RE: ONEZIA GOODWIN**  
[BLG-1](#)

MOTION TO REDEEM  
2-19-2024    [\[11\]](#)

CHAD JOHNSON/ATTY. FOR DBT.

**Final Ruling**

**Motion:** Authorize Redemption of Tangible Personal Property

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Prepared by moving party

**Subject:** 2009 Toyota Camry

**Redemption price:** \$3,000.00

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The debtor seeks an order authorizing redemption of a 2009 Toyota Camry. The debtor proposes to redeem the vehicle from respondent OneMain Financial for the sum of \$3,000.

**REDEMPTION**

Pursuant to § 722, an individual debtor in Chapter 7 may redeem tangible personal property from a lien on such property by paying the lienholder the amount of the allowed secured claim. 11 U.S.C. § 722. The tangible personal property must be "intended primarily for personal, family, or household use." *Id.*

Additionally, the property must have been exempted under § 522 or abandoned under § 554. *Id.* And the lien on the property must "secur[e] a "dischargeable consumer debt." *Id.*

The redemption price is the amount of the allowed secured claim, which amount is "determined based on the replacement value of such property as of the date of the filing of the petition without deduction for costs of sale or marketing." *Id.* § 506(a)(2).

The debtor requests authority to redeem tangible personal property, described in the motion, from the lien on such property. See Fed. R. Bankr. P. 6008. The property has been claimed exempt (or abandoned). The court values the property at the amount set forth in the motion (the redemption price). No party in interest has disputed whether the debt is dischargeable. The court will grant the motion and authorize the proposed redemption. Payment shall be

tendered to the respondent within 30 days of the entry of the order granting the motion.

The movant shall prepare an order which conforms to the court's ruling.

6. [11-28028](#)-A-7     **IN RE: JAMES/TERRI COOK**  
[JES-2](#)

MOTION FOR COMPENSATION FOR JAMES E. SALVEN, ACCOUNTANT(S)  
2-21-2024    [\[57\]](#)

JESSICA DORN/ATTY. FOR DBT.  
DEBTORS DISCHARGED: 07/18/11

**Final Ruling**

**Application:** Allowance of First and Final Compensation and Expense Reimbursement

**Notice:** LBR 9014-1(f) (1); written opposition required

**Disposition:** Denied without prejudice

**Order:** Civil minute order

**Compensation Allowed:** \$2,100.00

**Reimbursement of Expenses:** \$237.33

In this Chapter 7 case, James E. Salven, accountant for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$2,100.00 and reimbursement of expenses in the amount of \$237.33. The motion will be denied without prejudice as follows.

The court is unable to determine if service of the motion and supporting documents complies with Fed. R. Bankr. P. 9013, LBR 9014-1, 7005. The certificate of service is unsigned. Certificate of Service, p. 4, ECF No. 62.

**CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

James E. Salven's Motion to Allow Compensation has been presented to the court. Given the procedural deficiencies discussed by the court in its ruling,

IT IS ORDERED that the motion is denied without prejudice.

7. [24-20529](#)-A-7     **IN RE: OCTOPUS P AND L INVESTMENTS LLC**  
[ETW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
3-1-2024    [\[18\]](#)

EDWARD WEBER/ATTY. FOR MV.  
FMC T.D. INVESTMENTS LLC VS.

**Final Ruling**

This case was dismissed on March 11, 2024. Accordingly, this motion will be removed from the calendar as moot. No appearances are required.

8. [21-22830](#)-A-7     **IN RE: RANDALL HAYASHI**  
[NF-1](#)

OBJECTION TO CLAIM OF HENRY SCHEIN PROF PRAC TRANS INC,  
CLAIM NUMBER 13  
2-1-2024    [\[121\]](#)

ANTHONY ASEBEDO/ATTY. FOR DBT.  
DANIEL EGAN/ATTY. FOR MV.  
DEBTOR DISCHARGED: 11/16/21

**Final Ruling**

**Objection:** Objection to Claim  
**Notice:** LBR 3007-1(b)(1); written opposition required  
**Disposition:** Overruled  
**Order:** Civil minute order

Chapter 7 trustee, Nikki Farris, objects to the claim of Henry Schein Prof Prac Trans, Inc., Claim No. 13.

The objection will be overruled as follows.

**UNCLAIMED FUNDS**

(a) Ninety days after the final distribution under section 726, 1194, 1226, or 1326 of this title in a case under chapter 7, subchapter V of chapter 11, 12, or 13<sup>1</sup> of this title, as the case may be, the trustee shall stop payment on any check remaining unpaid, and any remaining property of the estate shall be paid into the court and disposed of under chapter 129 of title 28.

11 U.S.C. § 347(a) (emphasis added).

The trustee attempted to disburse funds to the claimant multiple times, but the check was returned to her uncashed. Declaration of Nicole B. Farris, 2:1-4, ECF No. 123.

The trustee argues, without citing any authority, that the court should sustain the objection to Claim No. 13 so that the funds owed to this creditor may be disbursed to remaining creditors.

The court is unaware of any authority under these circumstances which would allow it to sustain the objection. Section 347 directs that an unclaimed payment, which is property of the estate, "shall" be paid to the court. 11 U.S.C. § 347(a).

Moreover, Fed. R. Bankr. P. 3011 further directs the trustee as follows:

(a) The trustee shall file a list of all known names and addresses of the entities and the amounts which they are entitled to be paid from remaining property of the estate that is paid into court pursuant to § 347 of the Code.

Fed. R. Bankr. P. 3011(a).

The court will overrule the objection. The trustee shall comply with 11 U.S.C. § 347, Fed. R. Bankr. P. 3011.

#### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The Chapter 7 trustee's objection to claim has been presented to the court. Having considered the objection together with papers filed in support and opposition, and having heard the arguments of counsel, if any,

IT IS ORDERED that the objection is overruled. The trustee shall comply with 11 U.S.C. § 347, Fed. R. Bankr. P. 3011.

9. [23-24331](#)-A-7     **IN RE: JAYATON THOMAS**

CONTINUED MOTION TO ENFORCE THE AUTOMATIC STAY  
1-29-2024     [44]

JAYATON THOMAS/ATTY. FOR MV.

**No Ruling**

10. [22-21649](#)-A-7    **IN RE: MARY KATTENHORN**  
[BLL-1](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT  
AGREEMENT WITH PHILLIP KATTENHORN AND/OR MOTION TO VACATE  
REQUEST FOR DEFAULT JUDGMENT WITH PHILLIP KATTENHORN  
2-5-2024    [[113](#)]

RICHARD HALL/ATTY. FOR DBT.  
DEBTOR DISCHARGED: 10/11/22

### **Final Ruling**

**Motion:** Approve Compromise of Controversy and Motion to Vacate  
Request for Default Judgment

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Denied without prejudice

**Order:** Civil minute order

The debtor seeks an order: (1) approving the settlement agreement which resolves the dispute between Mary Jean Kattenhorn and Phillip Kattenhorn; and (2) vacating the entry of default against Phillip Kattenhorn. The court will deny the motion without prejudice as follows.

### **JOINDER**

- A) Except as otherwise provided herein, every application, motion, contested matter, or other request for an order shall be filed separately from every other request. All requests for relief shall state with particularity the grounds therefor and shall set forth the relief or order sought. Other documents, exhibits, or supporting pleadings shall not be incorporated by reference.
  
- B) Notwithstanding the foregoing, the following requests for relief may be joined in a single motion, Fed. R. Civ. P. 18, *incorporated by* Fed. R. Bankr. P. 7018, 9014(c):
  - (i) relief in the alternative based on the same statute or rule;
  - (ii) authorization for sale of real property and allowance of fees and expenses for a professional authorized by prior order to be employed for the sale of such property, 11 U.S.C. §§ 327, 328, 330, 363, Fed. R. Bankr. P. 6004;
  - (iii) authorization to employ a professional, i.e., auctioneer, for sale of estate property at public auction, and allowance of fees and expenses for such professional, 11 U.S.C. §§ 327, 328, 330, 363, Fed. R. Bankr. P. 6004-6005;

- (iv) motion for stay relief and/or abandonment of property of the estate, 11 U.S.C. §§ 362, 554, Fed. R. Bankr. P. 4001, 6007;
- (v) approval of compromise and compensation of special counsel previously authorized to be employed relating to the underlying compromise, Fed. R. Bankr. P. 9019; 11 U.S.C. §§ 327, 328, 330; and
- (vi) as otherwise expressly provided by these Rules.

LBR 9014-1(d)(5).

The motion seeks approval of a compromise between plaintiff Mary Kattenhorn and defendant Phillip Kattenhorn in adversary proceeding 23-02082. The motion also requests that the court vacate the default entered against defendant Phillip Kattenhorn in the adversary proceeding. As indicated in LBR 9014-1(d)(5)(A) separate motions must be brought by the moving party. Additionally, the request to vacate the default of defendant Kattenhorn must be filed in the adversary proceeding.

Accordingly, the court will deny the motion without prejudice.

**CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

The debtor's Motion to Compromise Controversy, and Motion to Vacate Request for Default Judgment has been presented to the court. Given the procedural deficiencies discussed by the court in its ruling,

IT IS ORDERED that the motion is denied without prejudice.

11. [23-20668](#)-A-7    **IN RE: JAMES/LORNA MINEWISER**  
[NBF-2](#)

MOTION FOR ADMINISTRATIVE EXPENSES  
2-21-2024    [\[39\]](#)

GEORGE BURKE/ATTY. FOR DBT.  
DANIEL EGAN/ATTY. FOR MV.  
DEBTORS DISCHARGED: 06/12/23

### **Tentative Ruling**

**Motion:** Allow Administrative Expense [Estate Taxes]

**Notice:** LBR 9014-1(f)(2); no written opposition required

**Disposition:** Granted

**Order:** Civil minute order

**2023 Federal Estate Taxes:**    \$2,500

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 7 trustee, Nikki B. Farris seeks an order allowing 2023 Federal Estate Taxes in the amount of \$2,500 as an administrative expense under 11 U.S.C. § 503(b)(1)(B).

### **ALLOWANCE OF ADMINISTRATIVE EXPENSE**

"Subject to limited exceptions, a trustee must pay the taxes of the estate on or before the date they come due, 28 U.S.C. § 960(b), even if no request for administrative expenses is filed by the tax authorities, 11 U.S.C. § 503(b)(1)(D), and the trustee must insure that 'notice and a hearing' have been provided before doing so, see *id.* § 503(b)(1)(B). The hearing requirement insures that interested parties . . . have an opportunity to contest the amount of tax paid before the estate's funds are diminished, perhaps irretrievably." *In re Cloobek*, 788 F.3d 1243, 1246 (9th Cir. 2015). It is error to approve a trustee's final report without first holding a hearing, see 11 U.S.C. § 102(1), to allow creditors and parties in interest an opportunity to object to the allowance or amount of tax before it is paid. *Id.* 1245 n.1, 1246.

Creditors and parties in interest have had an opportunity to contest the allowance and amount of the estate taxes in this case. No objection has been made. Accordingly, the taxes specified in the motion shall be allowed as an administrative expense under 11 U.S.C. § 503(b)(1)(B).



## CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The chapter 7 trustee's motion for allowance of administrative expense has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The court allows federal taxes of \$2,500 as an administrative expense under 11 U.S.C. § 503(b) (1) (B).

12. [23-20668](#)-A-7 **IN RE: JAMES/LORNA MINEWISER**  
[NBF-3](#)

MOTION FOR COMPENSATION FOR GABRIELSON & COMPANY,  
ACCOUNTANT(S)  
2-26-2024 [43]

GEORGE BURKE/ATTY. FOR DBT.  
DEBTORS DISCHARGED: 06/12/23

### Final Ruling

**Application:** Allowance of First and Final Compensation and Expense Reimbursement

**Notice:** LBR 9014-1(f) (1); written opposition required

**Disposition:** Approved

**Order:** Civil minute order

**Compensation Allowed:** \$2,403.00

**Reimbursement of Expenses:** \$80.03

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this application was required not less than 14 days before the hearing on the application. LBR 9014-1(f) (1) (B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

### COMPENSATION AND EXPENSES

In this Chapter 7 case, Gabrielson & Company, accountant for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court

allow compensation in the amount of \$2,403.00 and reimbursement of expenses in the amount of \$80.03.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis.

#### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Gabrielson & Company's application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$2,403.00 and reimbursement of expenses in the amount of \$80.03.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

13. [22-21669](#)-A-7    **IN RE: LINDSAY/LISA BRAKEL**  
[DNL-15](#)

MOTION FOR AUTHORITY TO REIMBURSE TRUSTEE  
2-26-2024    [[503](#)]

BYRON FARLEY/ATTY. FOR DBT.  
J. CUNNINGHAM/ATTY. FOR MV.

### **Final Ruling**

**Matter:** Motion for Reimbursement of Administrative Expenses

**Notice:** LBR 9014-1(f)(1)

**Disposition:** Granted

**Order:** Civil minute order

**Allowed Expense:**    \$2,982.85

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this application was required not less than 14 days before the hearing on the application. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The chapter 7 trustee moves for an order allowing as a Chapter 7 administrative expense \$2,982.85 advanced by the trustee for insurance premiums for estate property. The trustee seeks authorization to use estate funds to reimburse her for the insurance expense of \$2,982.85.

Among the assets of the bankruptcy estate is the debtors' interest in the real properties located at: (1) 46584 Foothill Road, Haines, Oregon; and (2) 29091 Sparta Lane, Baker City, Oregon (collectively, "Real Properties"). There are structures on the Real Properties. The Trustee paid approximately \$2,982.85 out of her personal funds to Country Mutual Insurance Company for an insurance premium. As a result of the trustee's efforts, the Real Properties are insured.

### **ADMINISTRATIVE EXPENSES**

The Chapter 7 trustee is obligated to preserve the assets of the bankruptcy estate. *See Bennett v. Williams*, 892 F2d 822, 823 (9th Cir. 1989).

The trustee requests an order approving expenses for the payment of insurance premiums and authorizing reimbursement for the expense under 11 U.S.C. §330(a)(1)(B).

The Chapter 7 trustee paid insurance premiums, totaling \$2,982.85, for liability and loss of estate property. The court will allow the expense in the amount of \$2,982.85. The court finds that that expenses for which reimbursement is sought were actual and necessary. The court will authorize the reimbursement of \$2,982.85.

## CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

IT IS ORDERED that the expense for insurance proceeds is allowed as an administrative expense in the amount of \$2,982.85. Reimbursement to the chapter 7 trustee is authorized in this amount.

14. [23-23376](#)-A-7     **IN RE: JOSEPH/RACHEL DIAZ**  
[SSH-1](#)

CONTINUED MOTION TO AVOID LIEN OF EMPOWER RETIREMENT, LLC  
12-29-2023     [\[30\]](#)

SIMRAN HUNDAL/ATTY. FOR DBT.  
DEBTORS DISCHARGED: 01/23/24

### Final Ruling

**Motion:** Avoid Lien that Impairs Exemption

**Disposition:** Denied without prejudice

**Order:** Civil minute order

**Subject Property:** 1379 Crestwood Ave, Manteca, California

**Exemption Claimed:** \$550,000

**Trustee Objection to Exemption Filed:** March 6, 2024, Case No. 24--2021

The debtor seeks an order avoiding the lien of Empower Retirement, LLC, under 11 U.S.C. § 522(f). The Chapter 7 trustee opposes the motion and requests that the motion be continued or denied without prejudice.

### LIEN AVOIDANCE

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of—(i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property;

exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

In this case while the debtor has claimed an exemption of \$550,000 in the subject property, the trustee has filed an objection to the debtor's claim of exemption.

The Chapter 7 trustee has filed an adversary proceeding in which the trustee alleges that the debtor Joseph R Diaz received funds from a creditor to which the debtor was not entitled. Those funds were then used to pay off the debtors' mortgage against the Subject Property and the debtor refused to return the money to the creditor when demanded.

As such the trustee seeks through the adversary proceeding to object to the debtors' homestead exemption or otherwise subordinate the exemption asserted against the Subject Property.

Moreover, the trustee has entered into an agreement with creditor, Empower Retirement, LLC, that, among other things, avoids any claims the creditor may have against the Subject Property and otherwise assigns all rights the creditor may have to the estate. The trustee has filed a motion to approve the stipulation (KMT-4).

Until judgement is entered in the adversary proceeding the debtor's motion to avoid the lien of Empower Retirement, LLC, is premature. Accordingly, the court will deny the motion without prejudice.

#### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Debtor's Motion to Avoid Judicial Lien of Empower Retirement, LLC, has been presented to the court. Having considered the motion together with papers filed in support and opposition, and having heard the arguments of counsel, if any,

IT IS ORDERED that the motion is denied without prejudice.

15. [24-20478](#)-A-7    **IN RE: ADRIAN/AMBER LOSSING**  
[SLH-1](#)

CONTINUED MOTION TO COMPEL ABANDONMENT  
2-12-2024    [\[10\]](#)

SETH HANSON/ATTY. FOR DBT.

### **Final Ruling**

**Motion:** Compel Abandonment of Property of the Estate

**Notice:** Continued from February 26, 2024

**Disposition:** Granted only as to the business and such business assets described in the motion

**Order:** Prepared by moving party pursuant to the instructions below

**Business Description:** Artisan Building Contractor - a sole proprietorship

**Value:** \$10,850

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The debtors seek an order compelling the Chapter 7 trustee's abandonment of their sole proprietorship called Artisan Building Contractor and the business assets which are valued at \$10,850.

The hearing on the debtors' motion to compel abandonment of assets was continued at the request of the Chapter 7 trustee. The trustee requested an opportunity to examine the debtors at the meeting of creditors and review documents which she requested the debtors provide.

The meeting of creditors was held on March 15, 2024, and concluded. Moreover, the trustee filed a Report of No Distribution on the same date. Accordingly, the court will grant the motion.

### **ABANDONMENT**

Property of the estate may be abandoned under § 554 of the Bankruptcy Code if property of the estate is "burdensome to the estate or of inconsequential value and benefit to the estate." See 11 U.S.C. § 554(a)-(b); Fed. R. Bankr. P. 6007(b). Upon request of a party in interest, the court may issue an order that the trustee abandon property of the estate if the statutory standards for abandonment are fulfilled.

The movant bears the burden of proof. *In re Pilz Compact Disc., Inc.*, 229 B.R. 630 (Bankr. E.D. Pa. 1999) (Chapter 7 trustee). "[B]urdensome to the estate" means "consumes the resources and

drains the income of the estate." *In re Smith-Douglass, Inc.*, 856 F.2d 12, 16 (4th Cir. 1988). "[O]f inconsequential value and benefit to the estate" refers to assets not likely to be liquidated for the benefit of creditors. 11 U.S.C. § 704(a)(1); *Matter of Taxman Clothing Co.*, 49 F3d 310, 315 (7th Cir. 1995) (Chapter 7 trustee has no duty to liquidate assets where costs of doing so likely to exceed asset's value). Of inconsequential value and benefit to the estate includes assets that (1) have no equity (including post-petition appreciation), *In re Viet Vu*, 245 B.R. 644 (9th Cir. BAP 2000); and (2) assets with equity, which has been wholly and properly exempted by the debtor. *In re Montanaro*, 307 B.R. 194 (Bankr. E.D. Cal. 2004).

The business described above is either burdensome to the estate or of inconsequential value to the estate. An order compelling abandonment of such business is warranted. The order will compel abandonment of only the business and its assets that are described in the motion.

16. [22-22290](#)-A-7 **IN RE: AMD METAL WORKS, INC**  
[GMR-2](#)

MOTION FOR COMPENSATION FOR GABRIELSON & COMPANY,  
ACCOUNTANT(S)  
2-20-2024 [[169](#)]

MARK WOLFF/ATTY. FOR DBT.

### **Final Ruling**

**Application:** Allowance of First & Final Compensation and Expense Reimbursement

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Approved

**Order:** Civil minute order

**Compensation Allowed:** \$22,350.50

**Reimbursement of Expenses:** \$375.97

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, incorporated by Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this application was required not less than 14 days before the hearing on the application. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

### **COMPENSATION AND EXPENSES**

In this Chapter 7 case, Gabrielson & Company, accountant for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court

allow compensation in the amount of \$22,350.50 and reimbursement of expenses in the amount of \$375.97.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis.

#### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Gabrielson & Company's application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$22,350.50 and reimbursement of expenses in the amount of \$375.97.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.