



UNITED STATES BANPTCY COURT
Eastern District of California
Honorable René Lastreto II
Department B - Courtroom #13
Fresno, California
Hearing Date: Tuesday, March 26, 2024

Unless otherwise ordered, all matters before the Honorable René Lastreto II, shall be simultaneously: (1) **In Person** at, Courtroom #13 (Fresno hearings only), (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 or their attorneys 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/attorney 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 and their attorneys who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest and/or their attorneys 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 who wish to attend by ZoomGov may only listen in to the hearing using the Zoom telephone number. Video participation or observing are not permitted.
- Members of the public and the press may not listen in to trials or evidentiary hearings, though they may attend in person unless otherwise ordered.

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

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
2. 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.

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.

Post-Publication Changes: 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 any possible updates.

9:30 AM

1. [23-10457](#)-B-11 **IN RE: MADERA COMMUNITY HOSPITAL**
[BPC-1](#)

MOTION FOR ADMINISTRATIVE EXPENSES
2-22-2024 [[1459](#)]

SIEMENS FINANCIAL SERVICES, INC./MV
RILEY WALTER/ATTY. FOR DBT.
ANTHONY NAPOLITANO/ATTY. FOR MV.

NO RULING.

2. [23-10457](#)-B-11 **IN RE: MADERA COMMUNITY HOSPITAL**
[FWP-1](#)

MOTION FOR ADMINISTRATIVE EXPENSES
2-26-2024 [[1475](#)]

MADERA COUNTY/MV
RILEY WALTER/ATTY. FOR DBT.
JASON RIOS/ATTY. FOR MV.

NO RULING.

3. [23-10457](#)-B-11 **IN RE: MADERA COMMUNITY HOSPITAL**
[SSA-1](#)

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR
MOTION TO TURNOVER PROPERTY
1-22-2024 [[1303](#)]

TELCION COMMUNICATIONS GROUP/MV
RILEY WALTER/ATTY. FOR DBT.
STEVEN ALTMAN/ATTY. FOR MV.

NO RULING.

4. [23-10457](#)-B-11 **IN RE: MADERA COMMUNITY HOSPITAL**
[SSA-2](#)

CONTINUED MOTION FOR ADMINISTRATIVE EXPENSES
2-8-2024 [[1389](#)]

TELCION COMMUNICATIONS GROUP/MV
RILEY WALTER/ATTY. FOR DBT.
STEVEN ALTMAN/ATTY. FOR MV.

NO RULING.

5. [23-10457](#)-B-11 **IN RE: MADERA COMMUNITY HOSPITAL**
[WJH-19](#)

CONTINUED MOTION TO REJECT LEASE OR EXECUTORY CONTRACT
4-6-2023 [[204](#)]

MADERA COMMUNITY HOSPITAL/MV
RILEY WALTER/ATTY. FOR DBT.

NO RULING.

6. [23-10457](#)-B-11 **IN RE: MADERA COMMUNITY HOSPITAL**
[WJH-21](#)

CONTINUED MOTION TO REJECT LEASE OR EXECUTORY CONTRACT
4-6-2023 [[218](#)]

MADERA COMMUNITY HOSPITAL/MV
RILEY WALTER/ATTY. FOR DBT.

NO RULING.

7. [23-10457](#)-B-11 **IN RE: MADERA COMMUNITY HOSPITAL**
[WJH-22](#)

CONTINUED MOTION TO REJECT LEASE OR EXECUTORY CONTRACT
4-7-2023 [[230](#)]

MADERA COMMUNITY HOSPITAL/MV
RILEY WALTER/ATTY. FOR DBT.

NO RULING.

8. [23-10457](#)-B-11 **IN RE: MADERA COMMUNITY HOSPITAL**
[WJH-40](#)

CONTINUED MOTION TO REJECT LEASE OR EXECUTORY CONTRACT
4-26-2023 [[301](#)]

MADERA COMMUNITY HOSPITAL/MV
RILEY WALTER/ATTY. FOR DBT.

NO RULING.

9. [23-10457](#)-B-11 **IN RE: MADERA COMMUNITY HOSPITAL**
[WJH-42](#)

CONTINUED MOTION TO REJECT LEASE OR EXECUTORY CONTRACT
5-2-2023 [[334](#)]

MADERA COMMUNITY HOSPITAL/MV
RILEY WALTER/ATTY. FOR DBT.

NO RULING.

11:00 AM

1. [23-12687](#)-B-7 **IN RE: JEFFERY/VIOLET BALLEW**

REAFFIRMATION AGREEMENT WITH CAPITAL ONE AUTO FINANCE
2-22-2024 [\[16\]](#)

JERRY LOWE/ATTY. FOR DBT.

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

DISPOSITION: Dropped.

ORDER: The court will issue an order.

Debtor's counsel shall notify the debtor that no appearance is necessary.

A Reaffirmation Agreement between Jeffery Wayne and Violet Ballew ("Debtors") and Capital One Auto Finance for a 2019 Hyundai Sonata Sedan was filed on February 22, 2024. Doc. #16.

The court is not approving or denying approval of the reaffirmation agreement. Debtors were represented by counsel when entering into the agreement. The form of the reaffirmation agreement complies with 11 U.S.C. § 524(c) and (k), and it was signed by the Debtors' attorney with the appropriate attestations. *Id.* Pursuant to § 524(d), the court need not approve the agreement.

1:30 PM

1. [22-10005](#)-B-7 IN RE: PATRICIA TESSENDRE
[ADJ-6](#)

MOTION TO SELL
2-27-2024 [[133](#)]

IRMA EDMONDS/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.
ANTHONY JOHNSTON/ATTY. FOR MV.

After posting the original pre-hearing dispositions, the court has modified its intended ruling on this matter.

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

DISPOSITION: Withdrawn.

No order is required.

On March 25, 2024, Irma Edmonds ("Trustee") withdrew the instant *Motion to Sell*. Accordingly, this motion is WITHDRAWN.

2. [23-12813](#)-B-7 **IN RE: GURJOT SINGH**
[GAL-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
2-26-2024 [16]

TRANSPORTATION ALLIANCE BANK,
INC./MV
JERRY LOWE/ATTY. FOR DBT.
GARRY MASTERSON/ATTY. FOR MV.

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

DISPOSITION: Denied as moot

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

Transportation Alliance Bank, Inc. ("Movant") seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to a 2019 Great Dane Reefer Trailer (Vin. #1GRAA0825KW135412) ("Vehicle"). Doc. #16. Movant also requests waiver of the 14-day stay of Fed. R. Bankr. P. 4001(a)(3). *Id.*

No party in interest timely filed written opposition. This motion will be DENIED AS MOOT.

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 U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Systems, Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The Debtor is Gurjot Singh ("Debtor"), who is the both the owner of Virk Freight Express, Inc. ("VFE") and a guarantor of VFE's contract with Movant to purchase the Vehicle. Debtor's bankruptcy filings indicated the following: (1) the Vehicle is not listed as one of Debtor's assets on Schedule A/B, (2) the Vehicle is not listed as exempt on Schedule C, (3) Movant is not listed as a secured creditor on Schedule D but is listed as a nonpriority unsecured creditor on Schedule E/F arising from a "Trailer loan deficiency balance," (4) the Vehicle is not listed on Debtor's Statement of Intentions, and (5) Movant was listed in Debtor's Statement of Financial Affairs as plaintiff in a civil action against Debtor in the Fresno County

Superior Court which was listed as "Pending" at the time of filing. See generally Doc. #1.

On February 20, 2024, the Chapter 7 Trustee filed a *Report of No Distribution*. Doc. #14. On March 20, 2024, Debtor was granted his discharge. Doc. #28.

The Trustee was served and did not respond. Both the motion and supporting declaration acknowledge this Vehicle is not owned by the Debtor here, but rather by the company, VFE. So, the vehicle is not property of the estate. The Trustee did not have an interest in the Vehicle. Both the motion and declaration also state that the motion only seeks relief as to the "Debtor's possessory interest." The Debtor's discharge terminated the stay by operation of law as to any possessory interest of the Debtor(See below).

Based on the foregoing, the court concludes that the Vehicle is not and has never been property of the estate. Furthermore, if Debtor has an interest, possessory or otherwise, the granting of a discharge to Debtor would end the automatic stay anyway. 11 U.S.C. § 362(c)(2)(C); See also *In re Alexandrou*, Nos. 05-38156-C-7, APN-1, 2006 Bankr. LEXIS 2292, at *2 (Bankr. E.D. Cal. Sep. 6, 2006) ("The automatic stay of acts against the debtor in persona and of acts against property other than property of the estate will terminate when an individual in a case under chapter 7 is granted a discharge.")

Accordingly, this motion will be DENIED AS MOOT. Movant may submit an order denying the motion and confirming that the automatic stay has already terminated as to the Debtor on the grounds set forth above. No other relief is granted.

3. [19-10016](#)-B-7 **IN RE: QUALITY FRESH FARMS, INC.**

CONTINUED HEARING RE: MOTION FOR PAYMENT OF UNCLAIMED FUNDS
IN THE AMOUNT OF \$ 11081.15
2-1-2024 [[181](#)]

RILEY WALTER/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The movant will prepare the order.

Anisha Blodgett d/b/a Second Wind Fund Recovery ("Movant") has filed the instant *Motion for Payment of Unclaimed Funds* and seeks to recoup the sum of \$11,081.15 from the unclaimed dividends paid into the court in the underlying Chapter 7 proceeding. Doc. #181. On October 10, 2023, the Chapter 7 Trustee submitted a *Notice to the Clerk of Small Dividends and Unclaimed Dividends*, along with a check in the amount of \$14,636.61. Doc. #178. That *Notice* contained a list of the names and addresses of the parties who were entitled to those funds, including Heraz Consulting d/b/a Five Star Packing, 437 W. 5th Street, Holt Ville, CA 92250 ("Five Star"), which was purportedly entitled to the

sum of \$11,081.15 ("the Funds"). This was the purported dividend on Five Star's claim.

On February 1, 2024, Movant filed the instant application asserting entitlement to the Funds on the grounds of "transfer, assignment, purchase, merger, acquisition, or succession by other means" of Five Star's claim to the Funds. Doc. #181, pg. 1. This assertion is supported by documents accompanying the motion, including an "Assignment and Limited Power of Attorney Agreement" entered into on January 26, 2024, between Movant and Gabriel A. Heraz, the CEO (among other positions) for Five Star, *Id.* at pp. 11-12, and "Statement of Authority" executed by Heraz asserting the authority to represent on behalf of Five Star its entitlement to the Funds. *Id.* at pg. 14.

The motion was filed on February 1, 2024, and, consistent with its internal procedures, the Clerk's Office generated a *Notice of Hearing on Application for Payment of Unclaimed Funds* on February 13, 2024. Doc. #182. The matter was originally set for March 6, 2024, but subsequently continued to March 26, 2024, after an *ex parte* request for continuance by Movant. Docs. #181, 188.

Although this matter was set on 28 days' notice, the certificate of service was one generated by the clerk's office which contains none of the language pertaining to the requirement of a written response when a matter is set for hearing under LBR 9014-1(f)(1). In light of the Movant's *pro se* status and her reliance on court-generated documents in her filing, the court is inclined to overlook any procedural defects. The moving papers include a court-generated certificate of service which indicates that Movant properly served the U.S. Attorney's Office as required by 11 U.S.C. § 2042. Accordingly, this matter will proceed as scheduled, and any opposition may be presented at the hearing. In the absence of any such opposition, this motion will be GRANTED.

4. [22-10816](#)-B-7 **IN RE: ROBERTO RENTERIA AND ERIKA ARTEAGA**
[FAT-1](#)

MOTION TO APPROVE LOAN MODIFICATION
2-27-2024 [\[37\]](#)

ERIKA ARTEAGA/MV
FLOR DE MARIA TATAJE/ATTY. FOR DBT.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue the order.

Erika Alicia Arteaga ("Debtor") moves the court for approval of a loan modification for the deed of trust encumbering her residence at 2089 Valor Court, Atwater, California 95301 ("the Property") in favor of Summit Funding, Inc. ("Summit"). Doc. #37. Debtor and the mortgage servicer, PHH Mortgage Corporation ("PHH"), have agreed to a modification of the Deed of Trust as follows:

1. The new maturity date is November 1, 2063.
2. The Principal Balance will increase from \$212,193.97 to \$217,575.65. The increase in the unpaid balance is attributable to unpaid interest and taxes, insurance premiums, and other expenses incurred by the Lender.
3. The interest rate will be 3.5%.

Doc. #40 (*Exhib. B*).

Summit and PHH are both corporations. Service on corporations is governed by Rule 7004(b)(3) and can be accomplished by mailing a copy of the pleadings to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process, and if required by statute, by also mailing a copy to the defendant. Fed. R. Bankr. Pro. 7004(b)(3).

Here, the Certificate of Service which accompanies the motion indicates that Summit was served by First Class mail, but it was not mailed to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. Doc. #41. Furthermore, the address listed for Summit, while the same as listed on Debtor's Schedule D and Creditor Matrix, is not the same address listed on the Deed of Trust which identifies Summit as a California corporation. Doc. #41 (*Exhib. A*). The mailing address listed in the Certificate of Service is for Summit Mortgage, 500 S. Broad St., Ste. 100A, Meriden, CT 06450-6755. *Id.* The court's cursory internet search does not identify that as a corporate address for Summit. Finally, the Certificate of Service does not reflect that PHH was served at all.

Furthermore, the Notice also erroneously states that "[w]ithout further order of this court, the parties and/or counsel may appear (1) live in the Sacramento Courthouse; (2) via video from the Modesto Courthouse; or (3) by CourtCall." Doc. #38. This is incorrect. Unless otherwise ordered, all matters before this court may only be heard: (1) **In Person** at, Courtroom #13(Fresno hearings only), (2) via **ZoomGov Video**, (3) via **ZoomGov Telephone**, and (4) via **CourtCall**. Debtor's statements to the contrary are misleading to parties in interest who may wish to participate.

For the foregoing reasons, the court finds that Debtor has failed to comply with Rule 7004(b)(3) and provide proper service nor has Debtor followed the Local Rules as to content of the notice of hearing. Accordingly, this motion is DENIED without prejudice.

5. [23-12838](#)-B-7 **IN RE: TONY/ELIZABETH GOWER**
[LKW-1](#)

MOTION TO AVOID LIEN OF PREFERRED EMPLOYERS INSURANCE
COMPANY
2-26-2024 [[19](#)]

ELIZABETH GOWER/MV
LEONARD WELSH/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

Tony and Elizabeth Gower ("Debtors") move for an order avoiding a judicial lien pursuant to 11 U.S.C. § 522(f) in favor of Preferred Employers Insurance Company ("Creditor") in the sum of \$5,725.79 and encumbering residential real property located at 2204 Freeman Drive, Pine Mountain Club, California ("Property"). Doc. #19. Debtor complied with Fed. R. Bankr. P. 7004(b)(3) by serving Creditor's registered agent for service of process via first class mail on June 15, 2023. Doc. #24.

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). The failure of any party in interest, including but not limited to the creditors, the chapter 7 trustee, the U.S. Trustee, or any other party in interest, to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). 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 any the above-mentioned parties in interest will be entered, and the matter may 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.

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 Debtors in favor of Creditor in the amount of **\$18,193.13** on April 1, 2022. Doc. #21, *Ex. D*. The abstract of judgment was issued on April 7, 2022, and was recorded in Kern County on April 23, 2023. *Id.* That lien attached to Debtors' interest in Property. *Id.*; Doc. #23. Debtor estimates that the current amount owed on account of this lien is **\$18,193.13**. Doc. #23.

As of the petition date, Property had an approximate value of \$343,800.00. *Id.*; *cf. Sched. A/B*, Doc. #1. Debtors claim an exemption up to 100% of the fair market value, up to any statutory limit pursuant to Cal. Code Civ. Proc. ("CCP") § 704.730. *Sched. C, id.* In the motion, Debtors assign a dollar amount of \$300,000.00, which includes the remaining equity in the home after nonavoidable liens are subtracted from the value. Doc. #19.

Property is encumbered by a first deed of trust in favor of ServiceMac, LLC ("ServiceMac") in the amount of \$202,970.30. *Sched. D, id.* Property is also encumbered by a state tax lien in the amount of \$23,314.15 in favor of the California Department of Tax & Fee Administration ("CDTFA") which was recorded on February 10, 2022, prior to the Creditor's lien. *Id.*

The Property's encumbrances can be illustrated as follows:

Creditor	Amount	Recorded	Status
1. ServiceMac	\$202,970.30		Unavoidable
2. CDTFA	\$23,314.15	02/10/2022	Unavoidable
3. Creditor	\$18,193.13	04/23/2023	Avoidable

The total amount of unavoidable liens is **\$226,284.45**.

When a debtor seeks to avoid multiple liens under § 522(f)(1) and there is equity to which liens can attach, 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.*; § 522(f)(2)(B). Here, however, Debtor only seeks to avoid one lien.

"Under the full avoidance approach, as used in *Brantz*, the only way a lien would be avoided 'in full' was if the debtor's gross equity were equal to or less than the amount of the exemption." *Bank of Am. Nat'l Tr. & Sav. Ass'n v. Hanger (In re Hanger)*, 217 B.R. 592, 596 (B.A.P. 9th Cir. 1997), *aff'd*, 196 F.3d 1292 (9th Cir. 1999), citing *In re Brantz*, 106 B.R. 62, 68 (Bankr. E.D. Pa. 1989) ("Avoidance of all judicial liens results unless (3) [the result of deducting the debtor's allowable exemptions and the sum of all liens not avoided from the value of the property] is a positive figure."), citing *In re Magosin*, 75 B.R. 545, 547 (Bankr. E.D. Pa. 1987) (judicial lien was avoidable in its entirety where equity is less than exemption).

This lien is the most junior lien subject to avoidance and there is not any equity to support the lien. Strict application of the § 522(f)(2) formula with respect to Creditor's junior lien is illustrated as follows:

Amount of judgment lien	\$18,193.13
Total amount of unavoidable liens	+ \$226,284.45
Debtor's claimed exemption in Property	+ 300,000.00
<i>Sum</i>	= \$544,477.58
Debtor's claimed value of interest absent liens	- \$343,800.00
Extent lien impairs exemption	= \$200,677.58

All Points Capital Corp. v. Meyer (In re Meyer), 373 B.R. 84, 91 (B.A.P. 9th Cir. 2007); accord. *Hanger* 217 B.R. at 596, *Higgins v. Household Fin. Corp. (In re Higgins)*, 201 B.R. 965, 967 (B.A.P. 9th Cir. 1996); cf. *Brantz*, 106 B.R. at 68, *Magosin*, 75 B.R. at 549-50, *In re Piersol*, 244 B.R. 309, 311 (Bankr. E.D. Pa. 2000). Since there is no equity for liens to attach and this case does not involve fractional interests or co-owned property with non-debtor third parties, the § 522(f)(2) formula can be re-illustrated using the *Brantz* formula with the same result:

Fair market value of Property	\$343,800.00
Total amount of unavoidable liens	- (\$226,284.45)
Homestead exemption	- (\$300,000.00)
Remaining equity for judicial liens	= (\$182,484.45)
Creditor's judicial lien	- 18,193.13
Extent Debtor's exemption impaired	= (\$200,677.58)

After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is insufficient equity to support any judicial liens. Therefore, the fixing of Creditor's 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). Accordingly, this motion will be GRANTED. The proposed order shall state that Creditor's lien is avoided from the subject Property only and include a copy of the abstract of judgment as an exhibit.

6. [21-12873](#)-B-7 **IN RE: CESAR PENA BARRAZA AND OLGA PENA
LOPEZ
[SL-1](#)**

MOTION TO COMPEL ABANDONMENT
2-16-2024 [53]

OLGA PENA LOPEZ/MV
SCOTT LYONS/ATTY. FOR DBT.

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

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in
conformity with this ruling.

Cesar Omar Pena Barraza and Olga Dolores Pena Lopez ("Debtors") move for an order compelling chapter 7 trustee Irma C. Edmonds ("Trustee") to abandon the estate's interest in residential property owned by the co-debtors and located at 924 East K Street, Visalia, California, 93292 (the "Property"). Doc. #53.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). Thus, pursuant to LBR 9014-1(f)(1)(B), the failure of any party in interest (including but not limited to creditors, the debtor, the U.S. Trustee, or any other properly-served party in interest) to file written opposition at least 14 days prior to the hearing may be deemed a waiver of any such opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). When there is no opposition to a motion, the defaults of all parties in interest who failed to timely respond will be entered, and, in the absence of any opposition, the movant's 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). Because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary when an unopposed movant has made a prima facie case for the requested relief. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006).

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

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

To grant a motion to abandon property, the bankruptcy court must find either that: (1) the property is burdensome to the estate or (2) of inconsequential value and inconsequential benefit to the estate. *In re Vu*, 245 B.R. 644, 647 (B.A.P. 9th Cir. 2000). As one court noted, "an order compelling abandonment is the exception, not the rule. Abandonment should only be compelled in order to help the creditors by assuring some benefit in the administration of each asset . . .

Absent an attempt by the trustee to churn property worthless to the estate just to increase fees, abandonment should rarely be ordered." *In re K.C. Mach. & Tool Co.*, 816 F.2d 238, 246 (6th Cir. 1987). In evaluating a proposal to abandon property, it is the interests of the estate and the creditors that have primary consideration, not the interests of the debtor. *In re Johnson*, 49 F.3d 538, 541 (9th Cir. 1995) (noting that the debtor is not mentioned in § 554). *In re Galloway*, No. AZ-13-1085-PaKiTa, 2014 Bankr. LEXIS 3626, at *16-17 (B.A.P. 9th Cir. 2014).

Here, the Debtors, who were previously married, owned the Property as husband and wife. The Debtors declare that the Property has a value of \$328,373.00, that it is subject to a \$156,880.00 mortgage held by Specialized Loan Servicing, and that Debtors have exempted the Property up to \$300,000.00. Doc. #55. Consequently, there is no non-exempt equity in the Property, and it is thus of inconsequential value to the estate. *Id.* Debtors are now divorced and wish to sell their former marital home and divide the exempt equity pursuant to their divorce decree. *Id.*

The Declaration is supported by the Debtors' Schedules A/B, C, and D which reflect the following information about the Property:

Asset (Sch A/B)	Value (Sch A/B)	Exempt (Sch C)	Lien (Sch D)	Net
924 East K Street, Visalia, CA	\$328,373.00	\$300,00.00	\$156,880.00	(\$128,507.00)

While Debtors indicate that they expect the Trustee to file a non-opposition to this motion, no such non-opposition has been filed with the court. Nevertheless, neither the Trustee nor any other party has timely filed written opposition. Accordingly, this motion will be GRANTED. The order shall specifically include the property to be abandoned.

7. [23-12477](#)-B-7 **IN RE: CHRISTINE COREA**
[JES-1](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
2-14-2024 [\[15\]](#)

JAMES SALVEN/MV
ADELE SCHNEIDEREIT/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Overruled as moot.

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

On February 14, 2024, the Chapter 7 Trustee entered an *Objection to Debtor's Claim of Exemptions*. Doc. #15. Subsequently, Christine Corea

("Debtor") filed an *Amended Schedule C* which significantly reduced the value of the claimed exemption in Debtor's residential property, as well as a *Response* to the Trustee's Objection outlining the basis for her amended exemption claim. Docs. ##21, 23.

On March 21, 2024, the Trustee submitted a *Reply* acknowledging the Amended Schedule C but reiterating his objection. The Trustee's position is that the proper standard for determining the value of an exemption for a residential home under C.C.P. § 704.730 looks to the median home price for home sales in the relevant county during the relevant calendar year (in this case, Madera County in 2022). Trustee argues that Debtor erroneously looked to only one month in 2022 to arrive at her figure of \$430,000.00, and if the median home price for the entire calendar year is used, the proper valuation is \$416,000.00. Trustee requests entry of an order establishing Debtor's exemption of the subject property in that amount or, in the alternative, an evidentiary hearing to determine the correct amount of the exemption.

While the Trustee's reasoning is sound, the court also notes that from a procedural standpoint, the filing of an *Amended Schedule C* should resolve the instant Objection, with the Trustee filing a new *Objection to Claimed Exemptions* which focuses on the amendment. Accordingly, the court's inclination is to DENY WITHOUT PREJUDICE AS MOOT.

Nevertheless, this hearing will proceed as scheduled to determine if Debtor is willing to reduce her claimed exemption in accordance with Trustee's calculations or whether this matter should be continued for a future evidentiary hearing.

8. [24-10386](#)-B-7 **IN RE: STEVEN/LAURA GONZALES**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
3-6-2024 [[12](#)]

GRISELDA TORRES/ATTY. FOR DBT.
\$338.00 FILING FEE PAID 3/7/24

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

DISPOSITION: The OSC will be vacated.

ORDER: The court will issue an order.

The record shows that the \$338.00 filing fee was paid on March 7, 2024. Accordingly, this order to show cause will be VACATED.

9. [24-10296](#)-B-7 **IN RE: OMAR ARANZAZU**
[SLL-1](#)

MOTION TO COMPEL ABANDONMENT
2-15-2024 [12]

OMAR ARANZAZU/MV
STEPHEN LABIAK/ATTY. FOR DBT.

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

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformity with this order.

Omar Aranzazu ("Debtor") moves for an order compelling the chapter 7 trustee ("Trustee") to abandon the estate's interest in certain business assets ("the Business Assets") of MONAT, a retail independent contractor which was the sole proprietorship of Debtor and Debtor's non-filing spouse. Docs. ##12, 14. The Business Assets include the following:

Description	Value	Exemption
Goodwill	\$0.00	\$0.00
Checking Acct: Wells Fargo #0232	\$500.00	\$500.00 CCP 704.220
Account: EECU	\$500.00	\$500.00 CCP 704.220
Kings Federal Credit Union #5007	\$1.00	\$1.00 CCP 704.220
Capital One Quicksilver Card	\$100.00	\$100.00 CCP 704.220
Product Samples	\$4,949.00	\$4,949.00 CCP 704.060

Doc. #14. See also Doc. #1 (Sched. A/B, C). All the Business Assets are subject to exemption under C.C.P. § 704.220 except for the Product Samples, which are exempted under C.C.P. § 704.060. Doc. #1 (Sched. C). None of the Business Assets are encumbered or subject to lien. See Doc. #1 (Sched. D). "Product Samples" refers to a list attached both to Schedule A/B (at Line #41) and to the instant motion and which details an extensive number of product samples which independently are of nominal value, but which have an aggregate value of \$4,949.00. Docs. ##1,14.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). Thus, pursuant to LBR 9014-1(f)(1)(B), the failure of any party in interest (including but not limited to creditors, the debtor, the U.S. Trustee, or any other properly-served party in interest) to file written opposition at least 14 days prior to the hearing may be deemed a waiver of any such opposition to the granting of the motion. Cf. *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). When there is no opposition to a motion, the defaults of all parties in interest who failed to timely respond will be entered, and, in the absence of any opposition, the movant's 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). Because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary

when an unopposed movant has made a prima facie case for the requested relief. See *Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006).

No party in interest has responded, and the defaults of all parties in interest are entered.

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

To grant a motion to abandon property, the bankruptcy court must find either that: (1) the property is burdensome to the estate or (2) of inconsequential value and inconsequential benefit to the estate. *In re Vu*, 245 B.R. 644, 647 (B.A.P. 9th Cir. 2000). As one court noted, "an order compelling abandonment is the exception, not the rule. Abandonment should only be compelled in order to help the creditors by assuring some benefit in the administration of each asset . . . Absent an attempt by the trustee to churn property worthless to the estate just to increase fees, abandonment should rarely be ordered." *In re K.C. Mach. & Tool Co.*, 816 F.2d 238, 246 (6th Cir. 1987). In evaluating a proposal to abandon property, it is the interests of the estate and the creditors that have primary consideration, not the interests of the debtor. *In re Johnson*, 49 F.3d 538, 541 (9th Cir. 1995) (noting that the debtor is not mentioned in § 554). *In re Galloway*, No. AZ-13-1085-PaKiTa, 2014 Bankr. LEXIS 3626, at *16-17 (B.A.P. 9th Cir. 2014).

Debtor certifies that Debtor was qualified and eligible to claim the exemptions under applicable law and understands that if for any reason it is determined that Debtor is not qualified to claim an exemption in the property listed, or if there is some other error in the exemption claimed, Trustee may demand that Debtor compensate the estate for any damage caused by the claimed exemption. Debtor agrees to not amend the exemptions affecting the Business Assets unless Trustee stipulated to that amendment or such relief is granted by further order of the court. *Id.*

No party in interest opposed this motion. This motion will be GRANTED. The order shall specifically include the property to be abandoned.