

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

April 23, 2018 at 10:00 a.m.

No written opposition has been filed to the following motions set for argument on this calendar: 14, 15, 18.

When Judge McManus convenes court, he will ask whether anyone wishes to oppose one of these motions or objects to the tentative ruling. If you wish to oppose the motion or otherwise be heard, please so advise Judge McManus. Please do not identify yourself or explain the nature of your opposition. If anyone wishes to be heard, the motion will remain on calendar and Judge McManus will hear from you when he calls the motion for argument.

If no one indicates they oppose the motion or object to the proposed ruling, that ruling will become the final ruling. The motion will not be called for argument and the parties are free to leave (unless they have other matters on the calendar).

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

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

IF A MOTION OR AN OBJECTION IS SET FOR HEARING BY A PARTY PURSUANT TO LOCAL BANKRUPTCY RULE 3007-1(c)(2) OR LOCAL BANKRUPTCY RULE 9014-1(f)(2), RESPONDENTS WERE NOT REQUIRED TO FILE WRITTEN OPPOSITION TO THE RELIEF REQUESTED. RESPONDENTS MAY APPEAR AT THE HEARING AND RAISE OPPOSITION ORALLY. IF THAT OPPOSITION RAISES A POTENTIALLY MERITORIOUS DEFENSE OR ISSUE, THE COURT WILL GIVE THE RESPONDENT AN OPPORTUNITY TO FILE WRITTEN OPPOSITION AND SET A FINAL HEARING UNLESS THERE IS NO NEED TO DEVELOP THE WRITTEN RECORD FURTHER.

IF THE COURT SETS A FINAL HEARING, UNLESS THE PARTIES REQUEST A DIFFERENT SCHEDULE THAT IS APPROVED BY THE COURT, THE FINAL HEARING WILL TAKE PLACE ON MAY 22, 2018 AT 10:00 A.M. OPPOSITION MUST BE FILED AND SERVED BY MAY 8, 2018, AND ANY REPLY MUST BE FILED AND SERVED BY MAY 15, 2018. THE MOVING/OBJECTING PARTY IS TO GIVE NOTICE OF THESE DATES.

April 23, 2018 at 10:00 a.m.

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

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

MATTERS FOR ARGUMENT

1.	17-26202-A-7 WILLIAM/FRAYBA TIPTON	MOTION TO
	PSB-01	AVOID JUDICIAL LIEN
	VS. BMW BANK OF NORTH AMERICA	12-12-17 [21]

Tentative Ruling: The motion will be denied without prejudice.

The hearing on this motion was continued from March 26.

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

BMW Bank of North America opposes the motion, contesting the evidence in support of the motion concerning the value of the property and the amount owed on a single mortgage against the property held by Nationstar. BMW also complains that the debtor did not comply with the court's January 16 order requiring service of the December 1, 2017 Schedule C on all creditors by January 22 and filing of the certificate of service by January 25. Docket 117.

Exemptions are determined as of the date the bankruptcy petition is filed. Cisneros v. Kim (In re Kim), 257 B.R. 680, 685-87 (B.A.P. 9th Cir. 2000) (citing White v. Stump, 266 U.S. 310, 313 (1924) ("When the law speaks of property which is exempt and of rights to exemptions, it, of course, refers to some point of time. In our opinion this point of time is the one as of which the general estate passes out of the bankrupt's control, and with respect to which the status and rights of the bankrupt, the creditors, and the trustee in other particulars are fixed"); D.A.N. Joint Venture III, L.P. v. Richey (In re Richey), Case No. 10-1306, 2011 WL 4485900 at *10 (B.A.P. 9th Cir., Aug. 8, 2011); In re Kolsch, 58 B.R. 67, 68 (Bankr. D. Nev. 1986).

First, there is admissible evidence of the amount owed to Nationstar as of the petition date. The record contains the August 2017 mortgage statement from Nationstar. Docket 111. It is authenticated. Docket 110. The approximate balance as of the petition date was \$869,174. Docket 111.

Second, the debtor's failure to timely serve and file the certificate of service for the Amended Schedule C did not in any way prejudice or affect BMW. BMW has been aware of the Amended Schedule C and has chosen not to contest the debtor's amended exemption.

More, the debtor may amend schedules at any time and, even if the court were to deny or dismiss this motion for this reason, it would be without prejudice. Fed. R. Bankr. P. 1009(a). In other words, the merits of this motion would be back before the court.

Third, BMW's references to the debtor's criminal convictions for untruthful statements in other contexts is unhelpful and does not convince the court that the debtor is lying about the value of the property. Without contrary admissible evidence concerning the value of the property, the debtor's opinion is persuasive enough.

The reference to a criminal conviction is in a complaint filed by Nationwide Insurance against the debtor. See Adv. Pro. No. 17-2235. BMW has attached the

complaint to its papers, as if it is admissible evidence of the allegations against the debtor. Dockets 97 & 98. The court will not rely on what a complaint says about the debtor, much less a complaint that has not been adjudicated. The court notes that the complaint in question was filed on December 11, 2017. Adv. Pro. No. 17-2235, Docket 1. The court just approved the parties' discovery plan. Adv. Pro. No. 17-2235, Docket 16. No determinations have been made by the court concerning the validity of the allegations in this complaint. Adv. Pro. No. 17-2235, Dockets 1-17.

Nevertheless, the motion will be denied. The court is not persuaded by the debtor's evidence of value. The debtor, as the owner of the property, is qualified to render an opinion of value. As a lay witness, the debtor's opinion of value for the property can be based solely on the fact that she owns the property. Enewally v. Washington Mutual Bank (In re Enewally), 368 F.3d 1165, 1173 (9th Cir. 2004).

However, while the debtor's declaration filed on December 12, 2017 (Docket 24) states that she owns and occupies the property and that the value of the property, as of the petition date, was \$750,000, this is not what the debtor stated in her schedules. In Schedule D, the debtor valued the subject property at \$1,090,000. Docket 25, Schedule D. In short, given the prior inconsistent statement in Schedule D, the court does not find the debtor's opinion of value in connection with this motion convincing.

The court is not relying on anything BMW has submitted. The evidence submitted by BMW to refute the debtor's valuation is inadmissible and inadequate. The references to what zillow.com and realtor.com say about the property are inadmissible hearsay. Fed. R. Evid. 802. The court has no idea how those websites generate property valuations. See Fed. R. Evid. 702(b)-(d) and 703. Nor has BMW submitted an appraisal by a qualified appraiser of the property's value. There is no admissible evidence from BMW on valuation.

Given the multiple continuances of this motion and the debtor's inability to present admissible, probative and sufficient evidence in support of this motion, the motion will be denied. The court will not entertain another continuance and another briefing schedule.

2.	17-26202-A-7 WILLIAM/FRAYBA TIPTON PSB-02 VS. SAN JOAQUIN TREASURER & TAX COLLECTOR	MOTION TO AVOID JUDICIAL LIEN 12-12-17 [26]
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Tentative Ruling: The motion will be denied without prejudice.

The hearing on this motion was continued from March 26.

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

The motion will be denied for the reasons stated in the court's ruling on a related lien avoidance motion, DCN PSB-01.

3. 17-26202-A-7 WILLIAM/FRAYBA TIPTON MOTION TO
PSB-03 AVOID JUDICIAL LIEN
VS. FORD MOTOR CREDIT COMPANY, L.L.C. 12-12-17 [31]

Tentative Ruling: The motion will be denied without prejudice.

The hearing on this motion was continued from March 26.

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

The motion will be denied for the reasons stated in the court's ruling on the related lien avoidance motion, DCN PSB-01.

4. 17-26202-A-7 WILLIAM/FRAYBA TIPTON MOTION TO
PSB-04 AVOID JUDICIAL LIEN
VS. FORD MOTOR CREDIT COMPANY 12-12-17 [36]

Tentative Ruling: The motion will be denied without prejudice.

The hearing on this motion was continued from March 26.

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

The motion will be denied for the reasons stated in the court's ruling on the related lien avoidance motion, DCN PSB-01.

5. 17-26202-A-7 WILLIAM/FRAYBA TIPTON MOTION TO
PSB-05 AVOID JUDICIAL LIEN
VS. PORTFOLIO RECOVERY ASSOCIATES, L.L.C. 12-12-17 [41]

Tentative Ruling: The motion will be denied without prejudice.

The hearing on this motion was continued from March 26.

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

The motion will be denied for the reasons stated in the court's ruling on the related lien avoidance motion, DCN PSB-01.

6. 17-26202-A-7 WILLIAM/FRAYBA TIPTON MOTION TO
PSB-06 AVOID JUDICIAL LIEN
VS. TRACY FEDERAL CREDIT UNION 12-12-17 [46]

Tentative Ruling: The motion will be denied without prejudice.

The hearing on this motion was continued from March 26.

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

The motion will be denied for the reasons stated in the court's ruling on the related lien avoidance motion, DCN PSB-01.

7. 17-26202-A-7 WILLIAM/FRAYBA TIPTON MOTION TO
PSB-07 AVOID JUDICIAL LIEN
VS. BMW BANK OF NORTH AMERICA 12-12-17 [51]

Tentative Ruling: The motion will be granted.

The hearing on this motion was continued from March 26, 2018.

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

The debtor is asking for avoidance of the lien under 11 U.S.C. § 522(f)(1).

BMW Bank of North America opposes the motion, contesting the evidence in support of the motion concerning the value of the property and the amount owed on the single mortgage against the property held by Nationstar. BMW also complains that the debtor did not comply with the court's January 16 order requiring service of the December 1, 2017 Schedule C on all creditors by January 22 and filing of the certificate of service by January 25. Docket 117.

Exemptions are determined as of the date the bankruptcy petition is filed. Cisneros v. Kim (In re Kim), 257 B.R. 680, 685-87 (B.A.P. 9th Cir. 2000) (citing White v. Stump, 266 U.S. 310, 313 (1924) ("When the law speaks of property which is exempt and of rights to exemptions, it, of course, refers to some point of time. In our opinion this point of time is the one as of which the general estate passes out of the bankrupt's control, and with respect to which the status and rights of the bankrupt, the creditors, and the trustee in other particulars are fixed"); D.A.N. Joint Venture III, L.P. v. Richey (In re Richey), Case No. 10-1306, 2011 WL 4485900 at *10 (B.A.P. 9th Cir., Aug. 8, 2011); In re Kolsch, 58 B.R. 67, 68 (Bankr. D. Nev. 1986)).

First, the debtor's evidence of value is sufficient. The debtor, as the owner of the property, is qualified opine as to its value. As a lay witness, the debtor's opinion of value for the property can be based solely on the fact that she owns the property. Enewally v. Washington Mutual Bank (In re Enewally), 368 F.3d 1165, 1173 (9th Cir. 2004). The declaration filed on December 12,

2017 states that she owns and occupies the property and that the value of the property, as of the petition date, was \$340,000. Docket 54.

On the other hand, the evidence submitted by BMW to refute this value is inadmissible and insufficient. The references to what zillow.com and realtor.com say about the property are inadmissible hearsay. Fed. R. Evid. 802. Nor does the court know how those websites generate property valuations. See Fed. R. Evid. 702(b)-(d) and 703. Nor has BMW submitted an appraisal by a qualified appraiser of the property's value. In short, there has been no admissible evidence from BMW to refute the debtor's evidence of value.

Second, the court has admissible evidence of the amounts owed to Wells Fargo Home Mortgage and Citimortgage. The court is satisfied with the evidence. The debtor's statements in her declaration about these amounts – \$250,298.31 owed to Wells Fargo Home Mortgage and \$100,000 owed to Citimortgage – are admissible and adequate evidence. Docket 54.

Third, the debtor's failure to timely serve and file the certificate of service for the Amended Schedule C did not in any way prejudice or affect BMW. BMW has been aware of the Amended Schedule C and has chosen not to contest the debtor's amended exemption.

Moreover, the debtor may amend schedules at any time and, even if the court were to deny or dismiss this motion for this reason, it would be without prejudice. Fed. R. Bankr. P. 1009(a). In other words, the merits of this motion would be back before the court.

Fourth, BMW's references to the debtor's criminal convictions for untruthful statements in other contexts is unhelpful to convince the court that the debtor is lying here about the value of the property. Without its own appraisal of the property, submitted as admissible evidence, BMW is unconvincing.

The reference to a criminal conviction is in a complaint filed by Nationwide Insurance against the debtor. See Adv. Pro. No. 17-2235. BMW has attached the complaint to its papers, as if it is admissible evidence of the allegations against the debtor. Dockets 97 & 98. The court will not rely on what a complaint says about the debtor, much less a complaint that has not been adjudicated. The court notes that the complaint in question was filed on December 11, 2017. Adv. Pro. No. 17-2235, Docket 1. The court just approved the parties' discovery plan. Adv. Pro. No. 17-2235, Docket 16. No determinations have been made by the court concerning the validity of the allegations in this complaint. Adv. Pro. No. 17-2235, Dockets 1-17.

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of \$340,000 as of the petition date. Dockets 1, 54, 55. The unavoidable liens totaled \$350,298.31 on that same date, consisting of a mortgage for \$250,298.31 in favor of Wells Fargo Home Mortgage and a mortgage for \$100,000 in favor of Citimortgage. Dockets 1, 54, 55. The debtor claimed an exemption pursuant to Cal. Civ. Pro. Code § 703.140(b)(5) in the amount of \$1.00 in Amended Schedule C filed on December 1, 2017. Dockets 18, 54, 55.

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

fixing will be avoided subject to 11 U.S.C. § 349(b) (1) (B) .

8. 17-26202-A-7 WILLIAM/FRAYBA TIPTON MOTION TO
PSB-08 AVOID JUDICIAL LIEN
VS. SAN JOAQUIN TREASURER & TAX COLLECTOR 12-12-17 [56]

Tentative Ruling: The motion will be granted.

The hearing on this motion was continued from March 26.

A judgment was entered against the debtors in favor of County of San Joaquin for the sum of \$4,904.32 on March 16, 2015. The abstract of judgment was recorded with San Joaquin County on May 29, 2015. That lien attached to the debtors' interest in a residential real property in Tracy, California (Almanor Dr.).

The motion will be granted pursuant to 11 U.S.C. § 522(f) (1) (A). The subject real property had an approximate value of \$340,000 as of the petition date. Dockets 1, 59, 60. The unavoidable liens totaled \$350,298.31 on that same date, consisting of a mortgage for \$250,298.31 in favor of Wells Fargo Home Mortgage and a mortgage for \$100,000 in favor of Citimortgage. Dockets 1, 59, 60. The debtor claimed an exemption pursuant to Cal. Civ. Pro. Code § 703.140(b) (5) in the amount of \$1.00 in Amended Schedule C filed on December 1, 2017. Dockets 18, 59, 60.

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

9. 17-26202-A-7 WILLIAM/FRAYBA TIPTON MOTION TO
PSB-09 AVOID JUDICIAL LIEN
VS. FORD MOTOR CREDIT COMPANY 12-12-17 [61]

Tentative Ruling: The motion will be granted.

The hearing on this motion was continued from March 26.

A judgment was entered against the debtor Frayba Tipton in favor of Ford Motor Credit Company for the sum of \$63,458.86 on December 16, 2011. The abstract of judgment was recorded with San Joaquin County on April 30, 2015. That lien attached to the debtor's interest in a residential real property in Tracy, California (Almanor Dr.).

The motion will be granted pursuant to 11 U.S.C. § 522(f) (1) (A). The subject real property had an approximate value of \$340,000 as of the petition date. Dockets 1, 64, 65. The unavoidable liens totaled \$350,298.31 on that same date, consisting of a mortgage for \$250,298.31 in favor of Wells Fargo Home Mortgage and a mortgage for \$100,000 in favor of Citimortgage. Dockets 1, 64, 65. The debtor claimed an exemption pursuant to Cal. Civ. Pro. Code § 703.140(b) (5) in the amount of \$1.00 in Amended Schedule C filed on December 1, 2017. Dockets 18, 64, 65.

The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the subject real property. After

application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtor's exemption of the real property and its fixing will be avoided subject to 11 U.S.C. § 349(b)(1)(B).

10. 17-26202-A-7 WILLIAM/FRAYBA TIPTON MOTION TO
PSB-10 AVOID JUDICIAL LIEN
VS. FORD MOTOR CREDIT COMPANY, L.L.C. 12-12-17 [66]

Tentative Ruling: The motion will be granted.

The hearing on this motion was continued from March 26.

A judgment was entered against the debtors in favor of Ford Motor Credit Company for the sum of \$89,931.07 on August 20, 2010. The abstract of judgment was recorded with San Joaquin County on October 13, 2010. That lien attached to the debtors' interest in a residential real property in Tracy, California (Almanor Dr.).

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of \$340,000 as of the petition date. Dockets 1, 69, 70. The unavoidable liens totaled \$350,298.31 on that same date, consisting of a mortgage for \$250,298.31 in favor of Wells Fargo Home Mortgage and a mortgage for \$100,000 in favor of Citimortgage. Dockets 1, 69, 70. The debtor claimed an exemption pursuant to Cal. Civ. Pro. Code § 703.140(b)(5) in the amount of \$1.00 in Amended Schedule C filed on December 1, 2017. Dockets 18, 69, 70.

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

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

Tentative Ruling: The motion will be granted.

The hearing on this motion was continued from March 26.

A judgment was entered against the debtor Frayba Tipton in favor of Portfolio Recovery Associates, L.L.C. for the sum of \$16,363.57 on September 14, 2011. The abstract of judgment was recorded with San Joaquin County on October 24, 2011. That lien attached to the debtor's interest in a residential real property in Tracy, California (Almanor Dr.).

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of \$340,000 as of the petition date. Dockets 1, 74, 75. The unavoidable liens totaled \$350,298.31 on that same date, consisting of a mortgage for \$250,298.31 in favor of Wells Fargo Home Mortgage and a mortgage for \$100,000 in favor of Citimortgage. Dockets 1, 74, 75. The debtor claimed an exemption pursuant to Cal. Civ. Pro. Code § 703.140(b)(5) in the amount of \$1.00 in Amended Schedule C filed on December 1, 2017. Dockets 18, 74, 75.

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

12. 17-26202-A-7 WILLIAM/FRAYBA TIPTON MOTION TO
PSB-12 AVOID JUDICIAL LIEN
VS. TRACY FEDERAL CREDIT UNION 12-12-17 [76]

Tentative Ruling: The motion will be granted.

The hearing on this motion was continued from March 26.

A judgment was entered against the debtor William Tipton in favor of Tracy Federal Credit Union for the sum of \$22,853.79 on March 4, 2008. The abstract of judgment was recorded with San Joaquin County on August 18, 2008. That lien attached to the debtor's interest in a residential real property in Tracy, California (Almanor Dr.).

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of \$340,000 as of the petition date. Dockets 1, 79, 80. The unavoidable liens totaled \$350,298.31 on that same date, consisting of a mortgage for \$250,298.31 in favor of Wells Fargo Home Mortgage and a mortgage for \$100,000 in favor of Citimortgage. Dockets 1, 79, 80. The debtor claimed an exemption pursuant to Cal. Civ. Pro. Code § 703.140(b)(5) in the amount of \$1.00 in Amended Schedule C filed on December 1, 2017. Dockets 18, 79, 80.

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

13. 17-22310-A-7 CAROLINE HEGARTY MOTION TO
SNM-4 APPROVE WITHDRAWAL OR TO DENY
DEBTOR'S WAIVER OF DISCHARGE
3-12-18 [135]

Tentative Ruling: The motion will be denied.

The debtor asks that she be permitted to withdraw her November 3, 2017 waiver of discharge.

On November 3, 2017, the debtor filed a document titled "debtor's waiver of discharge" purporting to waive her discharge under 11 U.S.C. § 727(a)(10), which provides that "[t]he court shall grant the debtor a discharge, unless — the court approves a written waiver of discharge executed by the debtor after the order for relief under this chapter."

The court did not approve this waiver of discharge. While the debtor filed a motion for the court to approve the waiver December 1, 2017 (Docket 118, 120, 126), the court dismissed that motion without prejudice on January 17, 2018. Dockets 128 and 129. The debtor did not refile or reset that motion for

hearing. Because the court never approved the waiver, it is ineffectual and there is no need to consider the debtor's request to withdraw or revoke the waiver.

14. 11-48614-A-7 VICTOR/ANA PERDOMO MOTION TO
SLE-1 AVOID JUDICIAL LIEN
VS. BENEFICIAL FINANCIAL I, INC. 4-2-18 [32]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the debtor, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the respondent creditor and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted.

A judgment was entered against the debtor in favor of Beneficial Financial I Inc. for the sum of \$13,451.72 on July 12, 2011. The abstract of judgment was recorded with Solano County on September 15, 2011. That lien attached to the debtor's interest in a residential real property in Suisin City, California.

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of \$195,000 as of the petition date. Docket 1. The unavoidable liens totaled \$319,000 on that same date, consisting of a single mortgage in favor of Bank of America. Docket 1. The debtor claimed an exemption pursuant to Cal. Civ. Pro. Code § 703.140 in the amount of \$1 in Schedule C. Docket 1.

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

15. 18-21416-A-7 GORDON/DEBBIE BACH MOTION FOR
CJO-1 RELIEF FROM AUTOMATIC STAY
BANK OF AMERICA, N.A. VS. 4-6-18 [13]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the creditor, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the other creditors, the debtor, the trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted.

The movant, Bank of America, N.A., seeks relief from the automatic stay as to real property in Redding, California. The property has a value of \$150,000 and it is encumbered solely by a claim totaling approximately \$166,110.57 secured by movant's deed.

The court concludes that there is no equity in the property and there is no evidence that it is necessary to a reorganization or that the trustee can administer it for the benefit of creditors. The court also notes that the trustee filed a statement of nonopposition on April 7, 2018.

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

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

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

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

16.	17-22622-A-7 FRED HIBDON DMW-5	MOTION TO SELL 3-26-18 [45]
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Tentative Ruling: The motion will be granted.

The chapter 7 trustee requests authority to sell "as is," "where is," without representations or warranties, subject to all encumbrances, for \$15,600 the estate's interest in a manufactured home located in Chico, California to Jeanne M. Call. The trustee also asks for waiver of the 14-day period of Fed. R. Bankr. P. 6004(h) and also seeks specific authorization to pay the court approved realtor's commission of \$3,000.00 through escrow.

The trustee is unaware that there are any lienholders on the subject property. Taxes are current on the subject property. After analyzing the condition of the property, the trustee has concluded that the proposed purchase price accurately reflects the value of the estate's interest in the property.

11 U.S.C. § 363(b) allows the trustee to sell property of the estate, other than in the ordinary course of business. The sale will generate some proceeds for distribution to creditors of the estate. Hence, the sale will be approved pursuant to 11 U.S.C. § 363(b), as it is in the best interests of the creditors and the estate. The court will waive the 14-day period of Rule 6004(h).

17. 17-21973-A-7 JOSE/MARIA PIMENTEL
SSA-7

MOTION TO
APPROVE COMPROMISE
3-30-18 [151]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the chapter 7 trustee, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the creditors, the debtor, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion.

The motion will be granted.

The trustee seeks approval of a settlement agreement ("Agreement") between the estate and Amanda Pimental, the debtors' daughter, over her receipt of an unauthorized post-petition transfer of a \$5,000 check from the debtors. The debtors filed a chapter 12 case on March 27, 2017 that was converted to one under chapter 7 on June 14, 2017. The debtors paid their daughter \$5,000 by check on April 3, 2017. After the trustee made an unsuccessful demand for the funds to the transferee on January 24, 2018, the transferee and the trustee entered settlement discussions. Under the Agreement, Amanda Pimentel, will pay \$5,000 to the estate and trustee will release any claims of the estate against Ms. Pimentel.

On a motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Fed. R. Bankr. P. 9019. Approval of a compromise must be based upon considerations of fairness and equity. In re A & C Properties, 784 F.2d 1377, 1381 (9th Cir. 1986). The court must consider and balance four factors: 1) the probability of success in the litigation; 2) the difficulties, if any, to be encountered in the matter of collection; 3) the complexity of the litigation involved; and 4) the paramount interest of the creditors with a proper deference to their reasonable views. In re Woodson, 839 F.2d 610, 620 (9th Cir. 1988).

No party in interest has filed a written opposition.

The court concludes that the Woodson factors balance in favor of approving the compromise. Given that the Agreement allows the estate to recover the full amount of funds transferred, there is no need for litigation, and the court concludes that the settlement is equitable and fair.

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

18. 18-21380-A-7 DAISY TAFOLLA MARTINEZ
MJD-1

MOTION FOR
ORDER AVOIDING WAGE GARNISHMENT
AND PERMITTING TURNOVER OF LEVIED
FUNDS
3-27-18 [20]

Tentative Ruling: Because less than 28 days' notice of the hearing was given

by the trustee, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the debtor, the creditors, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted.

A pre-petition judgment was entered against the debtor in favor of Chrysler Financial Services Americas, L.L.C. Pursuant to the judgment, a writ of execution and an wage garnishment was executed, resulting in the Los Angeles County Sheriff's Department garnishing \$578.76 from the debtor's employer prior to the filing of this case. Those funds are currently held by the Los Angeles County Sheriff.

The debtors seek to avoid the lien that led to the levy of the funds.

The lien will be avoided pursuant to 11 U.S.C. § 522(f)(1)(A). The debtor identified the garnished funds on Schedule B. Dockets 14 & 23. The debtor claimed an exemption of \$2,000 in these funds pursuant to Cal. Code Civ. Pro. § 703.140(b)(5). Dockets 14 & 23. The funds held by the sheriff are less than the amount claimed exempt.

The respondent holds a judicial lien created by the issuance of a writ of execution for the levy of the funds. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtor's exemption of the funds and its fixing will be avoided subject to 11 U.S.C. § 349(b)(1)(B).

FINAL RULINGS BEGIN HERE

19. 17-27300-A-7 GEORGE CABANAS MOTION TO
DMW-3 APPROVE COMPENSATION OF AUCTIONEER
AND TO APPROVE AUCTIONEER'S REPORT
3-19-18 [28]

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

The motion will be granted.

NorthState Auctions, Inc., auctioneer for the trustee, has filed its first and final motion for approval of compensation. The requested compensation consists of \$3,163.38 in fees and \$552.50 in expenses, for a total of \$3,715.88. This motion is for a sale completed on January 6-10, 2018. The court approved the movant's employment as the trustee's auctioneer on November 14, 2017. The requested compensation is based on a 20% commission and reimbursement of asset transportation, storage and securing expenses.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant's services included the sale of several vehicles and a trailer.

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

20. 18-21136-A-7 LINDA WALKER MOTION FOR
JHW-1 RELIEF FROM AUTOMATIC STAY
CAB WEST, L.L.C. VS. 3-16-18 [11]

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

The motion will be granted.

The movant, Cab West, L.L.C., seeks relief from the automatic stay with respect to a leased 2016 Ford Fusion. The vehicle has a value of \$24,000 and the

outstanding debt under the lease agreement totals approximately \$16,639.61. The debtor also has not made one pre-petition and one post-petition payments under the lease agreement. And, in the statement of intention, the debtor indicated a lack of intent to retain the leased vehicle. The court also notes that the trustee filed a report of no distribution on March 28, 2018 and a statement of nonopposition on April 2, 2018.

The court concludes that the above is cause for the granting of relief from stay.

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

No fees and costs are awarded because the movant is not an over secured creditor. See 11 U.S.C. § 506.

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

21. 16-25749-A-7 ROBERT GARZA AND MARIA MOTION TO
DNL-8 HERRERA EMPLOY ACCOUNTANT
3-21-18 [158]

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

The motion will be granted.

The trustee requests approval to employ Bachecki, Crom & Co., LLP as accountant for the estate. The accountant will prepare tax returns, represent the estate with the local tax authorities, and will assist the trustee with tax-related advice. The proposed compensation is a flat fee of \$1,500, inclusive of all out-of-pocket costs. The movant also requests approval of payment of the compensation, without further order of the court.

The court concludes that the terms of employment and compensation are reasonable. The proposed accountant is a disinterested person within the meaning of 11 U.S.C. § 327(a) and does not hold an interest adverse to the estate. The employment will be approved.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses."

The court concludes that the compensation is for actual and necessary services rendered in the administration of this estate, upon the completion of the

services outlined above. The compensation will be approved.

22. 17-21251-A-7 STEVEN POLKINGHORNE MOTION TO
MOH-1 AVOID JUDICIAL LIEN
VS. CAVALRY SPV I, L.L.C. 3-14-18 [27]

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

The motion will be granted.

A judgment was entered against the debtor in favor of Cavalry SPV I, L.L.C., for the sum of \$5,001.55 on March 27, 2013. The abstract of judgment was recorded with Butte County on August 27, 2013. That lien attached to the debtor's interest in a residential real property in Paradise, California.

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of \$225,000 as of the petition date. The debtor's one third interest in the property had a value of \$74,250. Dockets 29 & 1. The unavoidable liens against the debtor's one third interest totaled \$60,974 on that same date, consisting of a single mortgage in favor of Jeffrey P. Kane. Dockets 29 & 1. The debtor claimed an exemption pursuant to Cal. Civ. Pro. Code § 703.140 in the amount of \$27,800 in Schedule C. Dockets 29 & 1.

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

23. 16-26561-A-7 PHONG TIEN MOTION TO
FF-3 AVOID JUDICIAL LIEN
VS. REAL TIME RESOLUTIONS, INC. 3-14-18 [29]

Final Ruling: The motion will be dismissed without prejudice because service of the motion did not comply with Fed. R. Bankr. P. 7004(b)(3), which requires service "[u]pon a domestic or foreign corporation or upon a partnership or other unincorporated association . . . 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 the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant."

The debtor served the motion on Real Time Resolutions, Inc. without addressing it "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." Docket 33.

And, while the debtor appears to have served the creditor's attorney, unless the attorney agreed to accept service, service was improper. See, e.g., Beneficial California, Inc. v. Villar (In re Villar), 317 B.R. 88, 92-94 (B.A.P. 9th Cir. 2004).

24.	17-27569-A-7 NANCY SHANDOR SCB-2	MOTION TO EMPLOY SPECIAL COUNSEL 3-19-18 [25]
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Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The trustee seeks approval to employ Ashwin Ladva of the The Ladva Law Firm, Attorneys at Law, as special counsel for the estate to prosecute the debtor's wrongful termination claim against her former employer. The fee agreement proposes on a 43 percent contingency fee basis, based on the debtor's potential gross recovery on the claims against the debtor's former employer.

The retainer agreement also authorizes special counsel to employ associate counsel at no additional cost to the client.

The agreement also states that the client would be responsible for reimbursement to Mr. Ladva of all costs if his employment is terminated. However, Mr. Ladva agrees that costs shall be reimbursed only from the gross amount of any recover and acknowledges that there are no assets in the estate to pay costs. Thus, Mr. Ladva has agreed to advance costs. If there is no recovery, Mr. Ladva will not receive any fees or costs.

Subject to court approval, 11 U.S.C. § 327(a) permits a trustee to employ a professional to assist the trustee in the administration of the estate. Such professional must "not hold or represent an interest adverse to the estate, and [must be a] disinterested [person]." 11 U.S.C. § 327(a). 11 U.S.C. § 328(a) allows for such employment "on any reasonable terms and conditions . . . including on a contingent fee basis."

The court concludes that the terms of employment and compensation are reasonable. Mr. Ladva is a disinterested person within the meaning of 11 U.S.C. § 327(a) and does not hold an interest adverse to the estate. Accordingly, the motion will be granted.

25.	18-21397-A-7 CAMERON/KARA BLEVINS BPE-2 TOWN & COUNTRY MANAGEMENT GROUP, INC. VS.	MOTION FOR RELIEF FROM AUTOMATIC STAY 4-6-18 [11]
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Final Ruling: The motion will be dismissed without prejudice because it is not accompanied by a *separate* notice of hearing as required by Local Bankruptcy Rule 9014-1(d)(4). Also, the motion does not comply with Local Bankruptcy Rule

9014-1(e)(3) because when it was filed it was not accompanied by a *separate* proof of service. See also Local Bankruptcy Rule 9014-1(d)(4). Appending a proof of service to one of the supporting documents (assuming such was done) does not satisfy the local rule. The proof of service must be a separate document so that it will be docketed on the electronic record. This permits anyone examining the docket to determine if service has been accomplished without examining every document filed in support of the matter on calendar.