

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

May 21, 2018 at 10:00 a.m.

No written opposition has been filed to the following motions set for argument on this calendar: 9 and 12.

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 JUNE 11, 2018 AT 10:00 A.M. OPPOSITION MUST BE FILED AND SERVED BY MAY 28, 2018, AND ANY REPLY MUST BE FILED AND SERVED BY JUNE 4, 2018. THE MOVING/OBJECTING PARTY IS TO GIVE NOTICE OF THESE

May 21, 2018 at 10:00 a.m.

DATES.

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

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

MATTERS FOR ARGUMENT

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| 1. | 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.

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 \$351,104.58 on that same date, consisting of a mortgage for \$250,298.31 in favor of Wells Fargo Home Mortgage and a mortgage for \$100,806.27 in favor of Citimortgage. Dockets 1, 69, 70, 246, 247. 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).

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| 2. | 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.

A judgment was entered against the debtor Frayba Tripton in favor of Portfolio Recovery Associates, L.L.C. for the sum of \$16,363.57 on September 14, 2011. The abstract of judgment was recorded with San Joaquin County on October 24, 2011. That lien attached to the debtor's interest in 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 \$351,104.58 on that same date, consisting of a mortgage for \$250,298.31 in favor of Wells Fargo Home Mortgage and a mortgage for \$100,806.27 in favor of Citimortgage. Dockets 1, 74, 75, 248, 249. 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).

3. 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.

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 \$351,104.58 on that same date, consisting of a mortgage for \$250,298.31 in favor of Wells Fargo Home Mortgage and a mortgage for \$100,806.27 in favor of Citimortgage. Dockets 1, 79, 80, 250, 251. 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).

4. 17-26202-A-7 WILLIAM/FRAYBA TIPTON MOTION TO
PSB-7 AVOID LIEN
VS. BMW BANK OF NORTH AMERICA 12-12-17 [51]

Tentative Ruling: The motion will be granted.

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 value of the property and the amounts owed on the two mortgages. 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 to 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 the debtor's valuation is inadmissible. The references to what zillow.com and realtor.com say about the property are inadmissible hearsay. Fed. R. Evid. 802. The court does not know how those websites generate property valuations. See Fed. R. Evid. 702(b)-(d) and 703.

Valuation evidence based on reports from "zillow.com" and other similar Internet based sources are particularly troublesome. This evidence is not admissible. It is hearsay. See Fed. R. Evid. 801. And, while Fed. R. Evid. 803(17) excepts from the hearsay rule market compilations generally used and relied upon by the public, no foundation was laid establishing that the values reported by these Internet sites meet this criteria. The court doubts that such a foundation could be laid. As courts have noted, zillow.com is "inherently unreliable." "Zillow is a site almost like Wikipedia. Whereas Wikipedia allows anyone to input or change specific entries, Zillow allows homeowners to do so. A homeowner with no technical skill beyond the ability to surf the web can log in to Zillow and add or subtract data that will change the value of his property." See In re Darosa 442 B.R. 173, 177 (Bankr. D. Mass. 2010). See also In re Phillips, 491 B.R. 255, 260 (Bankr. D. Nev. 2013). For this reason, reports such as Zillow are not compilations made admissible by Fed. R. Evid. 803(17). Id.

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 does not convince the court that the debtor is not telling the truth 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 \$351,104.58 on that same date, consisting of a mortgage for \$250,298.31 in favor of Wells Fargo Home Mortgage and a mortgage for \$100,806.27 in favor of Citimortgage. Dockets 1, 54, 55, 240, 241. 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).

BMW's further opposition filed May 14 concerning the value of the property will not be considered by the court. Dockets 258, 259, 260 (solely disputing the value of the property by proffering an appraisal). The value of the property was established prior to the April 23 hearing. The court did not reopen the record for all purposes. It reopened the record solely for the debtor to establish the amount of the second mortgage against the property. Docket 233 at 15:20 to 16:00 (the court stating explicitly that the continuance pertains solely to the question of the amount of the second mortgage (by Citibank) on the property). The hearing was continued only to address the amount owed on the junior mortgage. The appraisal of the property submitted by BMW on May 14 should have been filed with BMW's original opposition to the motion on January 10.

5. 17-26202-A-7 WILLIAM/FRAYBA TIPTON MOTION TO
PSB-8 AVOID JUDICIAL LIEN
VS. SAN JOAQUIN TREASURER & TAX COLLECTOR 12-12-17 [56]

Tentative Ruling: The motion will be granted.

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 \$351,104.58 on that same date, consisting of a mortgage for \$250,298.31 in favor of Wells Fargo Home Mortgage and a mortgage for \$100,806.27 in favor of Citimortgage. Dockets 1,

59, 60, 242, 243. 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).

6. 17-26202-A-7 WILLIAM/FRAYBA TIPTON MOTION TO
PSB-9 AVOID JUDICIAL LIEN
VS. FORD MOTOR CREDIT COMPANY 12-12-17 [61]

Tentative Ruling: The motion will be granted.

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 \$351,104.58 on that same date, consisting of a mortgage for \$250,298.31 in favor of Wells Fargo Home Mortgage and a mortgage for \$100,806.27 in favor of Citimortgage. Dockets 1, 64, 65, 244, 245. 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).

7. 18-20310-A-7 DEAN KARADUNIS MOTION TO
DISMISS CASE
4-20-18 [18]

Tentative Ruling: The motion will be denied.

The debtor's estranged spouse, Rhonda Karadunis, objects to the debtor's discharge and seeks dismissal of the case. She argues that the case should be refiled "as a joint petition of [the debtor] and [her]." Docket 18 at 1.

The motion will be denied for several reasons. First, the initial notice of hearing for the motion, filed as part of the motion (Docket 18) does not state if and when written opposition must be filed. It states that requests for hearing with the court, as pertaining to the motion, must be filed on April 19, 2018, one day before the motion was filed. This makes no sense and violates Local Bankruptcy Rule 9014-1(f)(1), which requires that written oppositions to motions set on more than 28 days' notice be filed at least 14 days prior to the hearing.

Second, the movant filed another notice of hearing on April 26, six days after filing the motion, stating that written opposition was due 14 days prior to the May 21 hearing. Docket 24. However, the court has no evidence that this second notice of hearing was ever served on anyone.

Third, the motion does not explain why the court should dismissing the case. The movant just wants the case dismissed. 11 U.S.C. § 707(a) provides that "[t]he court may dismiss a case under this chapter only after notice and a hearing and only for cause." The movant has not established cause. And, nothing requires a married individual to file a joint petition with his or her spouse.

Fourth, the objection to the debtor's discharge must be filed as an adversary proceeding. The court will not entertain a motion objecting to the debtor's discharge. See Fed. R. Bankr. P. 7001(4).

Finally, even if the motion were entertained, the objection is untimely. It was filed on April 20 even though the deadline for objections was on April 16. And, as explained in the court's ruling on the movant's related motion to extend the deadline for discharge objections, there is no cause for such extension.

This motion will be denied.

8. 18-20310-A-7 DEAN KARADUNIS MOTION TO
EXTEND TIME
4-26-18 [25]

Tentative Ruling: The motion will be denied.

The debtor's estranged spouse, Rhonda Karadunis, seeks an extension from April 16 to April 30 of the deadline for filing an objection to discharge. She seeks the extension for "2 weeks from 4-16-2018." Docket 25. She explains that she became aware of the April 16 deadline when someone called her, on or about April 16, 2018 to inquire about the status of the debtor's bankruptcy case. That is when she filed her first motion to extend the deadline. Docket 14. In response to that motion, which was not set for hearing, the court entered an order on April 17, stating, among other things:

"Creditor Rhonda Karadunis has filed a motion asking for an extension of unspecified duration to object to the debtor's discharge and/or object to the discharge of a debt. Her motion was filed on the last day to file such objections, and therefore is timely. However, she has not served her motion on the debtor and the debtor's attorney, nor has she set it for hearing.

"If the creditor wishes the court to consider granting an extension, she must set her motion for hearing pursuant to Local Bankruptcy Rule 9014-1(f) (1) or (2), serve the motion and notice of the hearing on the debtor and his attorney, and establish good cause for the extension. Absent notice to the debtor and his attorney and a hearing, no extension will be granted.

"The creditor shall set a hearing no later than 30 days from the date of this order and give at least 14 days' notice of the hearing to the debtor and his attorney. If this is not done, the extension will be deemed denied. If notice and a hearing consistent with this order takes place, a separate order will be entered after the hearing."

Docket 15.

The movant did not comply with the court's April 17 order. She did not reset the original motion for hearing. Instead, she filed a new motion, the instant motion, on April 26. Docket 25. While she set the instant motion for a hearing, she did not serve the debtor's counsel. See Docket 22. Nor was a hearing set within 30 days of the April 17 order.

Further, the movant has not established good cause for the extension. While she was not served with the notice of Chapter 7 Bankruptcy Case (Docket 7), she knew about the bankruptcy case before the April 16 discharge objections deadline. The motion includes a February 7, 2018 letter from the debtor's counsel asking her to sign a spousal waiver of exemptions. Docket 25 at 3-6. The February 7 letter from the debtor's counsel clearly states that "[w]e recently filed a [B]ankruptcy case on behalf of [the debtor]." Docket 25 at 5.

With such letter, the movant received actual notice of the bankruptcy case. As such, she could have easily discovered the April 16 deadline for objections to discharge at least two months prior to the deadline. The movant has not explained why she did not more promptly investigate. There is no cause for the requested extension.

9. 17-27321-A-7 CANTECA FOODS, INC. MOTION TO
HSM-4 APPROVE COMPENSATION OF AUCTIONEER
4-27-18 [101]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the movant, 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. 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.

West Auctions, Inc., auctioneer for the trustee, has filed its first and final motion for approval of compensation through the trustee. The requested compensation consists of \$14,038.61 in fees and \$3,250 in expenses (reduced from \$3,498.90), for a total of \$17,288.61. This motion is for a sale completed on March 13-15, 2018. The court approved the movant's employment as the trustee's auctioneer on February 26, 2018. Docket 82. The requested compensation is based on a 12% commission and reimbursement of storage, moving, sale preparation, title transfer and mileage expenses. Docket 83 at 2. Gross sale proceeds totaled \$116,988.38.

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 sale of four Isuzu vehicles, one Ford Van vehicle, two Mercedes Van vehicles, and one Freightliner vehicle.

The court concludes that the compensation is for actual and necessary services

rendered in the administration of this estate. The compensation will be approved.

10. 17-28324-A-7 MORTIMER/ARLENE JARVIS MOTION TO
DL-1 AVOID JUDICIAL LIEN
VS. INDEMNITY COMPANY OF CALIFORNIA 1-3-18 [10]

Tentative Ruling: The motion will be dismissed.

The motion will be dismissed pursuant to the terms of the settlement agreement among the estate, the debtors and Indemnity Company of California, which agreement is being approved by the court in a ruling on a motion being heard on this calendar (DCN HSM-3).

11. 17-28324-A-7 MORTIMER/ARLENE JARVIS MOTION TO
DL-2 COMPEL ABANDONMENT
1-3-18 [15]

Tentative Ruling: The motion will be dismissed.

The motion will be dismissed pursuant to the terms of the settlement agreement among the estate, the debtors and Indemnity Company of California, which agreement is being approved by the court in a ruling on a motion being heard on this calendar (DCN HSM-3).

12. 17-28324-A-7 MORTIMER/ARLENE JARVIS MOTION TO
HSM-3 APPROVE COMPROMISE
4-30-18 [82]

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. 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 trustee requests approval of a settlement agreement among the estate, the debtors and Indemnity Company of California, resolving the parties' respective interests in real property located in Yuba City, California. The trustee also asks for approval of a sale by the estate to the debtors of their \$10,700 deposit with a retirement community. The sale is for \$10,700.

The property is encumbered presently by: a first deed of trust in favor of Wells Fargo Home Mortgage in the amount of approximately \$69,249.25, a lien in favor of the California Employment and Development Department for \$65,320.16 (EDD's total claim against the estate is \$110,175.71, including a priority unsecured portion), and a judicial lien in favor of Indemnity Company for \$1,346,630. In addition, the debtors have claimed an exemption of \$175,000 under Cal. Civ. Proc. Code § 704.730(a)(3) in the property.

Under the terms of the compromise, the trustee will sell the property for the benefit of the estate. The debtors will move out of the property promptly, no later than close of escrow. During their remaining stay at the property, through the earlier of close of escrow or June 30, 2018, the debtors shall maintain the property, including paying property taxes, mortgage, property insurance and utilities. The debtors shall receive their \$175,000 exemption in the property, minus \$10,700, to account for a non-exempt \$10,700 deposit they made pre-petition to the retirement community where they are moving to. The settlement treats the decrease in the debtors' exemption claim, to account for the deposit, as a purchase of the estate's interest in the deposit.

After the estate pays from escrow costs of sale, the mortgage claim, the California Employment and Development Department lien and the debtors' exemption claim, the remaining net proceeds will be divided equally between the estate and Indemnity Company. This is the carve-out agreement between the estate and Indemnity Company. In connection with this agreement, Indemnity Company will release its lien against the property in escrow. The purchase of the estate's interest in the \$10,700 deposit is not subject to the carve-out agreement.

The trustee shall have one year to sell and close escrow on the property.

Under the compromise, the debtors have agreed to dismiss their abandonment and lien avoidance motions (DCNs DL-1 and DL-2), also being heard on this calendar.

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 the expense, inconvenience, and delay necessarily attending it; and 4) the paramount interest of the creditors with a proper deference to their reasonable views. In re Woodson, 839 F.2d 610, 620 (9th Cir. 1988).

The court concludes that the Woodson factors balance in favor of approving the compromise. That is, given that the estate will recover only the avoidable portion of EDD's lien (\$44,855.55) absent the carve-out agreement with Indemnity Company, given that the avoidable portion of EDD's lien would be mostly consumed by the sale costs (~\$32,000), given that the estate will net approximately \$34,565 from the sale (assuming a sale price of \$400,000) and given the inherent costs, risks, delay and inconvenience of further litigation, 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.

The court will also approve the sale of the \$10,700 deposit to the debtors. 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 is for the full amount of the deposit. As such, the sale is in the best interest of the creditors and the estate. The motion will be granted.

Tentative Ruling: The motion will be denied in part and conditionally granted in part.

The debtor is asking the court to vacate her November 20, 2017 discharge and convert the case from chapter 7 to chapter 13.

The court will not vacate the debtor's discharge. The motion makes no argument, cites no authority and provides no reason warranting setting aside the debtor's chapter 7 discharge.

As to conversion of the case to chapter 13, the Tenth Circuit held in In re Young, 237 F.3d 1168, 1173-74 (10th Cir. 2001), that an eligible debtor has an unequivocal right to convert at any time, including converting after the debtor receives his discharge.

As in Young, other courts hold that under the plain language of the statute, conversion to a chapter 13 is allowed after a chapter 7 discharge. See In re Street, 55 B.R. 763, 765 (B.A.P. 9th Cir. 1985); In re Mosby, 244 B.R. 79, 83-84 (Bankr. E.D. Va. 2000) (both finding that "at any time" under § 706(a) includes post-discharge conversions).

According to the Tenth Circuit, "[t]he provisions of 11 U.S.C. § 1325 ensure that a Chapter 13 plan arising out of a conversion from Chapter 7 will be properly scrutinized by the bankruptcy court before the plan is confirmed, mitigating the danger of abuse." In re Young, at 1174.

Turning to the merits of conversion, given the Supreme Court's decision in Marrama v. Citizens Bank of Massachusetts, 127 S. Ct. 1105 (2007), before the conversion of a case from chapter 7 to chapter 13, the court must determine that the debtor is eligible for chapter 13 relief. This entails examining whether the debtor is seeking the conversion for an improper purpose or in bad faith, whether the debtor is eligible for chapter 13 relief under 11 U.S.C. § 109(e), and whether there is any cause that might warrant dismissal or conversion to chapter 7 under 11 U.S.C. § 1307(c). See Marrama, 127 S. Ct. at 1112.

Among the eligibility requirements for relief under chapter 13 are the requirements that the debtor must have regular income and owe, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts of less than \$383,175 and noncontingent, liquidated, secured debts of less than \$1,149,525. 11 U.S.C. § 109(e).

The court has reviewed the record and concludes that the debtor is not seeking the conversion for an improper purpose or in bad faith and there is no cause that might warrant dismissal or conversion to chapter 7 under 11 U.S.C. § 1307(c). The debtor is seeking conversion in order to keep pre-petition property.

The debtor has \$2,100 in regular monthly net income. Docket 34 at 7; Docket 31. The income appears to be regular as it is generated from the lease of real property and the operation of a business.

Notwithstanding the foregoing, the court has no evidence as to whether the debtor satisfies the chapter 13 debt limits. The motion papers say nothing about this. The debtor's noncontingent, liquidated secured debt must be less than \$1,149,525 and noncontingent, liquidated unsecured debt must be less than \$383,175. Provided this evidence is filed, the court will convert the case to chapter 13.

14. 10-27435-A-7 THOMAS GASSNER STATUS CONFERENCE
DNL-5 RE OBJECTION TO EXEMPTIONS
3-31-17 [90]

Tentative Ruling: The objection to claim of exemptions will be dismissed without prejudice as moot. Per stipulation of the parties, the trustee requests withdrawal of the objection. Docket 137.

15. 18-20246-A-7 DANIEL BEBERMEYER MOTION TO
AID-1 EXTEND DEADLINE
4-16-18 [24]

Tentative Ruling: The motion will be granted in part and denied in part.

Creditor Derek Minnema seeks an order extending the deadlines to file an objection to exemptions, an adversary complaint, and a complaint under 11 U.S. Code § 727. The deadline requested is June 19, 2018.

The trustee and the debtor stipulated to extend the trustee's deadline to object to exemptions, to file a complaint objecting to discharge under 11 U.S.C. § 727, and to file a motion to dismiss under 11 U.S.C. § 707(b) on April 12, 2018, which was granted on April 16, 2018. Docket 23. The deadline was extended to June 19, 2018.

Fed. R. Bankr. P. 4004(b) provides that the court may extend the deadline for filing discharge objection complaints under 11 U.S.C. § 727 for cause. The motion must be filed before the deadline expires. The last day for filing such complaints was April 16, 2018. This motion was filed on April 16, 2018. Thus, the motion complies with the temporal requirements of the rule.

The original meeting of creditors was held on February 14, 2018 and, to date, has been continued four times. The debtor failed to appear at two of the meetings, and the trustee has not received requested documents including family trust documents, income tax returns, and a dissolution of marriage judgment allocating assets. Separately, the debtor is believed to have equitable interests in several business entities. Like the trustee, the movant has not had the opportunity to investigate the nature of the debtor's assets. As a result, the movant needs additional time to investigate the debtor's financial affairs. Given the foregoing, cause exists for the requested extension of time.

The court declines to grant the movant's request to extend the deadline to object to the debtor's claim of exemptions.

Fed. R. Bankr. P. 4003(b) provides that a party in interest may file an objection to the list of property claimed as exempt only within 30 days after the meeting of creditors held under § 341(a) is concluded unless the court extends the deadline for cause. The meeting of creditors in this case has not concluded. The next continued meeting of creditors is scheduled to be held on May 29, 2018. Accordingly, the earliest potential deadline to object to

claimed exemptions would be June 28, 2018. This date is later than the extension date requested by this motion.

The motion will be denied in part to extend the deadlines to object to the debtor's claim of exemptions and to file an adversary complaint.

The motion will be granted in part to extend the deadlines for filing a complaints pursuant to 11 U.S.C. §§ 523 and 727 to June 19, 2018.

16. 17-21995-A-7 JASVINDER CHAHAL MOTION TO
SCB-22 APPROVE SALE AND COMPENSATION OF
REALTOR
4-23-18 [223]

Tentative Ruling: The motion will be granted.

The chapter 7 trustee requests authority to sell as is and free and clear of liens for \$241,000 the estate's interest in real property in Stockton, California to Strategic Enterprises Inc. The trustee also asks for approval of the payment of the 6% real estate broker's commission and asks for waiver of the 14-day period of Fed. R. Bankr. P. 6004(h).

11 U.S.C. § 363(b) allows the trustee to sell property of the estate, other than in the ordinary course of business. Under 11 U.S.C. § 363(f), the trustee may sell property of the estate free and clear of liens only if: 1) applicable nonbankruptcy law permits sale of such property free and clear of such liens; 2) the entity holding the lien consents; 3) the proposed purchase price exceeds the aggregate value of the liens encumbering the property; 4) the lien is in bona fide dispute; or 5) the entity could be compelled to accept a money satisfaction of the lien.

The property is subject to the following encumbrances:

- a mortgage in favor of Bank of the West for \$44,000;
- a financing statement recorded September 30, 2015 by Solarcity Corporation in connection with the lease for solar panels installed at the Property;
- a tax lien in favor of the Internal Revenue Service (IRS) for \$621,854.76

A previous judgment lien against the property was deemed satisfied in full (docket 228, ex. H) and another was ordered void and avoided by order of this court (docket 160).

The buyer has agreed to accept responsibility for the Solarcity lien. Docket 228, Ex. E.

The trustee is asking that the sale be approved free and clear of the secured claim held by the IRS. The trustee states that the IRS claim is subject to a bona fide dispute and that he will attempt to obtain the IRS' consent to the sale. The trustee has been working with Revenue Officer Advisor, Jeffrey Werstler, to recharacterize a large portion of the IRS' secured claim as penalties and interests under 11 U.S.C. § 726(a)(4) and then avoid and subordinate the recharacterized portion under 11 U.S.C. § 724(a). The trustee has proposed, and the IRS agrees, that the portion of its secured claim not subject to subordination is \$249,225.53. Docket 228, Ex. D. The estate has funds on hand of \$553,546.21.

The debtor has claimed an exemption in the amount of \$500 under Cal. Civ. Pro. Code § 703.140(b)(1). The trustee believes the debtor's claim of exemption is subject to bona fide dispute as property exempted from the estate remains subject to government tax liens under 11 U.S.C. § 522(c)(2)(B).

The gross sales proceeds of \$241,000 will be distributed as follows:

- \$14,460 for realtor commission (6% of \$241,000 purchase price split evenly between the real estate brokers for the buyer and seller)
- \$4,820 for estimated closing costs;
- \$44,000 for Bank of the West mortgage; and
- \$177,720 towards the \$249,225.53 unsubordinated IRS lien (the remaining balance of the secured claim will be satisfied from estate funds on hand).

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), 363(f)(2) and (f)(4), given the IRS' consent to the trustee's dispute and proposed subordination of the secured claim. Docket 228, Ex. D. The sale is in the best interests of the creditors and the estate. The court will approve the payment of the real estate commission to Bob Brazeal of Remax Executive in Modesto, California subject to the employment terms approved by the court in its order entered on May 30, 2017. Docket 47.

FINAL RULINGS BEGIN HERE

17. 17-27800-A-7 WILLIAM/LYNNE CARDWELL MOTION FOR
DMW-1 APPROVAL OF COMPROMISE
4-6-18 [24]

Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the 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 of a settlement agreement between the estate and the debtors, resolving the estate's interest in a \$3,824.94 check the debtors received from their homeowner insurance company on account of damages sustained to their home.

Under the terms of the compromise, the debtors will pay 50% of the total insurance check amount, or \$1,912.47, in full satisfaction of the estate's interest in the insurance proceeds.

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 the expense, inconvenience, and delay necessarily attending it; and 4) the paramount interest of the creditors with a proper deference to their reasonable views. In re Woodson, 839 F.2d 610, 620 (9th Cir. 1988).

The court concludes that the Woodson factors balance in favor of approving the compromise. That is, given the small amount at stake and the inherent costs, risks, delay and inconvenience of further litigation, 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. 13-23517-A-7 TRACY GATEWAY, L.L.C. MOTION TO
ASF-6 APPROVE COMPENSATION OF ACCOUNTANT
4-23-18 [279]

Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor, the trustee, the U.S. Trustee, and any other party in interest to file written

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

The motion will be granted.

Gabrielson & Company, accountant for the estate, has filed its first interim application for approval of compensation. The requested compensation consists of \$105,427 in fees and \$626.45 in expenses, for a total of \$106,053.45. This motion covers the period from March 22, 2013 through April 10, 2018. The court approved the movant's employment as the estate's accountant on March 26, 2013. Docket 11. In performing its services, the movant charged an hourly rate of \$325, \$345, \$365 and \$375.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant's services included, without limitation: (1) reviewing bankruptcy petition documents, (2) reviewing various financial transactions involving the debtor, (3) communicating with the debtor, its counsel, the trustee and its counsel regarding the transactions, (4) conducting forensic accounting review of the debtor's historical financial and accounting records as pertaining to the debtor's sale of real property to Sutter Hospital, (5) evaluating the debtor's financial position and operations after the sale, (6) preparing federal and state tax returns, (7) reviewing historical returns, (8) communicating with the debtor's former bookkeeper, and (9) preparing various pleadings for filing with the court.

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

19.	17-27918-A-7	ADELINA/MARTIN CEJA	MOTION FOR
	AP-1		RELIEF FROM AUTOMATIC STAY
	WELLS FARGO BANK, N.A. VS.		4-9-18 [28]

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 be dismissing the motion as moot, 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 dismissed as moot but the absence of the automatic stay will be confirmed.

The movant, Wells Fargo Bank, seeks relief from the automatic stay as to real property in Olivehurst, California.

11 U.S.C. § 362(c)(3)(A) provides that if a single or joint case is filed by or against a debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding one-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 (13 or 11) after dismissal under section 707(b), the automatic stay with respect to a debt, property securing such debt, or any lease terminates on the 30th day after the filing of the new case. Section 362(c)(3)(B) allows any party in interest to file a motion requesting the continuation of the stay.

On July 21, 2017, the debtors filed a bankruptcy case (case no. 17-24799). But, the court dismissed that case on August 8, 2017 due to the debtors' failure to timely file petition documents, including, without limitation, schedules and the statement of financial affairs. The debtors filed the instant case on December 4, 2017. The prior case was pending within one year of the filing of the instant case. The court has reviewed the docket of the instant case and no motion to extend the automatic stay pursuant to 11 U.S.C. § 362(c)(3)(B) have been timely filed.

Hence, the motion will be dismissed as moot because the automatic stay in the instant case expired in its entirety as to the subject property on January 3, 2018, 30 days after the debtors filed the present case. See 11 U.S.C. § 362(c)(3)(A); see also Reswick v. Reswick (In re Reswick), 446 B.R. 362, 371-73 (B.A.P. 9th Cir. 2011) (holding that when a debtor commences a second bankruptcy case within a year of the earlier case's dismissal, the automatic stay terminates *in its entirety* on the 30th day after the second petition date).

Nevertheless, the court will confirm that the automatic stay in the instant case expired in its entirety with respect to the subject property on January 3, 2018, 30 days after the debtors filed the present case. See 11 U.S.C. §§ 362(c)(3)(A) and 362(j).

20.	12-40646-A-7	KULWANT MAHI	MOTION TO
	DBJ-2		AVOID JUDICIAL LIEN
	VS. CAPITAL ONE BANK (USA) N.A.		4-18-18 [67]

Final Ruling: This motion to avoid a judicial lien 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 trustee and the respondent creditor are entered and the matter will be resolved without oral argument.

The motion will be denied without prejudice.

A judgment was entered against the debtor in favor of Capital One Bank (USA) N.A. for the sum of \$24,408.22 on July 25, 2011. The abstract of judgment was recorded with Butte County on April 20, 2012. That lien attached to the debtor's real property in Paradise, California. The debtor also claims that the lien attached to his personal property on the property including "inventory, fixtures, equipment and supplies." Docket 67 at 1. The debtor valued these assets at \$16,000 and claimed them fully exempt under Cal. Civ.

Proc. Code §§ 703.140(b) (5) and 703.140(b) (6) .

The debtor is asking the court to avoid the judgment lien with respect to his personal property associated with the real property including "inventory, fixtures, equipment, and supplies." Docket 67 at 1.

There is no evidence of a judicial lien on the personal property. The motion contains an abstract of the judgment recorded with Butte County. But, this creates only a judicial lien on real property and not personal property. In California, personal property judicial liens are created by the filing of a notice of judgment lien with the California Secretary of State in a manner similar to filing a UCC-1 financing statement. See Cal. Civ. Proc. Code §§ 697.510 & 697.520. The motion contains no evidence of a notice of judgment filed with the Secretary of State. Without admissible evidence of a nonpossessory, nonpurchase lien or a judicial lien, the motion has no merit. Accordingly, the motion is denied.

21. 10-29081-A-7 MOHINDER SINGH AND MOTION TO
GSS-2 GURDEEP KAUR AVOID JUDICIAL LIEN
VS. VALLEY PACIFIC PETROLEUM 3-26-18 [32]
SERVICES, INC.

Final Ruling: The motion will be dismissed without prejudice. There is no certificate of service on the docket demonstrating that the motion was served on all interested parties.

22. 10-29081-A-7 MOHINDER SINGH AND MOTION TO
GSS-3 GURDEEP KAUR AVOID JUDICIAL LIEN
VS. MESA LEASING INC. 3-26-18 [37]

Final Ruling: The motion will be dismissed without prejudice. There is no certificate of service on the docket demonstrating that the motion was served on all interested parties.

23. 10-29081-A-7 MOHINDER SINGH AND MOTION TO
GSS-4 GURDEEP KAUR AVOID JUDICIAL LIEN
VS. LEAF FUNDING 3-26-18 [47]

Final Ruling: The motion will be dismissed without prejudice. There is no certificate of service on the docket demonstrating that the motion was served on all interested parties.

24. 10-29081-A-7 MOHINDER SINGH AND MOTION TO
GSS-5 GURDEEP KAUR AVOID JUDICIAL LIEN
VS. LYON FINANCIAL SERVICES, INC. 3-26-18 [42]

Final Ruling: The motion will be dismissed without prejudice. There is no certificate of service on the docket demonstrating that the motion was served on all interested parties.

25. 16-23886-A-7 NORMAN WEGARD MOTION TO
SCB-8 APPROVE COMPENSATION OF TRUSTEE'S
ATTORNEY
4-4-18 [81]

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,

May 21, 2018 at 10:00 a.m.

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.

Schneweis-Coe & Bakken, attorney for the trustee, has filed its first and final motion for approval of compensation. The requested compensation consists of \$12,129.77, reduced from \$11,580 in fees and \$549.77 in expenses. This motion covers the period from April 21, 2017 through the present. The court approved the movant's employment as the trustee's attorney on May 10, 2017. In performing its services, the movant charged an hourly rates of \$300 and \$150.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant's services included, without limitation: (1) reviewing assets of the estate, (2) assisting the estate with the sale of a vehicle, (3) a settlement agreement and motion to compromise regarding a postpetition transfer, (3) a Rule 2004 examination, and (5) reviewing a motion for relief from stay.

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

26.	12-41591-A-7	MATTHEW/KAREN AMARO	MOTION TO
	MJD-2		AVOID JUDICIAL LIEN
	VS. PORTFOLIO RECOVERY ASSOC., L.L.C.		3-14-18 [28]

Final Ruling: The motion will be dismissed as moot.

The court continued the prior hearing to allow the movants to give notice of their amended schedules and to file the exhibits for this motion. The docket does not reflect that the movants have supplemented the record with the exhibits. Instead, the docket indicates that the movants have filed an identical motion to be heard concurrently with this one. Docket 35. Accordingly, this motion will be denied as moot.

27.	12-41591-A-7	MATTHEW/KAREN AMARO	MOTION TO
	MJD-3		AVOID JUDICIAL LIEN
	VS. PORTFOLIO RECOVERY ASSOC., L.L.C.		4-6-18 [35]

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 Portfolio Recovery Associates, L.L.C. for the sum of \$5,744.02 on July 16, 2012. The abstract of judgment was recorded with Sacramento County on October 16, 2012. That lien attached to the debtor's interest in a residential real property in Rancho Cordova, California.

The subject real property had an approximate value of \$307,236 as of the petition date. Docket 25. The unavoidable liens totaled \$462,805.02 on that same date, consisting of (1) a first mortgage for \$366,854 in favor of Wells Fargo, (2) a second mortgage for \$89,907 in favor of Franklin Credit Management, and (3) an HOA lien for \$300 in favor of HOA Anatolia. Docket 26. The debtor claimed an exemption pursuant to Cal. Civ. Pro. Code § 703.140(b)(1) in the amount of \$1,000 in Amended Schedule C. Docket 25. The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of \$288,625 as of the petition date. Dockets 15 & 1. The unavoidable liens totaled \$261,024 on that same date, consisting of a single mortgage in favor of Ocwen. Dockets 15 & 1. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730 in the amount of \$27,601 in Schedule C. Dockets 15 & 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).

28.	17-21995-A-7 JASVINDER CHAHAL SCB-18	MOTION FOR TURNOVER OF PROPERTY 4-23-18 [202]
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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 debtors, 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 trustee moves the court to compel the debtor to immediately turn over his residence in Stockton, California, in order for the trustee to market and sell it. The scheduled value of the property is \$200,000, but the trustee has received an offer to purchase the property for \$241,000. The property is subject to encumbrances totaling over \$700,000, including a tax lien the amount of \$621,854 held by the Internal Revenue Service (IRS), and the debtor has claimed an exemption of \$500. The trustee believes the debtor's claim of exemption is subject to bona fide dispute as property exempted from the estate remains subject to government tax liens under 11 U.S.C. § 522(c)(2)(B).

11 U.S.C. § 542(a) requires parties holding property of the estate to turn such

property over to the estate "and account for, such property or the value of such property." The court then must determine whether the property in the motion is property of the estate.

The trustee seeks to sell the property free and clear of the IRS lien. The trustee has filed a motion to sell the property to be heard concurrently with this motion. The sale will generate net proceeds in the amount of \$177,720 for the benefit of the estate. The sale motion states that the IRS has consented to the sale and to subordinate a significant portion of the amount of their secured claim. Docket 223 at ¶¶ 25 & 31. The trustee anticipates paying the IRS claim in full from sale proceeds and other estate funds.

In this case, despite demands by the trustee, the debtor has refused to turn over the property. Further, the debtor has repeatedly asked the trustee to delay selling the property, failed to communicate with the trustee's realtor, and refused to allow the property to be shown to potential buyers. Despite the debtor's lack of cooperation in marketing the property, a few interested purchasers were able to view it and have made offers to purchase the property. However, the trustee is concerned that the debtor will delay in vacating the property upon the close of escrow.

The court has granted the trustee's concurrent motion to sell the property. In light of the debtor's refusal to provide the trustee and his agents with access to the property and refusal to turnover the property, the court will order the debtor to immediately surrender the property to the trustee. No other relief will be awarded.

29. 17-21995-A-7 JASVINDER CHAHAL MOTION TO
SCB-19 ABANDON
4-23-18 [209]

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 wishes to abandon the estate's interest in all personal property located at 8351 Colonial Drive in Stockton, California. The debtor has claimed exemptions for the full value of the property.

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

Specifically the trustee seeks to abandon the following scheduled personal property items:

1. 1994 Chevrolet Z-71
2. 2000 Jaguar XJ

3. 2007 Cadillac Escalade
4. 2002 Mitsubishi Galant
5. Household goods
6. Televisions, cameras, and computers
7. Exercise equipment
8. Clothing

Docket 60.

The debtor has claimed exemptions for the full value of each of the personal property items except for the Mitsubishi, which has a scheduled value of \$500. The trustee had all vehicles evaluated by an auctioneer early in this case, and the auctioneer's appraisal values were similar to those scheduled. The trustee has determined that a sale of the personal property would not produce any equity for the estate. Given this, the court concludes that the property is of inconsequential value to the estate. The motion will be granted.

30.	17-21995-A-7 JASVINDER CHAHAL SCB-20	MOTION FOR APPROVE COMPENSATION OF TRUSTEE'S ATTORNEY 4-23-18 [213]
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Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor, the trustee, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

Schneweis-Coe & Bakken, attorney for the trustee, has filed its second interim motion for approval of compensation. The requested compensation consists of \$18,742.87, the remaining 50% of the \$37,485.74 requested compensation approved by the court on March 28, 2018 for the first interim period from May 3, 2017 to February 5, 2018. Docket 188. In the first interim motion, the trustee sought approval to pay 50% of the \$37,485.74 compensation approved for that period.

The court incorporates by reference its ruling on the movant's first interim motion for approval of compensation. Docket 185.

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 has completed the remaining tax returns and are awaiting the review of those returns by the appropriate taxing agencies. Their efforts have significantly reduced the taxable income of the debtor for the years 2008-2014. The trustee is holding approximately \$553,546.21 in estate funds. In addition, the trustee expects to collect additional funds for the estate from the sale of a vehicle and from the sale of real property.

The court concludes that the compensation is for actual and necessary services

rendered in the administration of this estate. The requested compensation will be approved.

31. 17-21995-A-7 JASVINDER CHAHAL
SCB-21

MOTION FOR
APPROVE COMPENSATION OF ACCOUNTANT
4-23-18 [218]

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.

Ryan, Christie, Quinn & Horn, accountant for the estate, has filed its second interim motion for approval of compensation. The requested compensation consists of \$22,221.75, the remaining 50% of the \$44,443.50 requested compensation approved by the court on March 28, 2018 for the first interim period from May 3, 2017 to February 23, 2018. Docket 189. In the first interim motion, the trustee sought approval to pay 50% of the \$44,443.50 compensation approved for that period.

The court incorporates by reference its ruling on the movant's first interim motion for approval of compensation. Docket 186.

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 has completed the remaining tax returns and are awaiting the review of those returns by the appropriate taxing agencies. Their efforts have significantly reduced the taxable income of the debtor for the years 2008-2014. The trustee is holding approximately \$553,546.21 in estate funds. In addition, the trustee expects to collect additional funds for the estate from the sale of a vehicle and from the sale of real property.

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