

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable Jennifer E. Niemann
Hearing Date: Thursday, June 2, 2022
Place: Department A - Courtroom #11
Fresno, California

Beginning the week of June 28, 2021, and in accordance with District Court General Order No. 631, the court resumed in-person courtroom proceedings in Fresno. Parties to a case may still appear by telephone, provided they comply with the court's telephonic appearance procedures, which can be found on the court's website.

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

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

No Ruling: All parties will need to appear at the hearing unless otherwise ordered.

Tentative Ruling: If a matter has been designated as a tentative ruling it will be called, and all parties will need to appear at the hearing unless otherwise ordered. The court may continue the hearing on the matter, set a briefing schedule or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

Final Ruling: Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

Orders: Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within 14 days of the final hearing on the matter.

THE COURT ENDEAVORS TO PUBLISH ITS RULINGS AS SOON AS POSSIBLE. HOWEVER, CALENDAR PREPARATION IS ONGOING AND THESE RULINGS MAY BE REVISED OR UPDATED AT ANY TIME PRIOR TO 4:00 P.M. THE DAY BEFORE THE SCHEDULED HEARINGS. PLEASE CHECK AT THAT TIME FOR POSSIBLE UPDATES.

1. [17-11652](#)-A-13 **IN RE: GREGORY/ROUZANA TOROSSIAN**
[MJA-5](#)

AMENDED MOTION TO WAIVE FINANCIAL MANAGEMENT COURSE REQUIREMENT,
WAIVE SECTION 1328 CERTIFICATE REQUIREMENT, CONTINUE CASE
ADMINISTRATION, SUBSTITUTE PARTY, AS TO JOINT DEBTOR
5-4-2022 [[113](#)]

GREGORY TOROSSIAN/MV
MICHAEL ARNOLD/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Denied without prejudice.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the non-responding parties in interest are entered. Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has not done here.

Gregory Torossian ("Movant"), joint debtor in this chapter 13 case and the surviving spouse of Rouzana Torosian ("Joint Debtor"), requests the court name Movant as the successor to the deceased Joint Debtor, permit continued administration of this chapter 13 case, and waive the § 1328 certification requirements for Joint Debtor. Doc. #113. None of the three requests for relief are supported by necessary evidence. Doc ##113, 114.

LBR 9014-1(d)(3)(D) provides that "[e]very motion or other request for relief shall be accompanied by evidence establishing its factual allegations and demonstrating that the movant is entitled to the relief requested. Affidavits and declarations shall comply with Fed. R. Civ. P. 56(c)(4)." The only support for the relief requested in the motion is the unauthenticated Certificate of Death of Joint Debtor. Doc. #113. The motion is not supported by any declaration testimony.

Upon the death of a debtor in chapter 13, Federal Rule of Bankruptcy Procedure 1016 provides that the case may proceed and be concluded in the same manner, so far as possible, as though the death had not occurred upon a showing that further administration is possible and in the best interest of the parties. The motion fails to provide any evidence explaining how or why further administration of the chapter 13 case is possible and is in the best interests of the parties should the court name Movant as the successor to the Joint Debtor. Joint Debtor's death certificate, on its own, is insufficient to establish the showing required under Federal Rule of Bankruptcy Procedure 1016.

With respect to a waiver of the certification requirements for entry of discharge under 11 U.S.C. § 1328 as to the Joint Debtor only, Movant has not provided any evidence explaining whether Joint Debtor met the post-petition financial education requirements before she died.

Accordingly, this motion is DENIED WITHOUT PREJUDICE.

2. [21-10679](#)-A-13 **IN RE: SYLVIA NICOLE**
[MHM-8](#)

STATUS CONFERENCE RE: OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
2-4-2022 [[320](#)]

MICHAEL MEYER/MV
RESPONSIVE PLEADING

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED.

Pursuant to the order entered on May 26, 2022 (Doc. #391), the debtor is no longer asserting, and will not assert in this bankruptcy case, a claim of exemption in the real property that is the subject of the objection to exemption.

3. [21-10679](#)-A-13 **IN RE: SYLVIA NICOLE**
[SSA-6](#)

STATUS CONFERENCE RE: OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
2-4-2022 [[323](#)]

T2M INVESTMENTS LLC/MV
STEVEN ALTMAN/ATTY. FOR MV.
RESPONSIVE PLEADINGS

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED.

Pursuant to the order entered on May 26, 2022 (Doc. #391), the debtor is no longer asserting, and will not assert in this bankruptcy case, a claim of exemption in the real property that is the subject of the objection to exemption.

MOTION TO AVOID LIEN OF FINANCIAL CREDIT NETWORK
5-4-2022 [\[38\]](#)

LETICIA RANGEL/MV
SCOTT LYONS/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Leticia Rangel ("Debtor"), the debtor in this chapter 13 case, moves pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014 to avoid the judicial lien of Financial Credit Network Inc. ("Creditor") on the residential real property commonly referred to as 194 S. Latimer Street, Tulare, CA 93274 (the "Property"). Doc. #38; Schedule C, Doc. #1; Am. Schedule D, Doc. #25.

In order to avoid a lien under 11 U.S.C. § 522(f)(1), the movant must establish four elements: (1) there must be an exemption to which the debtor would be entitled under § 522(b); (2) the property must be listed on the debtors' schedules as exempt; (3) the lien must impair the exemption; and (4) the lien must be either a judicial lien or a non-possessory, non-purchase money security interest in personal property listed in § 522(f)(1)(B). 11 U.S.C. § 522(f)(1); Goswami v. MTC Distrib. (In re Goswami), 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003) (quoting In re Mohring, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992)).

Debtor filed the bankruptcy petition on October 9, 2017. Doc. #1. A judgment was entered against Leticia D. Rangel in the amount of \$2,458.74 in favor of Creditor on August 15, 2017. Ex. D, Doc. #41. The abstract judgment was recorded pre-petition in Tulare County on September 5, 2017, as document number 2017-0051179. Ex. D, Doc. #41. The lien attached to Debtor's interest in the Property located in Tulare County. Doc. #41. The Property also is encumbered by a lien in favor of Select Portfolio Servicing in the amount \$119,377.57. Am. Schedule D, Doc. #25. Debtor claimed an exemption of \$100,000.00 in the Property under California Code of Civil Procedure § 704.730. Schedule C, Doc. #1. Debtor asserts a market value for the Property as of the petition date at \$155,523.00. Schedule A/B, Doc. #1.

Applying the statutory formula:

Amount of Creditor's judicial lien		\$2,458.74
Total amount of all other liens on the Property (excluding junior judicial liens)	+	\$119,377.57
Amount of Debtor's claim of exemption in the Property	+	\$100,000.00
		\$221,836.31
Value of Debtor's interest in the Property absent liens	-	\$155,523.00
Amount Creditor's lien impairs Debtor's exemption		\$66,313.31

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

Debtor has established the four elements necessary to avoid a lien under 11 U.S.C. § 522(f)(1). Accordingly, this motion is GRANTED.

11:00 AM

1. [21-12014](#)-A-7 **IN RE: YADWINDER SINGH**
[22-1002](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: AMENDED COMPLAINT
1-7-2022 [[6](#)]

SALVEN V. SINGH ET AL
ANTHONY JOHNSTON/ATTY. FOR PL.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to August 11, 2022, at 11:00 a.m.

ORDER: The court will issue an order.

Pursuant to the joint status report filed on May 26, 2022 (Doc. #19), the status conference will be continued to August 11, 2022, at 11:00 a.m.

The parties shall file either joint or unilateral status report(s) not later than August 4, 2022.

2. [19-11628](#)-A-12 **IN RE: MIKAL JONES**
[19-1081](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
6-28-2019 [[1](#)]

DILDAY ET AL V. JONES
RILEY WALTER/ATTY. FOR PL.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to August 11, 2022, at 11:00 a.m.

ORDER: The court will issue an order.

Pursuant to the plaintiff's status conference statement filed on May 24, 2022 (Doc. #57) and the defendant's status report filed on May 26, 2022 (Doc. #60), the status conference will be continued to August 11, 2022, at 11:00 a.m.

The parties shall file either joint or unilateral status report(s) not later than August 4, 2022.

3. [21-11034](#)-A-7 **IN RE: ESPERANZA GONZALEZ**
[21-1031](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
7-26-2021 [[1](#)]

ABLP PROPERTIES VISALIA, LLC V. GONZALEZ
DON POOL/ATTY. FOR PL.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to July 14, 2022, at 11:00 a.m.

ORDER: The court will issue an order.

Pursuant to the plaintiff's status conference statement filed on May 26, 2022 (Doc. #41), the status conference will be continued to July 14, 2022, at 11:00 a.m.

The parties shall file either joint or unilateral status report(s) not later than July 7, 2022.