



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

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

DAY: MONDAY
DATE: JULY 29, 2024
CALENDAR: 10:30 A.M. CHAPTER 7 CASES

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

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

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

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

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

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

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

Please also note the following:

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

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

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

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

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

PRE-HEARING DISPOSITION INSTRUCTIONS

RULINGS

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

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

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

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

CHANGES TO PREVIOUSLY PUBLISHED RULINGS

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

ERRORS IN RULINGS

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

1. [24-20302](#)-A-7 **IN RE: JAIME/IRMA ANDUJO**
[BLG-10](#)

MOTION TO AVOID LIEN OF THE BOARD OF TRUSTEES IN THEIR
CAPACITIES AS TRUSTEE OF THE CARPENTERS HEALTH AND WELFARE
TRUST FUND FOR CALIFORNIA CARPENTERS VACATION-HOLIDAY TRUST
FUND FOR NORTHERN CALIFORNIA, ET AL.
6-24-2024 [\[104\]](#)

CHAD JOHNSON/ATTY. FOR DBT.
DEBTORS DISCHARGED: 05/22/24

Tentative Ruling

Motion: Avoid Lien that Impairs Exemption
Notice: LBR 9014-1(f)(1); written opposition required
Disposition: Granted
Order: Prepared by moving party

Subject: 424 Seville Place, Vacaville, California

Judicial Lien Avoided: The Board of Trustees in their Capacities as
Trustee of the Carpenters Health and Welfare Trust Fund for
California Carpenters Vacation-Holiday Trust Fund for Northern
California; Carpenters Pension Trust Fund for Northern California;
Carpenters Annuity Trust Fund for Northern California; and
Carpenters Training Trust Fund for Northern California; and Northern
California Carpenters Regional Council - \$68,489.27

All Other Liens:

- Deed of Trust - (1) \$240,000.00, American Surety Company; (2)
\$44,601.00, Technology CU; (3) \$10,982.98, US Dept of Housing and
Urban Development; (4) \$332,270.00, Wells Fargo; (5) \$175,000.00,
Lexington National Insurance Corporation

- Statutory Liens - totaling \$344,853.87

- Judicial Liens - (1) \$68,489.27, The Board of Trustees; (2)
\$179,819.00, H. Jeffrey Froelich; (3) \$3,121.92, Kelstin Group,
Inc.; (4) \$91,473.00, Granite State Insurance, et al.; (5)
\$90,103.16, Creditors Adjustment Bureau, Inc.

Exemption: \$565,000

Value of Property: \$681,800

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

The debtors seek an order avoiding the judicial lien of The Board of
Trustees in their Capacities as Trustee of the Carpenters Health and

Welfare Trust Fund for California Carpenters Vacation-Holiday Trust Fund for Northern California; Carpenters Pension Trust Fund for Northern California; Carpenters Annuity Trust Fund for Northern California; and Carpenters Training Trust Fund for Northern California; and Northern California Carpenters Regional Council under 11 U.S.C. § 522(f).

There are nine non-avoidable senior liens - Deed of Trust with Wells Fargo; two Franchise Tax Board statutory liens; three Internal Revenue Service statutory liens; EDD statutory lien; Deed of Trust with American Surety Company; and a Deed of Trust with Lexington National Insurance Company. The statutory and consensual liens total \$1,135,760.33.

LIEN-AVOIDANCE STANDARDS

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

REVERSE-PRIORITY ANALYSIS

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

The liens against the subject real property, listed in the reverse order of their priority are: (i) \$90,103.16, Creditors Adjustment Bureau, Inc.; (ii) \$91,473.00, Granite State Insurance, et al; (iii) \$3,121.92, Kelstin Group, Inc.; (iv) \$179,819.00, H. Jeffrey Froelich; and (v) \$ 68,489.27, The Board of Trustees. The court takes judicial notice of other motions on this calendar that request avoidance of other judicial liens against the subject real property in this matter. Fed. R. Evid. 201. The debtor has claimed a \$565,000 exemption in the property.

Excluding all liens against the subject real property that are lower in priority than respondent's lien, the moving party is entitled to relief. The total of the judicial lien, all other liens except junior judicial liens, plus the exemption amount equals

approximately \$1,769,249.60. The value of the property is \$681,800. The respondent's judicial lien, all other liens (except junior judicial liens), and the exemption amount together exceed the property's value by an amount greater than or equal to the judicial lien. As a result, the respondent's judicial lien will be avoided entirely.

2. [24-20302](#)-A-7 **IN RE: JAIME/IRMA ANDUJO**
[BLG-6](#)

MOTION TO AVOID LIEN OF CREDITORS ADJUSTMENT BUREAU, INC.
7-1-2024 [\[109\]](#)

CHAD JOHNSON/ATTY. FOR DBT.
DEBTORS DISCHARGED: 05/22/24

Tentative Ruling

Motion: Avoid Lien that Impairs Exemption

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

Disposition: Granted

Order: Prepared by moving party

Subject: 424 Seville Place, Vacaville, California

Judicial Lien Avoided: Creditors Adjustment Bureau, Inc. -
\$90,103.16

All Other Liens:

- Deed of Trust - (1) \$240,000.00, American Surety Company; (2) \$44,601.00, Technology CU; (3) \$10,982.98, US Dept of Housing and Urban Development; (4) \$332,270.00, Wells Fargo; (5) \$175,000.00, Lexington National Insurance Corporation

- Statutory Liens - totaling \$344,853.87

- Judicial Liens - (1) \$68,489.27, The Board of Trustees; (2) \$179,819.00, H. Jeffrey Froelich; (3) \$3,121.92, 11/16/16 Kelstin Group, Inc.; (4) \$91,473.00, Granite State Insurance, et al.; (5) \$90,103.16, Creditors Adjustment Bureau, Inc.

Exemption: \$565,000

Value of Property: \$681,800

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

The debtors seek an order avoiding the judicial lien of Creditors Adjustment Bureau, Inc. under 11 U.S.C. § 522(f).

There are nine non-avoidable senior liens - Deed of Trust with Wells Fargo; two Franchise Tax Board statutory liens; three Internal Revenue Service statutory liens; EDD statutory lien; Deed of Trust with American Surety Company; and a Deed of Trust with Lexington National Insurance Company. The statutory and consensual liens total \$1,135,760.33.

LIEN-AVOIDANCE STANDARDS

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

REVERSE-PRIORITY ANALYSIS

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

The liens against the subject real property, listed in the reverse order of their priority are: (i) \$90,103.16, Creditors Adjustment Bureau, Inc.; (ii) \$91,473.00, Granite State Insurance, et al; (iii) \$3,121.92, Kelstin Group, Inc.; (iv) \$179,819.00, H. Jeffrey Froelich; and (v) \$ 68,489.27, The Board of Trustees. The court takes judicial notice of other motions on this calendar that request avoidance of other judicial liens against the subject real property in this matter. Fed. R. Evid. 201. The debtor has claimed a \$565,000 exemption in the property.

Excluding all liens against the subject real property that are lower in priority than respondent's lien, the moving party is entitled to relief. The total of the judicial lien, all other liens except junior judicial liens, plus the exemption amount equals approximately \$2,133,766.68. The value of the property is \$681,800. The respondent's judicial lien, all other liens (except junior judicial liens), and the exemption amount together exceed the property's value by an amount greater than or equal to the judicial lien. As a result, the respondent's judicial lien will be avoided entirely.

3. [24-20302](#)-A-7 **IN RE: JAIME/IRMA ANDUJO**
[BLG-7](#)

MOTION TO AVOID LIEN OF GRANITE STATE INSURANCE COMPANY
7-1-2024 [\[114\]](#)

CHAD JOHNSON/ATTY. FOR DBT.
DEBTORS DISCHARGED: 05/22/24

Tentative Ruling

Motion: Avoid Lien that Impairs Exemption

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

Disposition: Granted

Order: Prepared by moving party

Subject: 424 Seville Place, Vacaville, California

Judicial Lien Avoided: Granite State Insurance Company, et. al. -
\$91,473.00

All Other Liens:

- Deed of Trust - (1) \$240,000.00, American Surety Company; (2)
\$44,601.00, Technology CU; (3) \$10,982.98, US Dept of Housing and
Urban Development; (4) \$332,270.00, Wells Fargo; (5) \$175,000.00,
Lexington National Insurance Corporation

- Statutory Liens - totaling \$344,853.87

- Judicial Liens - (1) \$68,489.27, The Board of Trustees; (2)
\$179,819.00, H. Jeffrey Froelich; (3) \$3,121.92, 11/16/16 Kelstin
Group, Inc.; (4) \$91,473.00, Granite State Insurance, et al.; (5)
\$90,103.16, Creditors Adjustment Bureau, Inc.

Exemption: \$565,000

Value of Property: \$681,800

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

The debtors seek an order avoiding the judicial lien of Granite
State Insurance Company, et. al. under 11 U.S.C. § 522(f).

There are nine non-avoidable senior liens - Deed of Trust with Wells
Fargo; two Franchise Tax Board statutory liens; three Internal
Revenue Service statutory liens; EDD statutory lien; Deed of Trust
with American Surety Company; and a Deed of Trust with Lexington
National Insurance Company. The statutory and consensual liens
total \$1,135,760.33.

LIEN-AVOIDANCE STANDARDS

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

REVERSE-PRIORITY ANALYSIS

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

The liens against the subject real property, listed in the reverse order of their priority are: (i) \$90,103.16, Creditors Adjustment Bureau, Inc.; (ii) \$91,473.00, Granite State Insurance, et al; (iii) \$3,121.92, Kelstin Group, Inc.; (iv) \$179,819.00, H. Jeffrey Froelich; and (v) \$ 68,489.27, The Board of Trustees. The court takes judicial notice of other motions on this calendar that request avoidance of other judicial liens against the subject real property in this matter. Fed. R. Evid. 201. The debtor has claimed a \$565,000 exemption in the property.

Excluding all liens against the subject real property that are lower in priority than respondent's lien, the moving party is entitled to relief. The total of the judicial lien, all other liens except junior judicial liens, plus the exemption amount equals approximately \$2,043,663.52. The value of the property is \$681,800. The respondent's judicial lien, all other liens (except junior judicial liens), and the exemption amount together exceed the property's value by an amount greater than or equal to the judicial lien. As a result, the respondent's judicial lien will be avoided entirely.

4. [24-20302](#)-A-7 **IN RE: JAIME/IRMA ANDUJO**
[BLG-8](#)

MOTION TO AVOID LIEN OF KELSTIN GROUP, INC
6-24-2024 [\[99\]](#)

CHAD JOHNSON/ATTY. FOR DBT.
DEBTORS DISCHARGED: 05/22/24

Tentative Ruling

Motion: Avoid Lien that Impairs Exemption

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

Disposition: Granted

Order: Prepared by moving party

Subject: 424 Seville Place, Vacaville, California

Judicial Lien Avoided: Kelstin Group, Inc. - \$3,121.92

All Other Liens:

- Deed of Trust - (1) \$240,000.00, American Surety Company; (2) \$44,601.00, Technology CU; (3) \$10,982.98, US Dept of Housing and Urban Development; (4) \$332,270.00, Wells Fargo; (5) \$175,000.00, Lexington National Insurance Corporation

- Statutory Liens - totaling \$344,853.87

- Judicial Liens - (1) \$68,489.27, The Board of Trustees; (2) \$179,819.00, H. Jeffrey Froelich; (3) \$3,121.92, Kelstin Group, Inc.; (4) \$91,473.00, Granite State Insurance, et al.; (5) \$90,103.16, Creditors Adjustment Bureau, Inc.

Exemption: \$565,000

Value of Property: \$681,800

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

The debtors seek an order avoiding the judicial lien of Kelstin Group, Inc. under 11 U.S.C. § 522(f).

There are nine non-avoidable senior liens - Deed of Trust with Wells Fargo; two Franchise Tax Board statutory liens; three Internal Revenue Service statutory liens; EDD statutory lien; Deed of Trust with American Surety Company; and a Deed of Trust with Lexington National Insurance Company. The statutory and consensual liens total \$1,135,760.33.

LIEN-AVOIDANCE STANDARDS

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

REVERSE-PRIORITY ANALYSIS

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

The liens against the subject real property, listed in the reverse order of their priority are: (i) \$90,103.16, Creditors Adjustment Bureau, Inc.; (ii) \$91,473.00, Granite State Insurance, et al; (iii) \$3,121.92, Kelstin Group, Inc.; (iv) \$179,819.00, H. Jeffrey Froelich; and (v) \$ 68,489.27, The Board of Trustees. The court takes judicial notice of other motions on this calendar that request avoidance of other judicial liens against the subject real property in this matter. Fed. R. Evid. 201. The debtor has claimed a \$565,000 exemption in the property.

Excluding all liens against the subject real property that are lower in priority than respondent's lien, the moving party is entitled to relief. The total of the judicial lien, all other liens except junior judicial liens, plus the exemption amount equals approximately \$1,952,190.52. The value of the property is \$681,800. The respondent's judicial lien, all other liens (except junior judicial liens), and the exemption amount together exceed the property's value by an amount greater than or equal to the judicial lien. As a result, the respondent's judicial lien will be avoided entirely.

5. [24-20707](#)-A-7 **IN RE: JOHNNY GARCIA**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
6-21-2024 [\[70\]](#)

Final Ruling

As the fee has been paid in full, the order to show cause is discharged. The case will remain pending.

6. [24-22409](#)-A-7 **IN RE: TREVA JONES**
[DW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
6-27-2024 [\[14\]](#)

CHAD JOHNSON/ATTY. FOR DBT.
DENNIS WINTERS/ATTY. FOR MV.
TOYOTA MOTOR CREDIT CORPORATION VS.
TRUSTEE NON-OPPOSITION

Final Ruling

Motion: Stay Relief

Notice: LBR 9014-1(f)(1); non-opposition filed by trustee

Disposition: Granted

Order: Civil minute order

Subject: 2017 Lexus RX350

Cause: delinquent installment payments totaling \$34,857.99

These minutes constitute the court's findings of fact and conclusions of law required by Fed. R. Civ. P. 52(a), *incorporated* by Fed. R. Bankr. P. 7052, 9014(c). The findings of fact are as set forth above; the conclusions of law are as set forth below.

Toyota Motor Credit Corporation seeks an order for relief from the automatic stay of 11 U.S.C. § 362(a).

DEFAULT OF RESPONDENT

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

STAY RELIEF

"[A]fter notice and a hearing," the court may terminate, annul, modify or condition the stay: (1) "for cause, including the lack of adequate protection"; or (2) "with respect to a stay of an act against property [of the estate]" if the debtor lacks "equity" in that property and if that "property is not necessary for an effective reorganization." 11 U.S.C. § 362(d); see also Fed. R. Bankr. P. 4001(a)(1). The party seeking stay relief bears the burden of proof as to "the debtor's equity in the property" and on the validity and perfection of its security interest, as well as the amount of its debt. 11 U.S.C. § 362(g)(1); *In re Dahlquist*, 34 B.R. 476, 481 (Bankr. S.D. 1983). The party opposing stay relief, e.g., the debtor or Chapter 7 trustee, bears the burden of proof on all other issues. 11 U.S.C. § 362(g)(2).

Subsection (d)(1) of § 362 of Title 11 provides for relief from stay for "cause, including the lack of adequate protection of an interest in property of such party." 11 U.S.C. § 362(d)(1). The debtor bears the burden of proof. 11 U.S.C. § 362(g)(2). Adequate protection may consist of a lump sum cash payment or periodic cash payments to the entity entitled to adequate protection "to the extent that the stay . . . results in a decrease in the value of such entity's interest in property." 11 U.S.C. § 361(1). "An undersecured creditor is entitled to adequate protection only for the decline in the [collateral's] value after the bankruptcy filing." See Kathleen P. March, Hon. Alan M. Ahart & Janet A. Shapiro, *California Practice Guide: Bankruptcy* ¶ 8:1065.1 (rev. 2019) (citing *United Sav. Ass'n v. Timbers of Inwood Forest Assocs., Ltd.*, 484 U.S. 365, 370-73 (1988)); see also *In re Weinstein*, 227 BR 284, 296 (9th Cir. BAP 1998) ("Adequate protection is provided to safeguard the creditor against depreciation in the value of its collateral during the reorganization process"); *In re Deico Electronics, Inc.*, 139 BR 945, 947 (9th Cir. BAP 1992) ("Adequate protection payments compensate undersecured creditors for the delay bankruptcy imposes upon the exercise of their state law remedies").

The debtor is obligated to make debt payments to the moving party pursuant to a loan contract that is secured by a security interest in the debtor's vehicle described above. The debtor has defaulted on such loan with the moving party, and postpetition payments are past due. Vehicles depreciate over time and with usage. As a consequence, the moving party's interest in the vehicle is not being adequately protected due to the debtor's ongoing postpetition default.

Cause exists to grant relief under § 362(d)(1). The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

CIVIL MINUTE ORDER

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

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

Toyota Motor Credit Corporation's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as a 2017 Lexus RX350, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

7. [24-21527](#)-A-7 **IN RE: ANTHONY/JENNIFER ALVAREZ**
[KMT-2](#)

MOTION TO EMPLOY TMC AUCTION, INC. AS AUCTIONEER,
AUTHORIZING SALE OF PROPERTY AT PUBLIC AUCTION AND
AUTHORIZING PAYMENT OF AUCTIONEER FEES AND EXPENSES
6-25-2024 [\[18\]](#)

STEVEN ALPERT/ATTY. FOR DBT.
NIKKI FARRIS/ATTY. FOR MV.

Tentative Ruling

Motion: Sell Property and Compensate Auctioneer

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

Disposition: Granted

Order: Prepared by moving party

Property: 2017 Hideout Travel Trailer

Sale Type: Public auction

Auctioneer: TMC Auction, Inc.

Compensation: 10% of gross sale proceeds; plus buyer's premium equal to ten percent (10%) of the gross sale proceeds

Reimbursement of Expenses: actual, not to exceed \$500.00

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 7 trustee Nikki Farris seeks the court's approval to sell the subject property, a 2017 Hideout Travel Trailer, at public auction. Additionally, the trustee seeks the court's approval to employ and compensate TMC Auction, Inc. to conduct the auction.

As indicated below the court will grant the motion. The movant shall prepare an order consistent with this ruling.

SALE AT PUBLIC AUCTION

Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b)(1); see also *In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). The moving party is the Chapter 7 trustee and liquidation of property of the estate is a proper purpose. See 11 U.S.C. § 704(a)(1). As a result, the court will grant the motion. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

COMPENSATION OF AUCTIONEER

Section 330(a) of Title 11 authorizes "reasonable compensation for actual, necessary services" rendered by a professional person employed under § 327 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3). The court finds that the compensation sought is reasonable and will approve the application.

8. [24-21931](#)-A-7 **IN RE: JOSE CRUZ QUINTANA**
[TRF-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
6-21-2024 [\[26\]](#)

ANDREW MASE/ATTY. FOR MV.
OCEANA INVESTMENTS, LLC VS.

Tentative Ruling

Motion: Stay Relief

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

Disposition: Granted in part; denied in part

Order: Civil minute order

Subject: 7335 Barton Road, Granite Bay, California

Cause: delinquent payments - pre-petition 8 payments/totaling \$134,765.20; post-petition 1 payment/totaling \$16,845.65

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

Oceana Investments, LLC, seeks an order for relief from the automatic stay of 11 U.S.C. § 362(a). The motion seeks relief under 11 U.S.C. § 362(d)(1) and (d)(4).

STAY RELIEF

Subsection (d)(1) of § 362 of Title 11 provides for relief from stay for "cause, including the lack of adequate protection of an interest in property of such party." 11 U.S.C. § 362(d)(1). Adequate protection may consist of a lump sum cash payment or periodic cash payments to the entity entitled to adequate protection "to the extent that the stay . . . results in a decrease in the value of such entity's interest in property." 11 U.S.C. § 361(1).

"[U]nder section 362(d)(1), the stay must be terminated for 'cause.' Lack of adequate protection is but one example of "cause" for relief from stay." *In re Ellis*, 60 B.R. 432, 435 (B.A.P. 9th Cir. 1985). The panel in the *Ellis* case rejected the argument that under § 362(d)(1) "the stay can only be terminated if [the movant-creditors] show a lack of adequate protection." *Id.*

The debtor has missed 1 post-petition payments due on the debt secured by the moving party's lien. This constitutes cause for stay relief.

The court does not address grounds for relief under § 362(d)(2) as relief is warranted under § 362(d)(1). The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

Relief Under § 362(d)(4)

Section 362(d)(4) authorizes binding, in rem relief from stay with respect to real property "if the court finds that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either—(A) transfer of all or part ownership of, or other interest in, such real property without the consent of the secured creditor or court approval; or (B) multiple bankruptcy filings affecting such real property." 11 U.S.C. § 362(d)(4).

The B.A.P. has specified the elements for relief under this subsection of § 362. "To obtain relief under § 362(d)(4), the court must find three elements to be present. [1] First, debtor's bankruptcy filing must have been part of a scheme. [2] Second, the object of the scheme must be to delay, hinder, or defraud creditors. [3] Third, the scheme must involve either (a) the transfer of some interest in the real property without the secured creditor's consent or court approval, or (b) multiple bankruptcy filings affecting the property." *In re First Yorkshire Holdings, Inc.*, 470 B.R. 864, 870-71 (B.A.P. 9th Cir. 2012) (footnote omitted). [4] Fourth, the movant creditor must be a creditor whose claim is secured by real property. *In re Ellis*, 523 B.R. 673, 678 (B.A.P. 9th Cir. 2014) ("Applying its plain meaning, this provision of the Code authorizes a bankruptcy court to grant the extraordinary remedy of in rem stay relief only upon the request of a creditor whose claim is secured by an interest in the subject property.").

The debtor filed this bankruptcy petition on May 6, 2024, as a skeleton petition. The bankruptcy filing halted movant's foreclosure sale scheduled the same day. The debtor timely filed the remaining bankruptcy documents listing the subject property. The debtor failed to attend the meeting of creditors or to advise the bankruptcy trustee that the subject property had been listed for sale. While it appears that the debtor wishes to proceed with the sale, he has not sought approval to do so.

The debtor also filed an ex-parte motion for dismissal of the case which the court has denied. See Motion, ECF No. 23, Order, ECF No. 24.

The court finds that relief under § 362(d)(4) is not warranted under the statute. There are no prior bankruptcies impacting this property. Further, there is insufficient evidence of a "scheme" to hinder, delay or defraud creditors. The court denies relief under § 362(d)(4).

CIVIL MINUTE ORDER

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

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

Oceana Investments, LLC's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as 7335 Barton Road, Granite Bay, California, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

9. [24-22651](#)-A-7 **IN RE: SAMANTHA/TEARLE STRAWMIER**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
7-3-2024 [[25](#)]

RAJDEP CHIMA/ATTY. FOR DBT.
7/8/2024 FILING FEE PAID \$338

Final Ruling

As the filing fee has been paid in full, the order to show cause is discharged. The case will remain pending.

10. [22-22772](#)-A-7 **IN RE: YURIY SVITYASHCHUK**
[RLS-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
6-21-2024 [\[74\]](#)

MARK SHMORGON/ATTY. FOR DBT.
JOHN BOLLIER/ATTY. FOR MV.
SERHII IVANOV VS.

Final Ruling

Motion: Stay Relief

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

Disposition: Denied without prejudice

Order: Civil minute order

Serhii Ivanov seeks an order for relief from the automatic stay of
11 U.S.C. § 362(a).

The motion will be denied without prejudice for the following
reason.

FAILURE TO FILE REQUIRED FORM

With all motions for relief from stay, the movant
shall file and serve as a separate document completed
Form EDC 3-468, *Relief from Stay Summary Sheet*.

LBR 4001-1(a)(3).

The motion seeks relief from the automatic stay. However, the
motion contravenes LBR 4001-1(a)(3) as the movant failed to
file Form EDC 3-468 in support of the motion.

CIVIL MINUTE ORDER

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

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

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

Serhii Ivanov's Motion for relief from the automatic stay has been
presented to the court. Given the procedural deficiencies discussed
by the court in its ruling,

IT IS ORDERED that the motion is denied without prejudice.

11. [24-22195](#)-A-7 **IN RE: CHRISTA BLACKWELL**

TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO APPEAR AT SEC.
341(A) MEETING OF CREDITORS
6-28-2024 [\[26\]](#)

Tentative Ruling

Motion: Dismiss Case and Extend Trustee's Deadlines

Notice: LBR 9014-1(f)(1); written opposition required, or case dismissed without hearing

Disposition: Conditionally denied in part, granted in part

Order: Civil minute order

Chapter 7 trustee, Kimberley Husted moves to dismiss the case as the debtor failed to attend the meeting of creditors on June 28, 2024.

DISMISSAL

Chapter 7 debtors shall attend the § 341(a) meeting of creditors. 11 U.S.C. § 343. A continuing failure to attend this meeting may be cause for dismissal of the case. See 11 U.S.C. §§ 105(a), 343, 707(a); *In re Witkowski*, 523 B.R. 300, 307 n.8 (B.A.P. 1st Cir. 2014) ("Some courts have ruled that the failure to attend the § 341 meeting of creditors constitutes 'cause' for dismissal.").

In this case, the debtor has failed to appear at a scheduled meeting of creditors required by 11 U.S.C. § 341. Because the debtor's failure to attend this meeting has occurred once, the court will not dismiss the case on condition that the debtor attend the next creditors' meeting. But if the debtor does not appear at the continued meeting of creditors, the case will be dismissed on trustee's declaration without further notice or hearing.

EXTENSION OF DEADLINES

The court will grant the motion in part to the extent it asks for an extension of deadlines. The court extends the following deadlines to 60 days after the next continued date of the creditors' meeting: (1) the trustee and all creditors' deadline to object to discharge under § 727, see Fed. R. Bankr. P. 4004(a); and (2) the trustee and all creditors' deadline to bring a motion to dismiss under § 707(b) or (c) for abuse, other than presumed abuse, see Fed. R. Bankr. P. 1017(e). These deadlines are no longer set at 60 days after the first creditors' meeting.

CIVIL MINUTE ORDER

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

Findings of Fact and Conclusions of Law are stated in the Civil Minutes of the hearing.

IT IS ORDERED that the Motion to Dismiss is denied on the condition that the debtor attend the next continued § 341(a) meeting of creditors scheduled for July 26, 2024, at 1:00 p.m. But if the debtor does not appear at this continued meeting, the case will be dismissed on trustee's declaration without further notice or hearing.

IT IS ALSO ORDERED that following deadlines shall be extended to 60 days after the next continued date of the creditors' meeting: (1) the trustee and all creditors' deadline to object to discharge under § 727, see Fed. R. Bankr. P. 4004(a); and (2) the trustee and all creditors' deadline to bring a motion to dismiss under § 707(b) or (c) for abuse, other than presumed abuse, see Fed. R. Bankr. P. 1017(e).

12. [24-22195](#)-A-7 **IN RE: CHRISTA BLACKWELL**
[DAT-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
7-12-2024 [\[30\]](#)

ANH TRINH/ATTY. FOR MV.
JEFF PLOCHER VS.

Final Ruling

Motion: Stay Relief under § 362(d)(4)

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

Disposition: Continued to August 26, 2024, at 10:30 a.m.

Order: Civil minute order

Subject: 725 Tuolumne Street, Vallejo, California

The motion seeks relief pursuant to 11 U.S.C. § 362(d)(4) regarding the subject property. The motion is supported by the declaration of Jeff Plocher, ECF No. 33.

The declaration consists of one page and appears incomplete. It appears that the declaration which was filed is only the final page of what is intended as a 5-page declaration. The previous 4 pages are missing. *Id.* As such there is insufficient admissible evidence before the court to grant the motion.

Accordingly, the court will continue the hearing on this motion to allow the movant to file and serve additional evidence on all interested parties, and for the respondent to file and serve opposition, if any, to the motion.

CIVIL MINUTE ORDER

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

IT IS ORDERED that the motion is continued to August 26, 2024, at 10:30 a.m. No later than August 5, 2024, the movant shall file and serve: (1) a notice of continued hearing; and (2) any additional evidence and argument in support of its motion, on all interested parties. At a minimum the movant shall file and serve the complete declaration of Jeff Plocher.

IT IS FURTHER ORDERED that no later than August 19, 2024, the respondent shall file and serve opposition, if any, to the motion. The evidentiary record will close after August 19, 2024.

IT IS FURTHER ORDERED that the stay shall remain in full force and effect until such time as the court rules on the motion and, if the motion is granted, enters an order granting stay relief.

13. [24-20302](#)-A-7 **IN RE: JAIME/IRMA ANDUJO**
[BLG-9](#)

MOTION TO AVOID LIEN OF H. JEFFREY FROELICH
7-15-2024 [\[119\]](#)

CHAD JOHNSON/ATTY. FOR DBT.
DEBTORS DISCHARGED: 05/22/24

Tentative Ruling

Motion: Avoid Lien that Impairs Exemption

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

Disposition: Granted

Order: Prepared by moving party

Subject: 424 Seville Place, Vacaville, California

Judicial Lien Avoided: H. Jeffrey Froelich - \$179,819.00

All Other Liens:

- Deed of Trust - (1) \$240,000.00, American Surety Company; (2) \$44,601.00, Technology CU; (3) \$10,982.98, US Dept of Housing and Urban Development; (4) \$332,270.00, Wells Fargo; (5) \$175,000.00, Lexington National Insurance Corporation

- Statutory Liens - totaling \$344,853.87

- Judicial Liens - (1) \$68,489.27, The Board of Trustees; (2) \$179,819.00, H. Jeffrey Froelich; (3) \$3,121.92, 11/16/16 Kelstin Group, Inc.; (4) \$91,473.00, Granite State Insurance, et al.; (5) \$90,103.16, Creditors Adjustment Bureau, Inc.

Exemption: \$565,000

Value of Property: \$681,800

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before

the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The debtors seek an order avoiding the judicial lien of H. Jeffrey Froelich under 11 U.S.C. § 522(f).

There are nine non-avoidable senior liens - Deed of Trust with Wells Fargo; two Franchise Tax Board statutory liens; three Internal Revenue Service statutory liens; EDD statutory lien; Deed of Trust with American Surety Company; and a Deed of Trust with Lexington National Insurance Company. The statutory and consensual liens total \$1,135,760.33.

LIEN-AVOIDANCE STANDARDS

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

REVERSE-PRIORITY ANALYSIS

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

The liens against the subject real property, listed in the reverse order of their priority are: (i) \$90,103.16, Creditors Adjustment Bureau, Inc.; (ii) \$91,473.00, Granite State Insurance, et al; (iii) \$3,121.92, Kelstin Group, Inc.; (iv) \$179,819.00, H. Jeffrey Froelich; and (v) \$ 68,489.27, The Board of Trustees. The court takes judicial notice of other motions on this calendar that request avoidance of other judicial liens against the subject real property in this matter. Fed. R. Evid. 201. The debtor has claimed a \$565,000 exemption in the property.

Excluding all liens against the subject real property that are lower in priority than respondent's lien, the moving party is entitled to

relief. The total of the judicial lien, all other liens except junior judicial liens, plus the exemption amount equals approximately \$1,949,068.60. The value of the property is \$681,800. The respondent's judicial lien, all other liens (except junior judicial liens), and the exemption amount together exceed the property's value by an amount greater than or equal to the judicial lien. As a result, the respondent's judicial lien will be avoided entirely.