

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable Jennifer E. Niemann
Hearing Date: Thursday, September 9, 2021
Place: Department A – 510 19th Street
Bakersfield, California

ALL APPEARANCES MUST BE TELEPHONIC
(Please see the court's website for instructions.)

Pursuant to District Court General Order 631, courthouses for the Eastern District of California were reopened to the public effective June 14, 2021.

At this time, when in-person hearings in Bakersfield will resume is to be determined. No persons are permitted to appear in court for the time being. All appearances of parties and attorneys shall be telephonic through CourtCall. The contact information for CourtCall to arrange for a phone appearance is: (866) 582-6878.

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. [16-13302](#)-A-13 **IN RE: LUIS ORTEGA AND NANCY NUNEZ**
[PK-8](#)

MOTION FOR COMPENSATION FOR PATRICK KAVANAGH, DEBTORS ATTORNEY(S)
7-26-2021 [\[132\]](#)

PATRICK KAVANAGH/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 debtors, 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.

Patrick Kavanagh ("Movant"), counsel for Luis Ortega and Nancy C. Nunez (together, "Debtors"), the debtors in this chapter 13 case, requests allowance of final compensation in the amount of \$2,891.28 for services rendered from August 22, 2017 through case closing. Doc. #132. Debtors' confirmed plan provides for \$7,500.00 in attorney's fees. Plan, Doc. ##120, 131. One prior fee application has been granted, allowing interim compensation and reimbursement to Movant pursuant to 11 U.S.C. § 331 in the amount of \$6,108.72, of which \$1,500 was a paid as a retainer. Order, Doc. #78.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a debtor's attorney in a chapter 13 case. 11 U.S.C. § 330(a)(1), (4)(B). In determining the amount of reasonable compensation, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3). Here, Movant demonstrates services rendered relating to: (1) confirming the second modified plan; (2) confirming the third modified plan; and (3) prosecuting a motion to incur new debt so Debtors could purchase a residence. Exs. A, B, and C, Doc. #134. The court finds that the compensation and reimbursement sought are reasonable, actual, and necessary, and the court will approve the motion on a final basis.

This motion is GRANTED. The court finds all fees and expenses of Movant previously allowed on an interim basis are reasonable and necessary. The court allows on a final basis all fees and expenses previously allowed to Movant on an interim bases, in addition to compensation requested by this motion in the

amount of \$2,891.28 to be paid in a manner consistent with the terms of the confirmed plan.

2. [21-10716](#)-A-13 **IN RE: VINOD SAHNI**
[MHM-2](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
7-12-2021 [\[35\]](#)

MICHAEL MEYER/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

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

DISPOSITION: Sustained as to amount claimed exempt.

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 debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo 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.

Michael H. Meyer ("Trustee"), the chapter 13 trustee in the bankruptcy case of Vinod Kumar Sahni ("Debtor"), objects to various exemptions claimed by Debtor for household goods and furnishing, household electronics, bicycles, exercise and golf equipment, firearms, wearing apparel, and tools (collectively, the "Property"). Tr.'s Obj., Doc. #36; see Schedule C, Doc. #1. Debtor claims a total of \$40,750 in exemptions in the Property under California Code of Civil Procedure ("C.C.P.") § 704.020. Schedule C, Doc. #1. Debtor has not responded to Trustee's objection.

"[T]he debtor, as the exemption claimant, bears the burden of proof which requires her to establish by a preponderance of the evidence that [the property] claimed as exempt in Schedule C is exempt under California Code of Civil Procedure [§ 704.020] and the extent to which the exemption applies." In re Pashenee, 531 B.R. 834, 837 (Bankr. E.D. Cal. 2015); see Diaz v. Kosmala (In re Diaz), 547 B.R. 329, 337 (B.A.P. 9th Cir. 2016) (concluding "that where a state law exemption statute specifically allocates the burden of proof to the debtor, Rule 4003(c) does not change that allocation.").

Section 704.020 allows the debtor to exempt household furnishings and personal effects that are ordinarily and reasonably necessary to, and personally used by, the debtor at the debtor's home. C.C.P. § 704.020(a); In re Frazier, 104 B.R. 255, 260 (Bankr. N.D. Cal. 1989). Section 704.020 has no dollar limit, but "seems intended to prevent a debtor from abusing the exemption statute by

claiming a luxury item as exempt." Frazier, 104 B.R. at 260. "In determining whether an item of property is 'ordinarily and reasonably necessary,'" the bankruptcy court is to consider "[t]he extent to which the particular type of item is ordinarily found in a household [and] [w]hether the particular item has extraordinary value as compared to the value of items of the same type found in other households." C.C.P. § 704.020(b).

Debtor's Schedule C reflects the following exemptions under C.C.P. § 704.020:

Description	Value	Exemption Amount
Household Goods & Furnishings	\$25,000	\$25,000
Household Electronics	\$12,000	\$12,000
Bicycles, Exercise & Golf Equipment	\$1,500	\$1,500
Three Firearms	\$800	\$500
Wearing Apparel	\$1,500	\$1,500
Handy Man Tools	\$250	\$250
TOTAL AMOUNT EXEMPT UNDER C.C.P. § 704.020		\$40,750

Trustee objects to Debtor's exemptions in the Property on the ground that Debtor has not shown that the Property is "ordinarily and reasonably necessary" as required by C.C.P. § 704.020(b). Debtor has not responded to the objection, and Debtor's schedules provide no detail as to the specific items exempted. In Debtor's schedules, Debtor has not described the items to be exempted with sufficient detail for this court to determine whether the particular item has extraordinary value as compared to the value of items of the same type found in other households. Schedule C, Doc. #1. For example, Debtor has not described the various household electronics that aggregate to \$12,000 or the household goods and furnishings that aggregate to \$25,000.

Debtor is entitled to claim exemptions under C.C.P. § 704.020 for items ordinarily and reasonably necessary to Debtor. However, Debtor has not met his burden of proof of showing by a preponderance of the evidence that Debtor is entitled to claim \$40,750 in exemptions in the Property as being ordinarily and reasonably necessary under C.C.P. § 704.020. The court sustains Trustee's objection on the ground that Debtor has not established that Debtor is entitled to the amount of the exemptions claimed.

Accordingly, Trustee's objection is SUSTAINED.

3. [20-13524](#)-A-13 **IN RE: KYLE/NATALIE SINGLEY**
[CJK-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY BANK OF AMERICA, N.A.
12-8-2020 [\[17\]](#)

BANK OF AMERICA, N.A./MV
ROBERT WILLIAMS/ATTY. FOR DBT.
CHRISTINA KHIL/ATTY. FOR MV.
RESPONSIVE PLEADING

NO RULING.

4. [21-10928](#)-A-13 **IN RE: ALICE CAMERON**
[JCW-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY U.S. BANK NATIONAL
ASSOCIATION
5-27-2021 [\[15\]](#)

U.S. BANK NATIONAL ASSOCIATION/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
JENNIFER WONG/ATTY. FOR MV.

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

DISPOSITION: Resolved by consent.

NO ORDER REQUIRED.

Pursuant to the joint status report, the objection to confirmation has been resolved and the chapter 13 trustee will submit an order confirming plan signed by all parties. Doc. #39.

5. [21-10928](#)-A-13 **IN RE: ALICE CAMERON**
[MHM-1](#)

MOTION TO DISMISS CASE
7-9-2021 [\[26\]](#)

MICHAEL MEYER/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
WITHDRAWN

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion on September 2, 2021.
Doc. #41.

6. [19-13251](#)-A-13 **IN RE: OSCAR/MELISSA GARZA**
[RSW-3](#)

MOTION TO INCUR DEBT
8-12-2021 [\[98\]](#)

MELISSA GARZA/MV
WILLIAM OLCOTT/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Continued to October 6, 2021 at 9:00 a.m.

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. This matter will proceed as scheduled so that the debtors can supplement the record.

Oscar Edward Garza and Melissa Richer Garza (together, "Debtors"), the chapter 13 debtors in this case, move the court for an order granting retroactive authorization for Debtors to incur new debt and purchase a vehicle. Doc. #98. Debtors state that their car recently died and was not worth fixing. Decl. of Melissa Garza, Doc. #100. Debtors contacted their bankruptcy attorney before purchasing a new vehicle, and the attorney explained the procedures to obtain approval to replace the vehicle. Id. After that conversation, Debtors went to a car dealership and financed the purchase of a 2019 Kia Sorento for \$33,076.24. Id. Debtors put \$2,000 down and contracted for 72 monthly payments of \$589 at an interest rate of 8.5%. Id. Debtors explain that they did not understand the purpose of obtaining prior court approval and the car dealership did not require a court order. Id. Debtors now realize they should have followed the proper steps. Id. Debtors state that their income has changed and they intend to file amended schedules to show that Debtors can afford the car payment. Id. Debtors state that the new car payment will not affect their ability to make monthly plan payments. Id. Debtors have not yet filed amended schedules.

LBR 3015-1(h)(1)(E) provides that "if the debtor wishes to incur new debt . . . on terms and conditions not authorized by [LBR 3015-1(h)(1)(A) through (D)], the debtor shall file the appropriate motion, serve it on the trustee, those creditors who are entitled to notice, and all persons requesting notice, and set the hearing on the Court's calendar with the notice required by Fed. R. Bankr. P. 2002 and LBR 9014-1." Although bankruptcy courts possess the equitable power to retroactively approve requests to incur new debt, such retroactive approval is limited to exceptional circumstances. See Sherman v. Harbin (In re Harbin), 486 F.3d 510, 522 (9th Cir. 2007). The court should consider whether the debtors satisfactorily explain their failure to receive prior approval and whether the transaction provided a benefit to the bankruptcy estate. Id. at 522-23.

This motion was properly served and noticed. There is no indication that Debtors are not current on their chapter 13 plan payments or that Debtors' chapter 13 plan is in default. The only security for the new debt will be the motor vehicle to be purchased by Debtors.

However, the court is inclined to continue the hearing on this matter so that Debtors may supplement the record with respect to Debtors' ability to afford the car payment, when the new debt was incurred, and how the new debt is reasonably necessary for the maintenance or support of Debtors. First, Debtors have not filed amended Schedules I and J that demonstrate an ability to pay future plan payments, projected living and business expenses, and the new debt. Debtors' amended Schedule J, filed on March 22, 2021, indicates that Debtors have no car payments. Am. Schedule J, Doc. #76. Amended Schedules I and J are needed to be filed for Debtors to show they can afford the new car payment, and Debtors indicated in the motion that such amended schedules were going to be filed. Doc. #98. Second, although Debtors request retroactive approval, Debtors fail to state when the new debt was incurred. Third, the new debt is a single loan incurred to purchase a motor vehicle, but Debtors have not explained how

the new debt is reasonably necessary for the maintenance or support of Debtors. Debtors need to supplement the record before the court can grant the motion.

7. [17-14163](#)-A-13 **IN RE: JOHN/RITA CORSON**
[PK-2](#)

MOTION TO WAIVE FINANCIAL MANAGEMENT COURSE REQUIREMENT,
WAIVE SECTION 1328 CERTIFICATE REQUIREMENT, CONTINUE CASE
ADMINISTRATION, SUBSTITUTE PARTY AS TO DEBTOR
7-20-2021 [\[64\]](#)

RITA CORSON/MV
PATRICK KAVANAGH/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.

Rita Gail Corson ("Movant"), the surviving spouse of John Peter Corson ("Joint Debtor") and joint debtor in this chapter 13 case, requests the court name Movant as the successor to the deceased Joint Debtor and permit the continued administration of this chapter 13 case. Doc. #64. Movant also requests the court waive the post-petition education requirements of 11 U.S.C. §§ 727(a) and 1328(g), as well as the § 1328 certification requirements. Doc. #64.

Upon the death or incapacity of a debtor in chapter 13, Federal Rule of Bankruptcy Procedure 1016 provides that the case may be dismissed or may proceed and be concluded in the same manner, so far as possible, as though the death or incapacity had not occurred upon a showing that further administration is possible and in the best interest of the parties. Joint Debtor fell and injured his head on July 3, 2021, and he passed away shortly thereafter. Doc. #66. Appointing Movant to be representative to proceed with case administration is in the best interest of the parties and creditors. No objections have been filed in response to this motion.

With respect to a waiver of Joint Debtor's certification requirements for entry of discharge under 11 U.S.C. § 1328, Joint Debtor's death demonstrates an inability to provide the certifications required and the certification requirements will be waived.

Accordingly, Movant's application to be appointed Joint Debtor's representative in this bankruptcy case and for the further administration of this case is GRANTED. Movant's motion to waive Joint Debtor's § 1328 certification requirements is GRANTED. Movant's motion to waive Joint Debtor's post-petition education requirement is GRANTED.

8. [17-14163](#)-A-13 **IN RE: JOHN/RITA CORSON**
[PK-3](#)

MOTION TO MODIFY PLAN
7-20-2021 [\[69\]](#)

RITA CORSON/MV
PATRICK KAVANAGH/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Continued to October 6, 2021 at 9:00 a.m.

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 at least 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(2). On August 23, 2021, the chapter 13 trustee ("Trustee") filed an objection to the debtor's motion to confirm the first modified chapter 13 plan. Doc. #76. The failure of other 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. This matter will proceed as scheduled.

Rita Gail Corson ("Debtor") filed the First Amended Chapter 13 Plan (the "Plan") on July 20, 2021. Doc. #73. Section 7 of the Plan states that, no later than month 55, Debtor will sell the real property located at 5600 Arbor Court, Bakersfield, CA 93309 (the "Property") and pay all remaining claims. Plan, Doc. #73. Trustee objects to confirmation of the Plan on the ground that the Plan is not feasible. Doc. #76.

Section 1325(a)(6) of the Bankruptcy Code requires that the debtor be able to make all payments under the plan and comply with the plan. 11 U.S.C. § 1325(a)(6). Trustee contends that the Plan is too speculative because Debtor's performance is conditioned upon Debtor's ability to sell the Property by month 55 to pay \$77,000 into the Plan. Tr.'s Obj., Doc. #76; Plan, Doc. #73. Trustee contends that Debtor has not demonstrated any marketing efforts, current sale prospects, or other evidence that the proposed sale is feasible. Doc. #76. Trustee requests that Debtor list the Property for sale by November 1, 2021, and that Debtor provide proof of an equity cushion sufficient to pay the proposed \$77,000 into the estate and evidence of sale prospects for the Property. Doc. #76.

While the court is not inclined to require the listing of the Property by November 1, 2021, in the face of an objection to confirmation, Debtor should be prepared to provide some evidence supporting the proposed sale of the Property.

See In re Hogue, 78 B.R. 867, 872 (Bankr. S.D. Ohio 1987). The court is inclined to continue the hearing on this matter so that Debtor may supplement the record showing that the sale contemplated by the Plan is reasonably likely to occur in the time specified by the Plan.

9. [21-11666](#)-A-13 **IN RE: LOUIS/TIFFANY RODRIGUEZ**
[PK-1](#)

MOTION TO VALUE COLLATERAL OF SYNCHRONY BANK
8-11-2021 [\[18\]](#)

TIFFANY RODRIGUEZ/MV
PATRICK KAVANAGH/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.

Louis Rene Rodriguez and Tiffany Lannette Rodriguez (together, "Debtors"), the debtors in this chapter 13 case, move the court for an order valuing the Debtors' furniture, specifically a kitchen table and patio furniture ("Property"), which is the collateral of Synchrony Bank ("Creditor"). Doc. #18; Decl. of Tiffany Lannette Rodriguez, Doc. #20; Schedule D, Doc. #1.

On July 9, 2021, PRA Receivables Management LLC ("PRA"), as authorized agent for Synchrony Bank, filed a request for service of notices pursuant to Federal Rule of Bankruptcy Procedure ("Rule") 2002(g). Doc. #14. Service of this motion was not made on PRA. However, service of this type of motion on PRA was not required under Rule 2002. Moreover, the request for service specifically identifies PRA as authorized agent for Synchrony Bank as it relates to an "Old Navy Card", account ending in 6782. Doc. #14. Because this motion does not involve an Old Navy Card account, the court determines that PRA's filed request for service did not require service of this motion on PRA.

11 U.S.C. § 1325(a)(*) (the hanging paragraph) permits the debtor to value personal property other than a motor vehicle acquired for the personal use of the debtor at its current value, as opposed to the amount due on the loan, if the loan was a purchase money security interest secured by the property and the debt was not incurred within the 1-year period preceding the date of filing.

11 U.S.C. § 506(a)(1) limits a secured creditor's claim "to the extent of the value of such creditor's interest in the estate's interest in such property . . . and is an unsecured claim to the extent that the value of such creditor's interest . . . is less than the amount of such allowed claim." Section 506(a)(2) of the Bankruptcy Code states that the value of personal property securing an allowed claim shall be determined based on the replacement value of such property as of the petition filing date. "Replacement value" where the personal property is "acquired for personal, family, or household purposes" means "the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined." 11 U.S.C. § 506(a)(2).

Debtors assert the Property was purchased more than one year before the filing of this case and that the loan is a purchase money security interest. Doc. #20. Debtors assert a replacement value of the Property of \$500.00 and ask the court for an order valuing the Property at \$500.00. Doc. #20. Joint debtor Tiffany Lannette Rodriguez is competent to testify as to the value of the Property. Given the absence of contrary evidence, Debtors' opinion of value may be conclusive. Enewally v. Wash. Mut. Bank (In re Enewally), 368 F.3d 1165, 1173 (9th Cir. 2004).

The motion is GRANTED. Creditor's secured claim will be fixed at \$500.00. The proposed order shall specifically identify the collateral, and if applicable, the proof of claim to which it relates. The order will be effective upon confirmation of the chapter 13 plan.

10. [19-14252](#)-A-13 **IN RE: MICHAEL/LUCIA LOPEZ**
[MHM-1](#)

CHAPTER 13 TRUSTEE'S FORBEARANCE STATUS CONFERENCE
9-1-2021 [[94](#)]

ROBERT WILLIAMS/ATTY. FOR DBT.

NO RULING.

1. [18-15010-A-7](#) **IN RE: PATROCINIO JUAREZ**
[RSB-1](#)

MOTION TO AVOID LIEN OF AMERICAN SAFETY CASUALTY INSURANCE CO.
7-14-2021 [\[28\]](#)

PATROCINIO JUAREZ/MV
R. BELL/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.

Patrocinio Juarez ("Debtor"), the debtor in this chapter 7 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 American Safety Casualty Insurance Company ("Creditor") on Debtor's residential real property commonly referred to as 209 Miraflores Ave., Bakersfield, CA 93307 (the "Property"). Doc. #28; Schedule C, Doc. #1.

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 December 16, 2018. Doc. #1. A judgment was entered against Miguel Angel Juarez in the amount of \$49,985.75 in favor of Creditor on April 18, 2018. Ex. A, Doc. #31. The abstract of judgment was recorded pre-petition in Kern County on July 17, 2018. Ex. A, Doc. #31. Debtor believes that the lien is related to a debt owed by Debtor and that the lien attached to Debtor's interest in the Property located in Kern County. Doc. #30. The Property also is encumbered by a lien in favor of Chase Mortgage in the amount \$132,002.00 and a lien in favor of Select Portfolio Servicing in the

amount of \$47,811.00. Schedule D, Doc. #1. Debtor claimed an exemption of \$2,813.00 in the Property under California Code of Civil Procedure § 703.140(b). Schedule C, Doc. #1. Debtor asserts a market value for the Property as of the petition date at \$177,000.00. Schedule A/B, Doc. #1; Doc. #30.

Applying the statutory formula:

Amount of Creditor's judicial lien		\$49,985.75
Total amount of all other liens on the Property (excluding junior judicial liens)	+	179,813.00
Amount of Debtors' claim of exemption in the Property	+	2,813.00
		\$232,611.75
Value of Debtors' interest in the Property absent liens	-	177,000.00
Amount Creditor's lien impairs Debtors' exemption		\$55,611.75

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.

2. [13-16315](#)-A-7 **IN RE: MARTHA WILSON**
[RSB-1](#)

MOTION TO AVOID LIEN OF CITIBANK (SOUTH DAKOTA) NA
6-30-2021 [\[22\]](#)

MARTHA WILSON/MV
R. BELL/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.

Martha Denise Wilson ("Debtor"), the debtor in this chapter 7 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 Citibank (South Dakota) N.A. ("Creditor") on Debtor's residential real property commonly referred to as 12012 Cotner Ave., Bakersfield, CA 93312 (the "Property"). Doc. #22; Am. Schedule C, Doc. #18.

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 September 23, 2013. Doc. #1. A judgment was entered against Denise Wilson in the amount of \$9,283.58 in favor of Creditor on December 5, 2011. Ex. A, Doc. #25. The abstract of judgment was recorded pre-petition in Kern County on February 16, 2012. Ex. A, Doc. #25. The lien attached to Debtor's interest in the Property located in Kern County. Doc. #24. The Property also is encumbered by a lien in favor of Bank of America N.A. in the amount \$281,165.00. Schedule D, Doc. #1. Debtor claimed an exemption of \$1.00 in the Property under California Code of Civil Procedure § 703.140(b). Am. Schedule C, Doc. #18. Debtor asserts a market value for the Property as of the petition date at \$262,000.00. Schedule A, Doc. #1; Doc. #24.

Applying the statutory formula:

Amount of Creditor's judicial lien		\$9,283.58
Total amount of all other liens on the Property (excluding junior judicial liens)	+	281,165.00
Amount of Debtors' claim of exemption in the Property	+	1.00
		\$290,449.58
Value of Debtors' interest in the Property absent liens	-	262,000.00
Amount Creditor's lien impairs Debtors' exemption		\$28,449.58

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.

3. [21-11326](#)-A-7 **IN RE: YACUB MCCLENDON**
[JMV-1](#)

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO
APPEAR AT SEC. 341(A) MEETING OF CREDITORS
7-24-2021 [\[17\]](#)

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Conditionally denied.

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

On the notice of hearing and opposition to trustee's motion to dismiss filed on August 9, 2021, the debtor indicates that he is incarcerated at Kern Valley State Prison and unable to attend the meeting of creditors. Doc. #20. The debtor states that the court must notify institutional records to arrange transportation to all court hearings, but this is incorrect. First, the meeting of creditors is not a court hearing, although the debtor is required by court order to appear at the meeting of creditors. Second, in light of the ongoing COVID-19 outbreak, the meeting of creditors is being conducted by telephone, as are all appearances at other bankruptcy court proceedings. The debtor is responsible for making arrangements to appear telephonically at court hearings. See Notice of Restricted Courthouse Access, Doc. #21. Telephonic appearances at court hearings are arranged through a service called CourtCall. CourtCall will waive the telephonic appearance fee for pro se parties. The contact information for CourtCall to arrange a telephonic appearance at a hearing is (866) 582-6878.

To permit the debtor sufficient time to arrange for a telephonic appearance at the meeting of creditors, the continued meeting of creditors, currently set for September 10, 2021 at 9:00 a.m., is continued to September 24, 2021 at 9:00 a.m. The debtor shall attend, by telephone, the continued meeting of creditors rescheduled for **September 24, 2021 at 9:00 a.m.** Appearance by telephone can be made by dialing the toll-free number and passcode found on the court's website at <https://www.caeb.uscourts.gov/Calendar/341Calendar.aspx>. The chapter 7 trustee in this case is Jeffrey M. Vetter. The toll-free number to appear at the meeting of creditors is **1-877-724-8210**. The passcode is **1397773**. The debtor, not the court, is required to make the arrangements necessary to appear.

If the debtor fails to appear by telephone at the continued meeting of creditors to be held on September 24, 2021 at 9:00 a.m., the chapter 7 trustee may file a declaration with a proposed order and the debtor's bankruptcy case may be dismissed without a further hearing.

The time prescribed in Rules 1017(e)(1) and 4004(a) for the chapter 7 trustee and the U.S. Trustee to object to the debtors' discharge or file motions for abuse, other than presumed abuse, under § 707, is extended to 60 days after the conclusion of the meeting of creditors.

4. [14-14739](#)-A-7 **IN RE: ADAN GARCIA**
[DMG-2](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT AGREEMENT
WITH ADAN GARCIA
8-12-2021 [\[33\]](#)

JEFFREY VETTER/MV
ROBERT WILLIAMS/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.

Jeffrey Vetter ("Trustee"), the chapter 7 trustee of the bankruptcy estate of Adan Garcia ("Debtor"), moves the court for an order pursuant to Federal Rule of Bankruptcy Procedure 9019 approving the compromise of all claims and disputes related to the class action lawsuit against Wal-Mart Stores Inc. in which Debtor was a member of the plaintiff class. Doc. #33, 35.

Debtor filed a voluntary petition under chapter 7 of the Bankruptcy Code on September 26, 2014. Among the assets of the estate is a judgment entered against Wal-Mart Stores Inc. in favor of a plaintiff class in which Debtor was a member. Decl. of Trustee, Doc. #35. Debtor is entitled to a portion of the judgment awarded. Id. Each individual share of the judgment award is based on a class member's payroll records covering a period of 11 years and consists of 60% wages and 40% interest on wages. Id. The 11-year period ended October 31, 2015, and the award for an individual whose bankruptcy proceeding occurred prior to October 31, 2015 may include wages, and interest thereon, that were earned after a bankruptcy discharge. Id. Additionally, the award has been accruing interest. Id. The estimated amount to be awarded Debtor is \$116,000. Id. The class action administrator requires a court order authorizing disbursement. Id. Trustee is unable to determine the exact breakdown of Debtor's award, so Trustee and Debtor have agreed to a 25/75 split of the estimated \$116,000 award. Id. The estate will receive the sum of approximately \$29,000 and Debtor will receive approximately \$87,000. Id. The legal basis for the proposed division is consistent with California Civil Procedure Code § 704.070 by which 75% of a debtor's unpaid wages are exempt. Id.

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. Martin v. Kane (In re A & C Props.), 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. Woodson v. Fireman's Fund Ins. Co. (In re Woodson), 839 F.2d 610, 620 (9th Cir. 1988).

It appears from the moving papers that Trustee has considered the standards of A & C Properties and Woodson. Doc. #33. The judgment awarded Debtor is the result of a class action lawsuit of which Debtor was a plaintiff member and will compensate Debtor for unpaid wages. The proposed settlement allows for Trustee to recover approximately \$29,000. Tr.'s Decl., Doc. #35. Trustee believes in his business judgment that the settlement is fair, reasonable, and obtains an economically advantageous result for the estate. Doc. #35. The court

concludes that the Woodson factors balance in favor of approving the compromise, and the compromise is in the best interests of the creditors and the estate.

Accordingly, it appears that the compromise pursuant to Federal Rule of Bankruptcy Procedure 9019 is a reasonable exercise of Trustee's business judgment. 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). No opposition has been filed. Furthermore, the law favors compromise and not litigation for its own sake. Id.

Accordingly, the motion is GRANTED, and the settlement is approved. Debtor is authorized, but not required, to execute any and all documents necessary to effectuate the terms of the proposed settlement agreement and obtain the disbursement of the judgment award from the class action administrator.

5. [16-11458](#)-A-7 **IN RE: WILLIAM/PHYLLIS STANE**
[DMG-2](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
7-20-2021 [[46](#)]

JEFFREY VETTER/MV
VINCENT GORSKI/ATTY. FOR DBT.

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

DISPOSITION: Overruled as moot.

ORDER: The court will issue an order.

This objection is OVERRULED AS MOOT. The debtor filed an amended Schedule C on July 23, 2021 (Doc. #53).

6. [21-11466](#)-A-7 **IN RE: RONNIE PRENDEZ**
[JMV-1](#)

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO
APPEAR AT SEC. 341(A) MEETING OF CREDITORS
7-24-2021 [[10](#)]

NEIL SCHWARTZ/ATTY. FOR DBT.

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

DISPOSITION: Conditionally denied.

ORDER: The court will issue the order.

The chapter 7 trustee's motion to dismiss is CONDITIONALLY DENIED.

The debtor shall attend the meeting of creditors rescheduled for September 10, 2021, at 3:30 p.m. If the debtor fails to do so, the chapter 7 trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

The time prescribed in Rules 1017(e)(1) and 4004(a) for the chapter 7 trustee and the U.S. Trustee to object to the debtors' discharge or file motions for abuse, other than presumed abuse, under § 707, is extended to 60 days after the conclusion of the meeting of creditors.

7. [21-11375](#)-A-7 **IN RE: CARMEN ARCE CARRILLO**
[PK-1](#)

MOTION TO AVOID LIEN OF CITIBANK, N.A.
7-28-2021 [\[13\]](#)

CARMEN ARCE CARRILLO/MV
PATRICK KAVANAGH/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.

Carmen J. Arce Carrillo ("Debtor"), the debtor in this chapter 7 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 Citibank N.A. ("Creditor") on Debtor's residential real property commonly referred to as 6304 Highland Knolls Dr., Bakersfield, CA 93306 (the "Property"). Doc. #13; Schedule C, Doc. #1.

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)).

In the case of fractionally-owned property, all consensual encumbrances on the co-owned property must be deducted from the total value of the property before a debtor's fractional interest is determined. All Points Cap. Corp. v. Meyer (In re Meyer), 373 B.R. 84, 91 (B.A.P. 9th Cir. 2007). Once the debtor's fractional interest is determined, the consensual encumbrances on the co-owned

property are excluded from the calculation of "all other liens on the property" under § 522(f)(2)(A)(iii). Id. at 90.

Here, Debtor's Schedule A/B states that Debtor owns a one-half interest in the Property. Schedule A/B, Doc. #1; Decl. of Debtor, Doc. #15. Debtor's Schedule D asserts a consensual encumbrance against the entire co-owned Property held by LoanCare Cit Bank. Schedule D, Doc. #1.

The value of the encumbrance against the entire Property held by LoanCare, Cit Bank is \$378,590.00, and the Property is valued at \$500,000.00. See Schedule A/B, Doc. #1; Schedule D, Doc. #1; Debtor Decl., Doc. #15. Applying the Meyer formula requires deducting the \$378,590.00 encumbrance on the co-owned property from the total value of the property, \$500,000.00. This amount totals \$121,410.00. After dividing this value of the Property by Debtor's 50% ownership interest in the Property, it is established that Debtor's interest in the Property for purposes of § 522(f) is \$60,705.

Where the movant seeks to avoid multiple liens as impairing the debtor's exemption, the liens must be avoided in the reverse order of their priority. Bank of Am. Nat'l Tr. & Sav. Ass'n v. Hanger (In re Hanger), 217 B.R. 592, 595 (B.A.P. 9th Cir. 1997). Liens already avoided are excluded from the exemption-impairment calculation with respect to other liens. Id.; 11 U.S.C. § 522(f)(2)(B).

Debtor filed the bankruptcy petition on May 27, 2021. Doc. #1. A judgment was entered against Carmen Arce in the amount of \$3,685.11 in favor of Creditor on May 30, 2019. Ex. D, Doc. #17. The abstract of judgment was recorded pre-petition in Kern County on August 7, 2019. Ex. D, Doc. #17. The lien attached to Debtor's interest in the Property located in Kern County. Doc. #17. Debtor claimed an exemption of \$300,000.00 in the Property under California Code of Civil Procedure § 704.730. Schedule C, Doc. #1.

Because the lien sought to be avoided in this motion is the most senior, and the court disposes of the more junior lien in order of reverse priority in matter number 8, below, the statutory formula is applied as follows:

Amount of Creditor's judicial lien		\$3,685.11
Total amount of all other liens on the Property (excluding junior judicial liens)	+	0.00
Amount of Debtors' claim of exemption in the Property	+	300,000.00
		\$303,685.11
Value of Debtors' interest in the Property absent liens	-	60,705.00
Amount Creditor's lien impairs Debtors' exemption		\$242,890.11

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.

MOTION TO AVOID LIEN OF BARCLAYS BANK DELAWARE
7-28-2021 [\[20\]](#)

CARMEN ARCE CARRILLO/MV
PATRICK KAVANAGH/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.

Carmen J. Arce Carrillo ("Debtor"), the debtor in this chapter 7 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 Barclays Bank Delaware ("Creditor") on Debtor's residential real property commonly referred to as 6304 Highland Knolls Dr., Bakersfield, CA 93306 (the "Property"). Doc. #22; Schedule C, Doc. #1.

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)).

In the case of fractionally-owned property, all consensual encumbrances on the co-owned property must be deducted from the total value of the property before a debtor's fractional interest is determined. All Points Cap. Corp. v. Meyer (In re Meyer), 373 B.R. 84, 91 (B.A.P. 9th Cir. 2007). Once the debtor's fractional interest is determined, the consensual encumbrances on the co-owned property are excluded from the calculation of "all other liens on the property" under § 522(f)(2)(A)(iii). Id. at 90.

Here, Debtor's Schedule A/B states that Debtor owns a one-half interest in the Property. Schedule A/B, Doc. #1; Decl. of Debtor, Doc. #22. Debtor's Schedule D

asserts a consensual encumbrance against the entire co-owned Property held by LoanCare Cit Bank. Schedule D, Doc. #1.

The value of the encumbrance against the entire Property held by LoanCare, Cit Bank is \$378,590.00, and the Property is valued at \$500,000.00. See Schedule A/B, Doc. #1; Schedule D, Doc. #1; Debtor Decl., Doc. #22. Applying the Meyer formula requires deducting the \$378,590.00 encumbrance on the co-owned property from the total value of the property, \$500,000.00. This amount totals \$121,410.00. After dividing this value of the Property by Debtor's 50% ownership interest in the Property, it is established that Debtor's interest in the Property for purposes of § 522(f) is \$60,705.

Where the movant seeks to avoid multiple liens as impairing the debtor's exemption, the liens must be avoided in the reverse order of their priority. Bank of Am. Nat'l Tr. & Sav. Ass'n v. Hanger (In re Hanger), 217 B.R. 592, 595 (B.A.P. 9th Cir. 1997). Liens already avoided are excluded from the exemption-impairment calculation with respect to other liens. Id.; 11 U.S.C. § 522(f)(2)(B).

Debtor filed the bankruptcy petition on May 27, 2021. Doc. #1. A judgment was entered against Carmen J. Arce in the amount of \$8,081.61 in favor of Creditor on June 19, 2019. Ex. D, Doc. #23. The abstract of judgment was recorded pre-petition in Kern County on December 30, 2019. Ex. D, Doc. #23. The lien attached to Debtor's interest in the Property located in Kern County. Doc. #20. The Property is encumbered by a senior judgment lien against Debtor recorded in Kern County on August 7, 2019 in the amount of \$3,685.11. Ex. D, Doc. #17. Debtor claimed an exemption of \$300,000.00 in the Property under California Code of Civil Procedure § 704.730. Schedule C, Doc. #1.

Applying the statutory formula:

Amount of Creditor's judicial lien		\$8,081.61
Total amount of all other liens on the Property (excluding junior judicial liens)	+	3,685.11
Amount of Debtors' claim of exemption in the Property	+	300,000.00
		\$311,766.72
Value of Debtors' interest in the Property absent liens	-	60,705.00
Amount Creditor's lien impairs Debtors' exemption		\$251,061.72

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.

MOTION FOR RELIEF FROM AUTOMATIC STAY
7-28-2021 [\[15\]](#)

EXETER FINANCE LLC/MV
DAVID CHUNG/ATTY. FOR DBT.
JENNIFER WANG/ATTY. FOR MV.

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

The movant, Exeter Finance LLC ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2017 Ford Fusion ("Vehicle"). Doc. #15.

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtor does not have any equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, the court finds that "cause" exists to lift the stay because the debtor has failed to make at least three complete pre- and post-petition payments. Movant has produced evidence that the debtor is delinquent by at least \$1,164.04 including late fees of \$0.01. Doc. #18.

The court also finds that the debtor does not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because the debtor is in chapter 7. Id. The Vehicle is valued at \$14,355.00 and the debtor owes \$16,556.18. Doc. #18.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) to permit Movant to dispose of its collateral pursuant to applicable law

and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the debtor has failed to make at least three pre- and post-petition payments to Movant and the Vehicle is a depreciating asset.

10. [19-13783](#)-A-7 **IN RE: MARK/SUSAN CHAGOYA**
[PK-1](#)

MOTION TO COMPEL ABANDONMENT
8-27-2021 [\[30\]](#)

SUSAN CHAGOYA/MV
PATRICK KAVANAGH/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was filed and served on at least 14 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Mark Anthony Chagoya and Susan Marie Chagoya (together, "Debtors"), the chapter 7 debtors in this case, move the court to order the trustee to abandon property of the estate known as the residential real property located at 9812 Tallin Place, Bakersfield, CA 93306 (the "Property"). Doc. #30. Debtors assert that they have no non-exempt equity in the Property and the Property therefore has no value to the bankruptcy estate. Doc. #32.

11 U.S.C. § 554(b) permits the court, on request of a party in interest and after notice and a hearing, to order the trustee to abandon property that is burdensome to the estate or of inconsequential value and benefit to the estate. Vu v. Kendall (In re Vu), 245 B.R. 644, 647 (B.A.P. 9th Cir. 2000). To grant a motion to abandon property, the bankruptcy court must find either that the property is (1) burdensome to the estate or (2) of inconsequential value and inconsequential benefit to the estate. Id. (citing In re K.C. Machine & Tool Co., 816 F.2d 238, 245 (6th Cir. 1987)). However, "an order compelling abandonment [under § 554(b)] is the exception, not the rule. Abandonment should only be compelled in order to help the creditors by assuring some benefit in the administration of each asset. . . . Absent an attempt by the trustee to churn property worthless to the estate just to increase fees, abandonment should rarely be ordered." Id. (quoting K.C. Machine & Tool Co., 816 F.2d at 246).

Here, Debtors argue that the Property is of inconsequential value and benefit to the estate. 11 U.S.C. § 554(b); Vu, 245 B.R. at 647. Debtors' Property is valued at \$232,000.00 and is encumbered by a mortgage totaling \$227,761.00.

Schedule D, Doc. #1; Decl. of Mark A. Chagoya, Doc. #33. Under California Civil Procedure Code § 703.140, Debtors claimed a \$4,239.00 exemption in the Property. Schedule C, Doc. #1; Decl., Doc. #33. The court finds that Debtors have met their burden of establishing by a preponderance of the evidence that the Property is of inconsequential value and benefit to the estate.

Accordingly, this motion is GRANTED. The order shall specifically identify the property abandoned.

1. [21-11704](#)-A-11 **IN RE: FILOS CATERING, INC.**
[LKW-3](#)

MOTION TO DISMISS CASE
8-18-2021 [\[32\]](#)

FILOS CATERING, INC./MV
LEONARD WELSH/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Conditionally granted.

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

This motion was filed and served on at least 21 days' notice prior to the hearing date pursuant to Federal Rules of Bankruptcy Procedure 1017 and 2002 and Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion conditioned upon the debtor supplementing the record and filing all monthly operating reports due as of the date of dismissal. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Filos Catering Inc. ("Debtor" or "DIP") moves the court to dismiss Debtor's chapter 11, subchapter V bankruptcy case for cause pursuant to 11 U.S.C. § 1112(b). Doc. #32. On August 24, 2021, the United States Trustee for Region 17 filed a reservation of rights in response to Debtor's motion to dismiss. Doc. #38.

Any party in interest, including the debtor, may move to dismiss a chapter 11 bankruptcy case. 11 U.S.C. § 1112(b)(1). After notice and a hearing, the court may dismiss a chapter 11 case for "cause" unless the court finds "unusual circumstances establishing that converting or dismissing the case is not in the best interests of creditors and the estate." 11 U.S.C. § 1112(b)(1), (2).

"Dismissal of a chapter 11 case under 11 U.S.C. § 1112(b) requires a two-step analysis." Moore v. United States Tr. For Region 16 (In re Moore), 583 B.R. 507, 511 (C.D. Cal. 2018). It must first be determined that there is "cause" to act, and it then must be determined that dismissal, rather than conversion to chapter 7, is in the best interests of the creditors and the estate. Id. (citing Nelson v. Meyer (In re Nelson), 343 B.R. 671, 675 (B.A.P. 9th Cir. 2006)). While § 1112(b)(4) of the Bankruptcy Code identifies specific conduct constituting cause, "bankruptcy courts may look beyond 11 U.S.C. § 1112(b)(4) and 'consider other factors as they arise, and to use its equitable powers to reach an appropriate result in individual cases.'" Id. at 512 (quoting Pioneer Liquidating Corp. v. United States Tr. (In re Consol. Pioneer Mortg. Entities), 248 B.R. 368, 375 (B.A.P. 9th Cir. 2000)).

The court finds that cause exists to act. Debtor seeks to reapply for an increase in Economic Injury Disaster Loan ("EIDL") relief. Debtor owned and operated two restaurant/bar locations as well as a mobile catering business until March 2020 when the COVID-19 pandemic forced Debtor to close the "brick and mortar" locations. Decl. of Demetris J. Katsantonis ¶ 3, Doc. #35. Pre-petition, in July 2020, Debtor received \$150,000 from the Small Business Administration ("SBA") through the EIDL program. Id. at ¶ 4. In response to a solicitation to apply for an increase in EIDL relief, Debtor submitted a request for additional EIDL relief. Id. at ¶ 5-7. Debtor commenced this bankruptcy case after several creditors associated with the brick and mortar restaurant/bar locations filed lawsuits against Debtor but before Debtor was informed that an increase in EIDL relief had been approved. Id. at ¶ 7. After commencing the bankruptcy case but without any prior notice, the SBA deposited an additional \$350,000 in EIDL relief into Debtor's bank account. Id. Presently, the SBA has demanded the return of the supplemental EIDL funds because Debtor is in bankruptcy. Id. at ¶ 8-9. Debtor intends to return the supplemental EIDL funds but seeks dismissal of this bankruptcy case so that Debtor may reapply for the additional EIDL relief. Id.

However, after finding that cause exists to act, the court "must also: (1) decide whether dismissal, conversion, or the appointment of a trustee or examiner is in the best interests of creditors and the estate; and (2) identify whether there are unusual circumstances that establish that dismissal or conversion is not in the best interests of creditors and the estate." Sullivan v. Harnisch (In re Sullivan), 522 B.R. 604, 612 (B.A.P. 9th Cir. 2014). The papers presented by Debtor in support of this motion fully describe why dismissal is sought but provide no factual support or argument demonstrating why dismissal rather than conversion is in the best interests of creditors and the estate.

Additionally, LBR 2015-1(a)(1) and (c) require chapter 11 debtors to file monthly operating reports "not later than the fourteenth (14th) day of the month following the month of the reported period. Reports shall be filed for the portion of a calendar month from the date of filing, and monthly thereafter through the month in which an order of confirmation, conversion or dismissal is entered. If the portion of a calendar month from the date of filing is seven (7) days or less, the report for such period may be combined with the report due for the following calendar month." LBR 2015-1(c). Debtor's chapter 11 case was filed on July 2, 2021, and no monthly operating reports have been filed in this case.

The court is inclined to permit dismissal of Debtor's case if Debtor is able to supplement the record establishing why dismissal rather than conversion is appropriate. Dismissal of Debtor's case will be conditioned on Debtor filing all monthly operating reports due as of the time Debtor's bankruptcy case is dismissed.

2. [20-10010](#)-A-11 **IN RE: EDUARDO/AMALIA GARCIA**

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION
1-2-2020 [[1](#)]

LEONARD WELSH/ATTY. FOR DBT.

NO RULING.

3. [20-10010](#)-A-11 **IN RE: EDUARDO/AMALIA GARCIA**
[LKW-21](#)

CONTINUED AMENDED/MODIFIED PLAN
2-18-2021 [\[520\]](#)

LEONARD WELSH/ATTY. FOR DBT.
RESPONSIVE PLEADING

NO RULING.

4. [20-10010](#)-A-11 **IN RE: EDUARDO/AMALIA GARCIA**
[LKW-25](#)

CONTINUED MOTION FOR COMPENSATION FOR LEONARD K. WELSH, DEBTORS ATTORNEY(S)
8-9-2021 [\[710\]](#)

AMALIA GARCIA/MV
LEONARD WELSH/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was filed and served on at least 21 days' notice prior to the hearing date pursuant to Federal Rule of Bankruptcy Procedure 2002 and Local Rule of Practice ("LBR") 9014-1(f)(2) and originally set for hearing on September 1, 2021. No opposition was presented at the hearing on September 1, 2021, and the defaults of the non-responding parties in interest are entered. However, the moving party did not appear at the hearing on September 1, 2021, as required by the court's instructions for pre-hearing dispositions, so the court continued the hearing on this matter to September 9, 2021 at 10:30 a.m. to permit the moving party to appear.

The Law Offices of Leonard K. Welsh ("Movant"), counsel for the debtors and debtors in possession Eduardo Zavala Garcia and Amalia Perez Garcia (collectively, "DIP"), requests allowance of interim compensation in the amount of \$10,150.00 and reimbursement for expenses in the amount of \$165.01 for services rendered from July 1, 2021 through July 31, 2021. Doc. #710.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a debtor's attorney in a chapter 11 case. 11 U.S.C. § 330(a)(1). According to the order authorizing employment of Movant, Movant may submit monthly applications for interim compensation pursuant to 11 U.S.C. § 331. Order, Doc. #33. In determining the amount of reasonable compensation to be awarded to counsel, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Movant's services included, without limitation: (1) providing general case administration; (2) prosecuting a Motion for Authority to Sell Real Property

Free and Clear of Liens for property identified as "Hacienda 1 Ranch"; (3) working with DIP's real estate broker, buyers, and agents for the sales of Portillo Ranch and Hacienda 1 Ranch; (4) preparing and prosecuting fee and employment applications; (5) assisting DIP and special counsel in prosecuting objections to allowance of claims; and (6) discussing tax consequences of sale of Hacienda 1 Ranch. Doc. #710; Ex. B, Doc. #712. The court finds the compensation and reimbursement sought by Movant to be reasonable, actual, and necessary.

This motion is GRANTED. The court allows interim compensation in the amount of \$10,150.00 and reimbursement of expenses in the amount of \$165.01. Movant is allowed interim fees and costs pursuant to 11 U.S.C. § 331, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure. Movant may draw on any retainer held. DIP is authorized to pay the fees allowed by this order from available funds only if the estate is administratively solvent and such payment will be consistent with the priorities of the Bankruptcy Code.

5. [21-10445](#)-A-11 **IN RE: HARDEEP KAUR**
[LKW-9](#)

CONTINUED MOTION FOR COMPENSATION FOR LEONARD K. WELSH, DEBTORS ATTORNEY(S)
8-9-2021 [\[137\]](#)

LEONARD WELSH/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was filed and served on at least 21 days' notice prior to the hearing date pursuant to Federal Rule of Bankruptcy Procedure 2002 and Local Rule of Practice ("LBR") 9014-1(f)(2) and originally set for hearing on September 1, 2021. No opposition was presented at the hearing on September 1, 2021, and the defaults of the non-responding parties in interest are entered. However, the moving party did not appear at the hearing on September 1, 2021, as required by the court's instructions for pre-hearing dispositions, so the court continued the hearing on this matter to September 9, 2021 at 10:30 a.m. to permit the moving party to appear.

The Law Offices of Leonard K. Welsh ("Movant"), counsel for the debtor and debtor in possession Hardeep Kaur ("DIP"), requests allowance of interim compensation in the amount of \$2,870.00 and reimbursement for expenses in the amount of \$217.06 for services rendered from July 1, 2021 through July 31, 2021. Doc. #137.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a debtor's attorney in a chapter 11 case. 11 U.S.C. § 330(a)(1). According to the order authorizing employment of Movant, Movant may submit monthly applications for interim compensation pursuant to 11 U.S.C.

§ 331. Order, Doc. #32. In determining the amount of reasonable compensation to be awarded to counsel, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Movant's services included, without limitation: (1) providing general case administration; (2) prosecuting a motion to avoid lien under § 522(f); (3) prosecuting a motion to assume a lease; (4) preparing and prosecuting fee applications; and (5) submitting the order confirming the chapter 11 plan. Doc. #137; Ex. B, Doc. #141. The court finds the compensation and reimbursement sought by Movant to be reasonable, actual, and necessary.

This motion is GRANTED. The court allows interim compensation in the amount of \$2,870.00 and reimbursement of expenses in the amount of \$217.06. Movant is allowed interim fees and costs pursuant to 11 U.S.C. § 331, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure. Movant may draw on any retainer held. DIP is authorized to pay the fees allowed by this order consistent with DIP's confirmed plan.

1. [21-10425](#)-A-7 **IN RE: WAMIDH AL KAJAJI**
[21-1028](#)

STATUS CONFERENCE RE: AMENDED COMPLAINT
8-31-2021 [[11](#)]

SMAHA LAW GROUP, APC V. KAJAJI ET AL
KRISTEN FRITZ/ATTY. FOR PL.
RESPONSIVE PLEADING

NO RULING.

2. [21-10425](#)-A-7 **IN RE: WAMIDH AL KAJAJI**
[DMG-2](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
7-8-2021 [[20](#)]

JEFFREY VETTER/MV
DAVID CHUNG/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Consolidate with Adversary Proceeding No. 21-1028

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

This objection was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The debtor filed timely opposition. Doc. #26. No response to the debtor's opposition has been filed. This matter will proceed as scheduled.

Jeffrey M. Vetter ("Trustee"), the chapter 7 trustee in the bankruptcy case of Wamidh Al Kafaji ("Debtor"), objects to Debtor's claim of exemption in Debtor's claimed residence located at 615 Beardsley Ave., Bakersfield, CA 93303 (the "Property"). Tr.'s Obj., Doc. #20; see Schedule C, Doc. #1. Debtor claims a \$95,622.00 exemption in the Property under California Code of Civil Procedure ("C.C.P.") § 704.730. Schedule C, Doc. #1.

Trustee bases his objection on the allegations contained in adversary proceeding no. 21-1028, filed by creditor Smaha Law Group APC ("Adversary Proceeding"). Adv. Proc. No. 21-1028, Doc. #1. Debtor's response to Trustee's objection to Debtor's claim of exemption in the Property is nearly identical to Debtor's response filed in the Adversary Proceeding. Compare pages 1-2 of Doc. #26 with pages 1-3 of Adv. Proc. No. 21-1028, Doc. #7.

Federal Rule of Civil Procedure ("FRCP") 42, incorporated by Rule 7042, provides that in actions where there is a common question of law or fact, the court may "consolidate the actions." FRCP 42. The bankruptcy court may consolidate such actions through (1) Federal Rule of Bankruptcy Procedure ("Rule") 7042 which allows the application of FRCP 42 in adversary proceedings;

and (2) Rule 9014 which allows the application of Rule 7042 in contested matters. The court has broad discretion to order consolidation and may do so on its own motion to ensure convenient and efficient conduct of litigation. 10 COLLIER ON BANKRUPTCY ¶ 7042.02 (Richard Levin & Henry J. Sommer eds., 16th ed.).

Trustee and Debtor should be prepared to address at the hearing whether Trustee's objection to Debtor's claim of exemption in the Property should be consolidated with the Adversary Proceeding pursuant to Rule 7042.

3. [21-10026](#)-A-7 **IN RE: MARTHA FERNANDEZ**
[21-1020](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
5-5-2021 [\[1\]](#)

FERNANDEZ V. U.S. DEPARTMENT OF EDUCATION
REISSUED SUMMONS FOR 10/6/21

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

DISPOSITION: Continued to October 6, 2021 at 11:00 a.m.

ORDER: The court will issue an order.

A reissued summons was issued on August 6, 2021, with a status conference date of October 6, 2021 at 11:00 a.m. Doc. #17. Therefore, this matter will be continued to coincide with the new status conference date.

4. [19-13729](#)-A-7 **IN RE: MICHELLE PAUL**
[19-1130](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
12-2-2019 [\[1\]](#)

LOS ANGELES FEDERAL CREDIT UNION V. PAUL
ALANA ANAYA/ATTY. FOR PL.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to December 9, 2021, at 11:00 a.m.

ORDER: The court will issue an order.

Pursuant to the joint status report filed on September 2, 2021, the status conference will be continued to December 9, 2021, at 11:00 a.m. Doc. #43.

The parties shall file either joint or unilateral status report(s) not later than December 2, 2021.