

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

September 10, 2018 at 10:00 a.m.

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

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

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

IF THE COURT SETS A FINAL HEARING, UNLESS THE PARTIES REQUEST A DIFFERENT SCHEDULE THAT IS APPROVED BY THE COURT, THE FINAL HEARING WILL TAKE PLACE ON OCTOBER 15, 2018 AT 10:00 A.M. OPPOSITION MUST BE FILED AND SERVED BY OCTOBER 1, 2018, AND ANY REPLY MUST BE FILED AND SERVED BY OCTOBER 9, 2018. THE MOVING/OBJECTING PARTY IS TO GIVE NOTICE OF THESE DATES.

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

ORDERS: UNLESS THE COURT ANNOUNCES THAT IT WILL PREPARE AN ORDER, THE PREVAILING

September 10, 2018 at 10:00 a.m.

PARTY SHALL LODGE A PROPOSED ORDER WITHIN 14 DAYS OF THE HEARING.

MATTERS FOR ARGUMENT

1. 18-20728-A-7 ELIZABETH WILSON MOTION TO
MRL-2 COMPEL ABANDONMENT
8-16-18 [57]

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

The debtor seeks an order compelling the trustee to abandon the estate's interest in:

(1) two accounts (checking and savings) at Wells Fargo Bank with value of \$1,000 (the debtor has exempted \$750 and, since the filing of the petition on February 9, 2018 (as a chapter 13 proceeding), the amount has been depleted to \$0.00);

(2) two accounts (checking and savings) at Bank of America with value of \$20 (the debtor has exempted \$15 and, since the filing of the petition on February 9, 2018 (as a chapter 13 proceeding), the amount has been depleted to \$0.00);

(3) a 2014 Subaru Crosstrek vehicle with approximately 80,000 miles, over-encumbered (with value of \$13,000 and loan of \$13,614; the debtor also has claimed \$3,050 of the value exempt);

(4) Living room furniture, bedroom furniture, kitchen appliances, miscellaneous goods with value of \$750 and subject to an exemption for \$750;

(5) Two TVs with total value of \$200, subject to an exemption of \$200;

(6) Clothing and jewelry with value of \$100, subject to exemption of \$100;

(7) Snowboard with value of \$100, subject to exemption of \$100;

(8) A dog with value of \$1, subject to exemption of \$1;

(9) \$20 in cash (the debtor has exempted \$15 and, since the filing of the petition on February 9, 2018 (as a chapter 13 proceeding), the amount has been depleted to \$0.00);

(10) 401k John Hancock account with balance of \$3,500, subject to exemption of \$3,500;

(11) Group Term Life Insurance with value of \$1, subject to exemption of \$1; and

(12) real property 6107 Rolkingham Lane Orangevale, CA with value of \$315,000, subject to a mortgage for \$213,500 and exemption of \$100,000.

The debtor also asks for abandonment of "1) all future rents, royalties, issues, profits, revenue, income, accounts receivable, and other benefits that may accrue from Debtor's property; and 2) all leases and licenses associated with the property."

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

Given the encumbrances, exemptions, and costs of sale associated with the property items in 1 through 12 above, the court concludes that those property items are of inconsequential value to the estate. The motion will be granted as to items 1 through 12.

As to "1) all future rents, royalties, issues, profits, revenue, income, accounts receivable, and other benefits that may accrue from Debtor's property; and 2) all leases and licenses associated with the property," the motion will be denied. The motion does not state the value of these items and does not identify how or why these items are of inconsequential value or burdensome to the estate. Also, these items were not disclosed in the schedules. See Docket 61, Schedule A/B at 6. The court will not order undisclosed property abandoned.

2. 10-53041-A-7 MOMOTAKA/DEBORAH SAIYO MOTION TO
DRE-3 DISMISS CASE
8-20-18 [122]

Tentative Ruling: The motion will be denied.

Debtor Momotaka Saiyo seeks dismissal of the case.

11 U.S.C. § 707(a) provides that "[t]he court may dismiss a case under this chapter only after notice and a hearing and only for cause." Dismissal should be denied if it would prejudice the debtor's creditors. Bartee v. Ainsworth (In re Bartee), 317 B.R. 362, 366 (B.A.P. 9th Cir. 2004).

No cause for dismissal has been established. The debtors obtained their chapter 7 discharge in this case on March 28, 2011. The court is unaware of any authority suggesting that a chapter 7 case may be dismissed after the discharge has been entered.

3. 17-20662-A-7 EKATERINA NOSAREV MOTION TO
DNL-5 SELL AND TO APPROVE COMPENSATION
FOR REAL ESTATE BROKER
8-13-18 [44]

Tentative Ruling: The motion will be conditionally granted.

The chapter 7 trustee requests authority to sell for \$35,000 100% interest in a real property in Jacksonville, Florida to BCEL 5, L.L.C. The trustee also asks for waiver of the 14-day period of Fed. R. Bankr. P. 6004(h) and asks for approval of the payment of the real estate commission.

Upon the filing of the petition, the debtor owned 50% interest in the property as a tenant in common. The other half of the property is owned by the debtor's father, Dimitri Nosarev. The trustee prosecuted an adversary proceeding against Mr. Nosarev for permission to sell the entire property under 11 U.S.C. § 363(h). On February 16, 2018, the court entered a default judgment against Mr. Nosarev. Adv. Proc. No. 17-2225, Docket 15.

Mr. Nosarev opposes the motion, contending he was having some personal problems that did not allow him to participate in the 11 U.S.C. § 363(h) adversary proceeding. He wants to exercise his 11 U.S.C. § 363(i) right to purchase the property "at the price at which such sale is to be consummated."

11 U.S.C. § 363(b) allows the trustee to sell property of the estate, other

than in the ordinary course of business. The trustee has a judgment permitting him to sell the entire property. Adv. Proc. No. 17-2225, Docket 15.

The motion does not list any encumbrances against the property. From this, the court infers that there are no encumbrances against the property. After the broker's commission and closing costs, the trustee anticipates the estate to net one-half of \$31,300, or \$15,650, from the sale.

The court will not allow Mr. Nosarev to challenge the judgment the trustee obtained against him in the adversary proceeding.

Nevertheless, Mr. Nosarev may exercise his right to purchase the property under section 363(i), which provides that "[b]efore the consummation of a sale of property to which subsection (g) or (h) of this section applies, or of property of the estate that was community property of the debtor and the debtor's spouse immediately before the commencement of the case, the debtor's spouse, or a co-owner of such property, as the case may be, may purchase such property at the price at which such sale is to be consummated."

As such, subject to the trustee confirming that there are no encumbrances against the property and confirming there are no negative tax consequences from the sale, the court will approve a sale to Mr. Nosarev under section 363(i) on the sale terms described in the motion.

The court cannot and will not compel the trustee to negotiate with Mr. Nosarev for sale of the property at a discounted price.

The court will approve a sale to BCEL 5, subject to Mr. Nosarev not completing the purchase of the property.

The sale will generate proceeds for distribution to creditors of the estate. Hence, the sale – whether to BCEL 5 or Mr. Nosarev – will be approved pursuant to 11 U.S.C. § 363(b), as it is in the best interests of the creditors and the estate. The court will waive the 14-day period of Rule 6004(h) and will authorize payment of the real estate commission, consistent with the estate's broker's court-approved terms of employment.

FINAL RULINGS BEGIN HERE

4. 16-25749-A-7 ROBERT GARZA AND MARIA MOTION TO
DNL-10 HERRERA APPROVE COMPENSATION OF TRUSTEE'S
ATTORNEY
8-6-18 [173]

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

The motion will be granted.

Desmond, Nolan, Livaich & Cunningham, attorney for the trustee, has filed its first and final motion for approval of compensation. The requested compensation consists of \$21,570.50 in fees and \$712.55 in expenses, for a total of \$22,282.55. This motion covers the period from July 24, 2017 through July 24, 2018. The court approved the movant's employment as the trustee's attorney on July 26, 2017. In performing its services, the movant charged hourly rates of \$50, \$100, \$225, \$325, and \$425.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant's services included, without limitation:

- (1) assessing the debtors' assets,
- (2) retaining professionals,
- (3) assisting with obtaining various documents from the debtors,
- (4) assisting in the investigation of the debtors' tax refunds,
- (5) propounding discovery on the debtors,
- (6) preparing and prosecuting a motion for turnover,
- (7) preparing and prosecuting a motion for abandonment of the debtors' business,
- (8) preparing and prosecuting a complaint for revocation of discharge,
- (9) negotiating with the debtors,
- (10) assisting with the sale of the debtors' real property,
- (11) assisting with the general administration of the estate, and

(12) preparing and filing employment and compensation motions.

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

5. 16-25749-A-7 ROBERT GARZA AND MARIA MOTION TO
DNL-9 HERRERA APPROVE COMPENSATION OF CHAPTER 7
TRUSTEE
8-6-18 [168]

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

The motion will be granted.

The chapter 7 trustee, Susan Smith, has filed first and final motion for approval of compensation. The requested compensation consists of \$14,052.14 in fees and \$29.05 in expenses, for a total of \$14,081.19. The services for the sought compensation were provided from January 1, 2017 through the present. The sought compensation represents 38.6 hours of services.

The court is satisfied that the requested compensation does not exceed the cap of 11 U.S.C. § 326(a).

The movant will make or has made \$216,042.81 in distributions to creditors. This means that the cap under section 326(a) on the movant's compensation is \$14,052.14 (\$1,250 (25% of the first \$5,000) + \$4,500 (10% of the next \$45,000) + \$8,302.14 (5% of the next \$950,000 (\$166,042.81)) + \$0.00 (3% on anything above \$1 million (\$0.00))). Hence, the requested trustee fees of \$14,052.14 do not exceed the cap.

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

"[A]bsent extraordinary circumstances, chapter 7, 12 and 13 trustee fees should be presumed reasonable if they are requested at the statutory rate. Congress would not have set commission rates for bankruptcy trustees in §§ 326 and 330(a)(7), and taken them out of the considerations set forth in § 330(a)(3), unless it considered them reasonable in most instances. Thus, absent extraordinary circumstances, bankruptcy courts should approve chapter 7, 12 and 13 trustee fees without any significant additional review."

Hopkins v. Asset Acceptance LLC (In re Salgado-Nava), 473 B.R. 911, 921 (B.A.P. 9th Cir. 2012).

The movant's services did not involve extraordinary circumstances and included, without limitation:

- (1) reviewing petition documents and analyzing assets,
- (2) conducting the meeting of creditors,
- (3) evaluating the debtors' interest in a dog breeding business, a real property, and tax refunds,
- (4) employing professionals to assist the trustee with the administration of the estate,
- (5) communicating with the estate's professionals about various issues,
- (6) reviewing claims,
- (7) communicating with the estate's professionals about tax issues,
- (8) evaluating the prosecution of a discharge revocation claim,
- (9) obtaining abandonment of the dog breeding business,
- (10) selling the real property,
- (11) reviewing various pleadings and documents,
- (12) addressing tax and accounting issues,
- (13) preparing final report, and
- (14) preparing compensation motion.

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

6.	18-24156-A-7 SHERRI SPAULDING JHW-1 SANTANDER CONSUMER USA, INC. VS.	MOTION FOR RELIEF FROM AUTOMATIC STAY 7-31-18 [15]
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Final Ruling: This motion for relief from the automatic stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the debtor and the trustee, to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be dismissed as moot.

The movant, Santander Consumer U.S.A., seeks relief from the automatic stay with respect to a 2012 Nissan Sentra vehicle.

11 U.S.C. § 521(a)(2)(A) requires an individual chapter 7 debtor to file a statement of intention with reference to property that secures a debt. The statement must be filed within 30 days of the filing of the petition (or within

30 days of a conversion order, when applicable) or by the date of the meeting of creditors, whichever is earlier. The debtor must disclose in the statement whether he or she intends to retain or surrender the property, whether the property is claimed as exempt, and whether the debtor intends to redeem such property or reaffirm the debt it secures. See 11 U.S.C. § 521(a)(2)(A); Fed. R. Bankr. P. 1019(1)(B).

The petition here was filed on July 2, 2018 and a meeting of creditors was first convened on August 10, 2018. Therefore, a statement of intention that refers to the movant's property and debt was due no later than August 1. The debtor filed a statement of intention on July 10, 2018, indicating an intent to retain the vehicle but without indicating whether the debt secured by the vehicle will be reaffirmed or the vehicle will be redeemed.

If the property securing the debt is personal property and an individual chapter 7 debtor fails to file a statement of intention, or fails to indicate in the statement that he or she either will redeem the property or enter into a reaffirmation agreement, or fails to timely surrender, redeem, or reaffirm, the automatic stay is automatically terminated and the property is no longer property of the bankruptcy estate. See 11 U.S.C. § 362(h).

Here, although the debtor indicated an intent to retain the vehicle, the debtor did not state whether the debt secured by the vehicle will be reaffirmed or the vehicle will be redeemed. And, no reaffirmation agreement or motion to redeem has been filed, nor has the debtor requested an extension of the 30-day period. As a result, the automatic stay automatically terminated on August 1, 2018, 30 days after the petition date.

The trustee may avoid automatic termination of the automatic stay by filing a motion within whichever of the two 30-day periods set by section 521(a)(2) is applicable, and proving that such property is of consequential value or benefit to the estate. If proven, the court must order appropriate adequate protection of the creditor's interest in its collateral and order the debtor to deliver possession of the property to the trustee. If not proven, the automatic stay terminates upon the conclusion of the hearing on the trustee's motion. See 11 U.S.C. § 362(h)(2).

The trustee in this case has filed no such motion and the time to do so has expired. The court also notes that the trustee filed a "no-asset" report on August 10, 2018, indicating an intent not to administer the vehicle or any other assets.

Therefore, without this motion being filed, the automatic stay terminated on August 1, 2018.

Nothing in section 362(h)(1), however, permits the court to issue an order confirming the automatic stay's termination. 11 U.S.C. § 362(j) authorizes the court to issue an order confirming that the automatic stay has terminated under 11 U.S.C. § 362(c). See also 11 U.S.C. § 362(c)(4)(A)(ii). But, this case does not implicate section 362(c). Section 362(h) is applicable and it does not provide for the issuance of an order confirming the termination of the automatic stay. Therefore, if the movant needs a declaration of rights under section 362(h), an adversary proceeding seeking such declaration is necessary. See Fed. R. Bankr. P. 7001.

7. 18-24156-A-7 SHERRI SPAULDING
SMR-1

MOTION FOR
RELIEF FROM AUTOMATIC STAY

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

The motion will be granted.

The movant, Regina Yin, seeks relief from the automatic stay as to real property in Sacramento, California.

The movant is the legal owner of the property and the debtor leased it from the movant. The debtor defaulted under the lease agreement in June 2018. The debtor filed this bankruptcy case on July 2, 2018.

This is a liquidation proceeding and the debtor has no ownership interest in the property as the movant is the legal owner of it. And, even though the debtor is a tenant at the property, she has defaulted under the lease agreement by failing to pay the rent due from June 2018 onward.

This is cause for the granting of relief from stay. Accordingly, the motion will be granted for cause pursuant to 11 U.S.C. § 362(d)(1) to permit the movant to obtain possession of the property under applicable state law and exercise its state law remedies in accordance with the orders and judgments of the state court.

No monetary claim may be collected from the debtor. The movant is limited to recovering possession of the property to the extent permitted by the state court. No other relief will be awarded.

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

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be waived.

8.	16-26561-A-7 PHONG TIEN FF-3 VS. REAL TIME RESOLUTIONS, INC.	MOTION TO AVOID JUDICIAL LIEN 8-2-18 [59]
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Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent creditor and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

A judgment was entered against the debtor in favor of Realtime Resolutions, Inc. for the sum of \$211,257.19 on November 17, 2011. The abstract of judgment was recorded with Sacramento County on March 13, 2012. That lien attached to the debtor's interest in a residential real property in Elk Grove, California.

The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of \$395,000 as of the petition date. Dockets 54, 61, 62. The unavoidable liens totaled \$359,162.30 on that same date, consisting of a single mortgage in favor of HSBC, U.S.A. Dockets 1, 54, 61, 62. The equity in the property totals \$35,837.70 (\$395,000 - \$359,162.30). The debtor's 25% interest in the property amounts to \$8,959.42 (\$35,837.70/4). The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(1) in the amount of \$8,960 in Amended Schedule C filed on July 13, 2018. Docket 54.

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

9. 18-24767-A-7 NATHANIEL/AMY ABNEY ORDER TO
SHOW CAUSE
8-13-18 [11]

Final Ruling: The order to show cause will be discharged and the petition will remain pending.

This order to show cause was issued because the debtors did not pay the petition filing fee of \$335, as required by Fed. R. Bankr. P. 1006(a), and did not apply to pay the fee in installments.

However, the debtors paid the fee in full on August 14, 2018. No prejudice has resulted from the delay.

10. 18-24089-A-7 ERNEST ROBERTS AND ASLI MOTION FOR
JHW-1 KAPTAN ROBERTS RELIEF FROM AUTOMATIC STAY
SANTANDER CONSUMER USA, INC. VS. 8-2-18 [11]

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

The motion will be granted.

The movant, Santander Consumer U.S.A., seeks relief from the automatic stay with respect to a 2009 BMW 328 vehicle. The movant has produced evidence that

the vehicle has a value of \$9,150 and its secured claim is approximately \$14,840. Docket 16.

The court concludes that there is no equity in the vehicle and no evidence exists that it is necessary to a reorganization or that the trustee can administer it for the benefit of the creditors. The court also notes that the trustee filed a report of no distribution on August 9, 2018.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to repossess its collateral, dispose of it pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

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

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

11.	17-25594-A-7	RAYMUND CRUZ AND JO ANN	MOTION TO
	ADJ-3	BANARIA CRUZ	APPROVE COMPENSATION OF TRUSTEE'S
			ATTORNEY
			7-24-18 [29]

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

The motion will be granted.

Fores ■ Macko, attorney for the trustee, has filed its first and final motion for approval of compensation. The requested compensation consists of \$3,080 in fees and \$146.89 in expenses, for a total of \$3,226.89. This motion covers the period from November 28, 2017 through July 20, 2018. The court approved the movant's employment as the trustee's attorney on December 4, 2017. In performing its services, the movant charged an hourly rate of \$275.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant's services included, without limitation: (1) reviewing the estate's interest in two bank accounts held by debtor Jo Ann Cruz, (2) negotiating with the debtor about the estate's interest in the accounts, (3) preparing and prosecuting a motion for approval of a settlement with the debtor, (4) assisting the trustee with the general administration of the estate, and (5) preparing and filing employment and compensation motions.

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

The court reminds the movant to state in its motion how many prior requests for compensation it has made with the court.