



**UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable Jennifer E. Niemann
Hearing Date: Wednesday, September 13, 2023
Department A – Courtroom #11
Fresno, California**

Unless otherwise ordered, all hearings before Judge Niemann are simultaneously: (1) **IN PERSON** in Courtroom #11 (Fresno hearings only), (2) via **ZOOMGOV VIDEO**, (3) via **ZOOMGOV TELEPHONE**, and (4) via **COURTCALL**. You may choose any of these options unless otherwise ordered.

To appear via zoom gov video or zoom gov telephone for law and motion or status conference proceedings, you must comply with the following new guidelines and procedures:

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

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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. [21-11814](#)-A-11 **IN RE: MARK FORREST**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
8-25-2023 [\[499\]](#)

LEONARD WELSH/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Require the unpaid filing fee to be paid.

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

This matter will proceed as scheduled. A motion to sell property free and clear of liens was filed on August 11, 2023. Doc. #473. A fee of \$188.00 is required at the time of filing of a motion to sell free and clear of liens. See Fees Commonly Charged by the Bankruptcy Court, EDC 2-033, Rev. October 2022. The required filing fee was not paid when the motion to sell free and clear of liens was filed. A notice of payment due was served on Mark Alan Forrest and Noel Knight on August 17, 2023. Doc. #495.

On August 16, 2023, the debtor withdrew the motion to sell. Doc. #494. However, the filing fee is still required to be paid.

If the filing fee of \$188.00 is not paid prior to the hearing, sanctions may be imposed on the filer and/or their counsel on the grounds stated in the order to show cause.

2. [21-11814](#)-A-11 **IN RE: MARK FORREST**
[LKW-25](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF LEONARD K. WELSH FOR
LEONARD K. WELSH, DEBTORS ATTORNEY(S)
8-14-2023 [\[487\]](#)

LEONARD WELSH/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.

The Law Offices of Leonard K. Welsh ("Movant"), counsel for the debtor and debtor in possession Mark Alan Forrest ("DIP"), requests allowance of final compensation and reimbursement for expenses for services rendered from January 1, 2023 through July 31, 2023. Doc. #487. Movant provided legal services valued at \$38,725.00, and requests compensation for that amount. Doc. #487. Movant requests reimbursement for expenses in the amount of \$933.57. Doc. #487. DIP has no opposition to the compensation and reimbursement for expenses requested by Movant for services rendered from January 1, 2023 through July 31, 2023. Decl. of Mark Alan Forrest, Doc. #490.

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). In determining the amount of reasonable compensation to be awarded to a professional person, 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) preparing various documents for chapter 11 status conference statements; (3) preparing and prosecuting motion for authority to sell real property free and clear of liens by private sale; (4) preparing and prosecuting motion to dismiss chapter 11 case; (5) preparing letter regarding income tax refunds owed to DIP by Internal Revenue Service; (6) reviewing and communicating with creditors regarding treatment of their claims; (7) preparing and prosecuting application for order authorizing employment of real estate broker; (8) preparing letter regarding substitution of attorneys for Mark Alan Forrest and order approving substitution of general counsel; and (9) preparing and filing fee and employment applications. Decl. of Leonard K. Welsh, Doc. #489; Ex. B, Doc. #491. The court finds the compensation of \$38,725.00 and reimbursement for expenses of \$933.57 sought for the period of January 1, 2023 through July 31, 2023 are reasonable, actual, and necessary and should be allowed on a final basis.

Movant also requests the court conduct a final review pursuant to 11 U.S.C. § 330 of all fees and expenses previously allowed pursuant to 11 U.S.C. § 331 on an interim basis. Specifically, Movant seeks final allowance of the following compensation and reimbursement for expenses previously awarded to Movant:

Date of Hearing	Fees Allowed	Costs Allowed	Date of Order
September 29, 2021	\$7,265.00	\$79.40	September 30, 2021 (Doc. #57)
December 1, 2021	\$9,597.50	\$222.53	December 1, 2021 (Doc. #112)
January 12, 2022	\$4,777.50	\$104.01	January 12, 2022 (Doc. #137)
May 5, 2022	\$15,605.00	\$318.38	May 10, 2022 (Doc. #198)
September 8, 2022	\$10,935.00	\$274.12	September 13, 2022 (Doc. #312)
March 1, 2023	\$25,917.50	\$532.93	March 1, 2023 (Doc. #385)

The court approves all fees and expenses of Movant previously allowed on an interim basis on a final basis.

This motion is GRANTED. The court allows on a final basis compensation in the amount of \$38,725.00 and reimbursement for expenses in the amount of \$933.57 for services rendered from January 1, 2023 through July 31, 2023. The court also allows on a final basis all fees and expenses previously allowed to Movant on an interim basis, as set forth in the above chart.

3. [22-12016](#)-A-11 **IN RE: FUTURE VALUE CONSTRUCTION, INC.**
[DMG-11](#)

MOTION TO BORROW
8-23-2023 [\[351\]](#)

FUTURE VALUE CONSTRUCTION, INC./MV
D. GARDNER/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Continue to permit the debtor to supplement the record as indicated below and allow Forege Trust Co. to provide express consent to the relief requested.

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 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 continue the hearing to give the debtor time to supplement the record in the motion and allow Forge Trust Co. to provide express consent to the relief requested. 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 continuing the hearing.

As a procedural matter, the court deems relief requested pursuant to 11 U.S.C. § 364(d)(1) to be a contested matter under Federal Rule of Bankruptcy Procedure ("Rule") 9014 as to the current secured creditors whose liens the debtor seeks to prime through the new borrowing. As such, this motion must be served on such secured creditors in the manner provided for service of a summons and complaint by Rule 7004. Fed. R. Bankr. P. 9014(b). With respect to a domestic or foreign corporation or other unincorporated association, service under Rule 7004(b)(3) may be made by mailing, first class prepaid, "a copy of the summons and complaint to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process." Rule 7004(b)(3). Here, there is no indication that proper service to an officer or agent under Rule 7004(b)(3) was made on secured creditor Forege Trust Co. Without the express consent of Forege Trust Co. to the relief requested in the motion or waiver by Forege Trust Co. of the improper service, the court will deny the motion as to Forege Trust Co. for improper notice.

By this motion, Future Value Construction, Inc. ("Debtor" or "DIP") seeks to enter into two construction loans as follows.

First, DIP seeks to borrow \$516,272.00 from Lima One Capital ("Lender") secured by a first deed of trust against DIP's real property commonly referred to as Lot 18 in Lakeview at Rio Bravo ("Lot 18"). Decl. of Chuck R. Thomason,

Doc. #353. The purpose of the loan is to complete the construction of a house on Lot 18 so that the Property can be sold. Id. The proposed borrowing with respect to Lot 18 will be senior to the deed of trust currently held against Lot 18 by Forege Trust Co. in the amount of \$70,700. Id. DIP estimates that the current value of Lot 18 is between \$125,000 and \$140,000, and the sale price of the constructed home on Lot 18 will be approximately \$721,000. Id. DIP estimates a profit with respect to Lot 18 of approximately \$130,000. Id. Interest on the post-petition loaned funds will be 12.2% per annum. Ex. A, Doc. #354. The term of the loan is 13 months interest only. Id.

Second, DIP seeks to borrow \$542,800.00 from Lender secured by a first deed of trust against DIP's real property commonly referred to as Lot 8 in Lakeview at Rio Bravo ("Lot 8"). Thomason Decl., Doc. #353. The purpose of the loan is to complete the construction of a house on Lot 8 so that the Property can be sold. Id. Lot 8 is currently secured by a deed of trust in the amount of \$77,000 in favor of Frank Gammichia. Id. DIP has executed a stipulation for relief from stay in which Mr. Gammichia will be paid on or before September 13, 2023. Id. DIP estimates that the sale price of the constructed home on Lot 8 will be approximately \$758,000. Id. DIP estimates a profit with respect to Lot 8 of approximately \$200,000. Id. Interest on the post-petition loaned funds will be 12.2% per annum. Ex. B, Doc. #354. The term of the loan is 13 months interest only. Id.

Section 364(d) of the Bankruptcy Code permits the court to authorize the incurring of debt secured by a senior or equal lien on property of the estate that is subject to a lien only if:

- (A) the chapter 11 debtor in possession is unable to obtain such credit otherwise; and
- (B) there is adequate protection of the interest of the holder of the lien on the property of the estate on which such senior lien is proposed to be granted.

11 U.S.C. § 364(d)(1). The debtor bears the burden of proof on the issue of adequate protection. 11 U.S.C. § 364(d)(2). "The determination of adequate protection is a fact-specific inquiry." In re Mosello, 195 B.R. 277, 289 (Bankr. S.D.N.Y. 1996). The purpose of § 364(d) is to "facilitate a plan that will inure to the benefit of all creditors and the estate." In re Stoney Creek Techs., LLC, 364 B.R. 882, 895 (Bankr. E.D. Pa. 2007).

Before granting the motion, in addition to addressing the improper service on Forege Trust Co., there are a few issues that need to be addressed in supplemental pleadings:

- (1) The motion does not contain a copy of the proposed credit agreement(s) or the proposed order as required by Federal Rule of Bankruptcy Procedure 4001(c)(A).
- (2) DIP has not complied with LBR 4001-1(c)(3). LBR 4001-1(c)(3) requires DIP to identify and provide substantial justification if certain provisions are contained in the post-petition financing transaction with Lender.
- (3) The moving papers and supporting evidence do not address the required showing that DIP is unable to obtain financing with respect to Lot 8 or Lot 18 by any other means as required by 11 U.S.C. § 364(d)(1).

- (4) The moving papers and supporting evidence do not provide information regarding: (a) whether the loans require monthly interest-only payments and, if so, whether DIP has the funds to make those payments; and (b) what is the estimated timeline for constructing the homes on Lot 18 and Lot 8 and whether DIP projects that the construction and sale of each home will be completed before the post-petition loan from Lender becomes due.

Because DIP needs to supplement the record with respect to this motion before the court can make the required findings to grant the motion, the court is inclined to continue the hearing on this motion and set a deadline for the filing and service of additional pleadings as well as provide Debtor with time to address the improper service on Forege Trust Co.

4. [23-11623](#)-A-11 **IN RE: MATEO ENTERPRISE, INC. DBA EL MILAGRO MARKET**
[LKW-5](#)

MOTION TO PAY
8-22-2023 [[57](#)]

MATEO ENTERPRISE, INC. DBA EL MILAGRO MARKET/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 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.

Mateo Enterprise, Inc. dba El Milagro Market ("Debtor" or "DIP"), the debtor and debtor in possession in this chapter 11 subchapter V case, moves the court for authorization to pay the labor costs needed to complete the build-out of a meat market, bakery and taqueria. Doc. #57.

Section 363 of the Bankruptcy Code states that a trustee, or debtor in possession, may use, sell, or lease property of the estate outside the ordinary course of business after notice and a hearing. 11 U.S.C. §§ 363(b)(1), 1184. Under § 363(b), a debtor in possession that wishes to use property of the estate outside the ordinary course of business must obtain advance approval from the bankruptcy court, and the bankruptcy court must find a valid business justification for the expenditure. 240 N. Brand Partners v. Colony GFP Partners, L.P. (In re 240 N. Brand Partners), 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996).

Here, DIP owns and operates a supermarket and convenience store. Decl. of Salvador Carrera at ¶ 2, Doc. #59. Pre-petition, in the spring of 2023, Debtor decided to expand its business to include a meat market, bakery and taqueria.

Id. Debtor's president, Salvador Carrera, purchased the materials to build the meat market, bakery and taqueria (the "Build-Out"). Id. However, Debtor was responsible for paying the labor costs associated with the Build-Out. Id. Debtor was in the process of, but had not completed, the Build-Out before Debtor filed its chapter 11 case on July 28, 2023. Id. at ¶ 3; Ex. A, Doc. #60. DIP expects to complete the Build-Out in November 2023 and believes the creation of a meat market, bakery and taqueria will be an important part of DIP's plan of reorganization and future business. Carrera Decl. at ¶¶ 3-4, Doc. #59. DIP believes that its business and reorganization will be damaged if DIP cannot complete the Build-Out and put the meat market, bakery and taqueria into operation. Id. at ¶ 6.

The court is inclined to GRANT this motion. DIP has a valid business justification for using property of the estate to complete the Build-Out.

5. [20-10945](#)-A-12 **IN RE: AJITPAL SINGH AND JATINDERJEET SIHOTA**
[FDA-2](#)

MOTION FOR COMPENSATION FOR JOHN W. PHILLIPS, SPECIAL COUNSEL(S)
8-15-2023 [\[312\]](#)

LEONARD WELSH/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted in part, the total fees and expenses awarded will be reduced by \$13,330.95.

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

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). Therefore, the defaults of the non-responding parties in interest are entered.

As a procedural matter, the certificate of service form was not completed correctly. The declarant checked the box indicating that service was made pursuant to Federal Rule of Bankruptcy Procedure ("Rule") 7004. Doc. #317. The declarant also checked the box indicating the declarant included an Attachment 6A1, which is required if service is effectuated under Rule 7004. However, the attachment with the certificate of service was a Clerk's Matrix of Creditors instead of "a list of the persons served, including their names/capacity to receive service, and address is appended [to motion] and numbered Attachment 6A1." To the extent the movant intended to effectuate service pursuant to Rule 7004, the declarant should have attached the correct item. When the movant served all creditors with notice of the hearing only, that service was made pursuant to Rule 7005, and the appropriate box in section 6B should have been checked and the Clerk's Matrix of Creditors should have been labeled as Attachment 6B1.

John W. Phillips ("Movant"), special litigation counsel for Ajitpal Singh and Jatinderjeet Kaur Sihota (collectively, "Debtors"), the debtors in this

chapter 12 case, requests allowance of interim compensation in the amount of \$46,516.50 and reimbursement for expenses of \$4,949.87 for services rendered from March 27, 2020 through March 31, 2023. Notice, Doc. #313. The interim compensation and reimbursement amount are derived from combined total costs and reimbursement expenses incurred by Movant when Movant was employed by Whitney Thompson & Jeffcoach ("WTJ") and Fennemore Dowling Aaron ("FDA") from March 27, 2020 through March 31, 2023. Motion, Doc. #312; Exs. A-C, Doc. #316. WTJ provided legal services to Debtors from March 27, 2020 through June 30, 2021 that totaled \$14,000.00 and incurred reimbursement expenses in the amount of \$492.17. Motion, Doc. #312; Exs. A-C, Doc. #316. On June 28, 2021, Movant changed firms and became employed by FDA. Decl. of Jatinderjeet Kaur Sihota, Doc. #295; Decl. of John W. Phillips, Doc. #296. On July 25, 2023, this court authorized a substitution of attorney, substituting FDA for WTJ. Order, Doc. #307. FDA provided legal services to Debtors from July 23, 2021 through March 31, 2023 that totaled \$32,516.50 and incurred reimbursement expenses in the amount of \$4,457.70. Motion, Doc. #312; Exs. A-C, Doc. #316.

Movant is also employed by the debtors in the bankruptcy matter of In re Bhajan Singh and Balvinder Kaur, Case No. 20-10569-A-12 (Bankr. E.D. Cal.). Motion, Doc. #570. In light of the complexities of the joint and several obligations of the two bankruptcies, Debtors have agreed to split all fees and costs requested in this motion by 50%, and the remaining 50% of fees and costs requested will be applied for in the In re Bhajan Singh and Balvinder Kaur bankruptcy case (the "Agreement"). Id. Based on this Agreement, Movant requests that WTJ be paid \$7,246.08 and FDA be paid \$18,487.10 by Debtors. Id. Debtors have reviewed Movant's interim fee application and have no objections. Decl. of Jatinderjeet Kaur Sihota, Doc. #314.

The Order Granting Authorization to Employ Whitney, Thompson & Jeffcoach ("WTJ") as Special Litigation Counsel authorized Movant's employment for services rendered on or after November 8, 2020, yet Movant billed time from March 27, 2020 to October 26, 2020. Order, Doc. #145; Ex. B, Doc. #316. Professionals who perform services for a debtor in possession "cannot recover fees for services rendered to the estate unless those services have been previously authorized by a court order." Atkins v. Wain, Samuel & Co. (In re Atkins), 69 F.3d 970, 973 (9th Cir. 1995). Because services rendered prior to November 8, 2020 were not authorized by the bankruptcy court, the court will reduce the award of compensation to WTJ by the amount billed to the estate prior to November 8, 2020, a total of \$13,040.00, and the reimbursement for expenses by the amount billed to the estate prior to November 8, 2020, a total of \$290.95. Ex. B, Doc. #316.

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 12 case. 11 U.S.C. § 330(a)(1), (4)(B). In determining the amount of reasonable compensation to be awarded to a professional person, 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) negotiating buy out of the Toronto Group state court judgment; (2) assisting in devising long term creditor protection planning which allows Debtors to farm without interference; (3) preparing to defend an adversary proceeding filed against Debtors; (4) preparing and filing the fee application; and (5) general case administration. Decl. of John W. Phillips, Doc. #315; Exs. A-C, Doc. #316. Subject to the reduction of \$13,330.95, the court finds the compensation and reimbursement sought are reasonable, actual, and necessary, and will approve the motion on an interim basis.

This motion will GRANTED on an interim basis. The court will allow interim compensation to WTJ in the amount of \$960.00 and reimbursement for expenses in the amount of \$201.22, for a total combined payment of \$1,161.22 for the period of authorized employment from November 8, 2020 through June 30, 2021, and interim compensation to FDA in the amount of \$32,516.50 and reimbursement for expenses in the amount of \$4,457.70, for a total combined payment of \$36,974.20 for the period July 23, 2021 through March 31, 2023. The interim compensation and reimbursement of expenses to WTJ and FDA is to be paid in a manner consistent with the terms of the confirmed plan and the Agreement. Subject to the combined reduction in fees and expenses of \$13,330.95 with respect to WTJ, the court will authorize the reduced payment of \$580.61 to be paid to WTJ from Debtors' bankruptcy estate and the payment of \$18,487.10 to be paid to FDA from Debtors' bankruptcy estate. 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.

6. [23-11548](#)-A-11 **IN RE: BASECAMP 116 LLC**
[CAE-1](#)

STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION
7-19-2023 [[1](#)]

DARREN BOGIE/ATTY. FOR DBT.
DISMISSED 8/7/23, CLOSED 8/25/23

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

DISPOSITION: Dropped as moot.

NO ORDER REQUIRED.

An order dismissing this case was entered on August 7, 2023. Doc. #14.
Therefore, this status conference will be DROPPED AS MOOT.

7. [20-10569](#)-A-12 **IN RE: BHAJAN SINGH AND BALVINDER KAUR**
[FDA-2](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FENNEMORE DOWLING AARON FOR
JOHN W. PHILLIPS, SPECIAL COUNSEL(S)
8-15-2023 [[570](#)]

LEONARD WELSH/ATTY. FOR DBT.
JOHN PHILLIPS/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted in part, the total fees and expenses awarded will
be reduced by \$13,330.95.

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

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). Therefore, the defaults of the non-responding parties in interest are entered.

As a procedural matter, the certificate of service form was not completed correctly. The declarant checked the box indicating that service was made pursuant to Federal Rule of Bankruptcy Procedure ("Rule") 7004. Doc. #575. The declarant also checked the box indicating the declarant included an Attachment 6A1, which is required if service is effectuated under Rule 7004. However, the attachment with the certificate of service was a Clerk's Matrix of Creditors instead of "a list of the persons served, including their names/capacity to receive service, and address is appended [to motion] and numbered Attachment 6A1." To the extent the movant intended to effectuate service pursuant to Rule 7004, the declarant should have attached the correct item. When the movant served all creditors with notice of the hearing only, that service was made pursuant to Rule 7005, and the appropriate box in section 6B should have been checked and the Clerk's Matrix of Creditors should have been labeled as Attachment 6B1.

John W. Phillips ("Movant"), special litigation counsel for Bhajan Singh and Balvinder Kaur (collectively, "Debtors"), the debtors in this chapter 12 case, requests allowance of interim compensation in the amount of \$46,516.50 and reimbursement for expenses of \$4,949.87 for services rendered from March 27, 2020 through March 31, 2023. Notice, Doc. #571. The interim compensation and reimbursement amount are derived from combined total cost and reimbursement expenses incurred by Movant when Movant was employed by Whitney Thompson & Jeffcoach ("WTJ") and Fennemore Dowling Aaron ("FDA") from March 27, 2020 through March 31, 2023. Motion, Doc. #570; Exs. A-C, Doc. #574. WTJ provided legal services to Debtors from March 27, 2020 through June 30, 2021 that totaled \$14,000.00 and incurred reimbursement expenses in the amount of \$492.17. Motion, Doc. #570; Exs. A-C, Doc. #574. On June 28, 2021, Movant changed firms and became employed by FDA. Decl. of Bhajan Singh, Doc. #553; Decl. of John W. Phillips, Doc. #554. On July 25, 2023, this court authorized a substitution of attorney, substituting FDA for WTJ. Order, Doc. #565. FDA provided legal services to Debtors from July 23, 2021 through March 31, 2023 that totaled \$32,516.50 and incurred reimbursement expenses in the amount of \$4,457.70. Motion, Doc. #570; Exs. A-C, Doc. #574.

Movant is also employed by the debtors in the bankruptcy matter of In re Ajitpal Singh and Jatinderjeet Kaur Sihota, Case No. 20-10945-A-12 (Bankr. E.D. Cal.). Motion, Doc. #312. In light of the complexities of the joint and several obligations of the two bankruptcies, Debtors have agreed to split all fees and costs requested in this motion by 50%, and the remaining 50% of fees and costs requested will be applied for in the In re Ajitpal Singh and Jatinderjeet Kaur Sihota bankruptcy case (the "Agreement"). Id. Based on this Agreement, Movant requests that WTJ be paid \$7,246.08 and FDA be paid \$18,487.10 by Debtors. Id. Debtors have reviewed Movant's interim fee application and have no objections. Decl. of Bhajan Singh, Doc. #572.

The Order Granting Authorization to Employ Whitney, Thompson & Jeffcoach ("WTJ") as Special Litigation Counsel authorized Movant's employment for services rendered on or after November 8, 2020, yet Movant billed time from March 27, 2020 to October 26, 2020. Order, Doc. #382; Ex. B, Doc. #574. Professionals who perform services for a debtor in possession "cannot recover fees for services rendered to the estate unless those services have been

previously authorized by a court order." Atkins v. Wain, Samuel & Co. (In re Atkins), 69 F.3d 970, 973 (9th Cir. 1995). Because services rendered prior to November 8, 2020 were not authorized by the bankruptcy court, the court will reduce the award of compensation to WTJ by the amount billed to the estate prior to November 8, 2020, a total of \$13,040.00, and the reimbursement for expenses by the amount billed to the estate prior to November 8, 2020, a total of \$290.95. Ex. B, Doc. #574.

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 12 case. 11 U.S.C. § 330(a)(1), (4)(B). In determining the amount of reasonable compensation to be awarded to a professional person, 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) negotiating buy out of the Toronto Group state court judgment; (2) assisting in devising long term creditor protection planning which allows Debtors to farm without interference; (3) preparing to defend an adversary proceeding filed against Debtors; (4) preparing and filing the fee application; and (5) general case administration. Decl. of John W. Phillips, Doc. #573; Exs. A-C, Doc. #574. Subject to the reduction of \$13,330.95, the court finds the compensation and reimbursement sought are reasonable, actual, and necessary, and will approve the motion on an interim basis.

This motion will GRANTED on an interim basis. The court will allow interim compensation to WTJ in the amount of \$960.00 and reimbursement for expenses in the amount of \$201.22, for a total combined payment of \$1,161.22 for the period of authorized employment from November 8, 2020 through June 30, 2021, and interim compensation to FDA in the amount of \$32,516.50 and reimbursement for expenses in the amount of \$4,457.70, for a total combined payment of \$36,974.20 for the period July 23, 2021 through March 31, 2023. The interim compensation and reimbursement of expenses to WTJ and FDA is to be paid in a manner consistent with the terms of the confirmed plan and the Agreement. Subject to the combined reduction in fees and expenses of \$13,330.95 with respect to WTJ, the court will authorize the reduced payment of \$580.61 to be paid to WTJ from Debtors' bankruptcy estate and the payment of \$18,487.10 to be paid to FDA from Debtors' bankruptcy estate. 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.

8. [20-10569](#)-A-12 **IN RE: BHAJAN SINGH AND BALVINDER KAUR**
[FDA-2](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FENNEMORE DOWLING AARON FOR
JOHN W. PHILLIPS, SPECIAL COUNSEL(S)
8-15-2023 [\[576\]](#)

LEONARD WELSH/ATTY. FOR DBT.
JOHN PHILLIPS/ATTY. FOR MV.

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

DISPOSITION: Denied as moot.

ORDER: The court will issue an order.

This motion for compensation is a duplicate of matter #7 above. Therefore, this Motion for Compensation (Doc. #576) will be DENIED AS MOOT.

9. [23-11178](#)-A-12 **IN RE: MARK FORREST**
[UST-1](#)

MOTION FOR REVIEW OF FEES AND/OR MOTION TO DISGORGE FEES
8-8-2023 [\[57\]](#)

TRACY DAVIS/MV
NOEL KNIGHT/ATTY. FOR DBT.
MICHAEL FLETCHER/ATTY. FOR MV.
DISMISSED 06/28/2023

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Denied as moot.

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 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). On September 7, 2023, the debtor and counsel for the debtor filed a non-opposition to the relief requested and a declaration stating that the \$10,000 retainer that is the subject of this motion has been returned to the debtor. Doc. ##67, 68. Because counsel for the debtor has already satisfied the relief requested in the motion, it appears this motion is moot.

The United States Trustee, Tracy Hope Davis ("UST"), seeks review of the attorneys' fees received by Knight Law Group ("KLG"), attorney for debtor Mark Alan Forrest ("Debtor"), in connection with this chapter 12 case as well as an order requiring KLG to return the full amount of those funds to Debtor. Doc. #57.

Debtor paid \$10,000 to KLG to file a chapter 12 case while Debtor's previously filed chapter 11 case was still pending. Order to Show Cause ("OSC"), Doc. #16; App. to Employ, Doc. #38; Decl. of Mark Alan Forrest, Doc. #40. The chapter 12 case was dismissed shortly after being filed due to Debtor's pending chapter 11

case. OSC, Doc. #16; Order, Doc. #47. Moreover, the \$10,000 used to pay KLG was an asset of Debtor's pending chapter 11 case and, although the payment was outside the ordinary course of business, Debtor did not obtain court approval prior to making that payment. Motion, Doc. #57.

By the non-opposition filed on September 7, 2023, Debtor and KLG state that they do not oppose UST's motion and that the \$10,000 previously paid to KLG has been returned to Debtor's chapter 11 estate. Doc. ##67, 68.

The court has the authority, and responsibility, to consider attorney's fees obtained or to be paid prior to or during a bankruptcy case. 11 U.S.C. §§ 329, 330, 331; see also Law Offices of Nicholas A. Franke v. Tiffany (In re Lewis), 113 F.3d 1040, 1045 (9th Cir. 1997). Under Bankruptcy Code section 329(b), "a bankruptcy court may examine the reasonableness of a debtor's attorney fees and, '[i]f such compensation exceeds the reasonable value of any such services, the court may cancel any such agreement, or order the return of any such payment, to the extent excessive.'" Hale v. United States Trustee, 509 F.3d 1139, 1147 (9th Cir. 2007) (quoting 11 U.S.C. § 329(b)). The standard applied under section 329(b) to determine the reasonable value of fees is set forth in section 330. Hale v. United States Trustee (In re Basham), 208 B.R. 926, 931-32 (B.A.P. 9th Cir. 1997). Fees in excess of the reasonable value of such services may be ordered repaid. See In re Lawas, Case No. 13-33513-E-13, 2014 Bankr. LEXIS 623 (Bankr. E.D. Cal. Feb. 12, 2014). The application of 11 U.S.C. § 329 and the Federal Rules of Bankruptcy Procedure may seem harsh, but they are necessary not only to protect vulnerable consumers and business owners, but also to protect the integrity of the federal judicial process. See Neben & Starrett v. Charwell Fin. Corp. (In re Park-Helena Corp.), 63 F.3d 877, 881 (9th Cir. 1995). The federal courts are not mere devices to be used to generate fees for attorneys irrespective of any bona fide rights to be adjudicated.

"Once a question has been raised about the reasonableness of the attorney's fee under section 329, it is the attorney himself who bears the burden of establishing that the fee is reasonable." In re Geraci, 138 F.3d 314, 318-19 (7th Cir. 1998). Debtor's counsel must lay bare all dealings regarding compensation and must be direct and comprehensive. See Kavanagh v. Leija (In re Leija), 270 B.R. 497, 501 (Bankr. E.D. Cal. 2001) (citation omitted); In re Bob's Supermarket's, Inc., 146 B.R. 20, 25 (Bankr. D. Mont. 1992), aff'd in part and rev'd in part, 165 B.R. 339 (B.A.P. 9th Cir. 1993). The burden is on the person to be employed to come forward and to make full, candid, complete disclosure. In re B.E.S. Concrete Products, Inc., 93 B.R. 228 (E.D. Cal. 1988).

Here, KLG and Debtor do not oppose UST's motion, and KLG has returned the \$10,000 to Debtor. Decl. of Mark Alan Forrest and Noel Knight, Doc. #68. Thus, it appears to the court that the relief requested in the motion has already been accomplished, there is no longer a case or controversy before this court, and this motion is now moot.

Accordingly, the motion will be DENIED AS MOOT.

11:00 AM

1. [23-11209](#)-A-7 **IN RE: FRANCISCA MALDONADO**

PRO SE REAFFIRMATION AGREEMENT WITH SANTANDER CONSUMER USA INC.
8-21-2023 [[33](#)]

NO RULING.

1. [23-11707](#)-A-7 **IN RE: ROGER CAMPOS**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
8-18-2023 [\[12\]](#)

GRISELDA TORRES/ATTY. FOR DBT.
\$338.00 FILING FEE PAID 8/23/23

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

DISPOSITION: The order to show cause will be vacated.

ORDER: The court will issue an order.

The record shows that the installment fees now due have been paid. The case shall remain pending.

2. [23-10911](#)-A-7 **IN RE: DAVID GARCIA**
[BLF-4](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT AGREEMENT WITH
DAVID CASTILLO GARCIA
8-15-2023 [\[29\]](#)

IRMA EDMONDS/MV
PETER BUNTING/ATTY. FOR DBT.
LORIS BAKKEN/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 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.

Irma C. Edmonds ("Trustee"), the chapter 7 trustee of the bankruptcy estate of David Castillo Garcia, Jr. ("Debtor"), moves the court pursuant to Federal Rule of Bankruptcy Procedure 9019 for an order approving the compromise concerning

the administration of real property located at 137 W. Richert Ave., Clovis, California 93612 (the "Property"). Doc. #29.

The Property is an asset of the probate estate of Tomasa Castillo Garcia (the "Probate Estate"). Decl. of Trustee, Doc. #32. Debtor is one of several beneficiaries of the Probate Estate as well as the personal representative of the Probate Estate. Id. Debtor's beneficial interest in the Probate Estate is property of the estate. Id. Debtor plans to sell the Property on behalf of the Probate Estate and distribute the net proceeds of the sale pursuant to either decedent's will, if it can be probated, or by intestate succession subject to Probate Court approval in the Estate of Tomasa C. Garcia, Superior Court of California, County of Fresno, Probate Case No, 21CEPR01039. Id. On July 18, 2023, Debtor, through probate counsel Henry D. Nunez, filed a Notice of Petitioner's Request to Seek Appointment as Administrator to Proceed with the Estate Under Intestacy as if Descendant Died Without a Will, and the matter is set for hearing on October 10, 2023. Id.; Ex. B, Doc. #31.

Trustee and Debtor entered into a negotiation and compromise regarding an appropriate distribution of the net proceeds of the sale of the Property taking into consideration the laws regarding intestate succession in California. Trustee Decl., Doc. #32. Pursuant to the settlement agreement, Debtor, in his capacity as personal representative of the Probate Estate, will employ a real estate broker to list and market the Property for sale within 90 days from July 25, 2023. Ex. A, Doc. #31. Under the settlement, Trustee, on behalf of Debtor's bankruptcy estate, shall receive all funds of the Probate Estate to be paid to Debtor as a beneficiary of the Probate Estate and Debtor agrees not to claim an exemption in the Probate Estate funds paid to Trustee. 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. The proposed settlement requires the Property to be sold promptly through a real estate broker and allows Trustee to collect Debtor's share of the net proceeds from the sale of the Property without expense, uncertainty, or undue delay. 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 fair and equitable. 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 between Trustee and Debtor is approved.

This ruling is not authorizing the payment of any fees or costs associated with the dispute being compromised.

MOTION FOR RELIEF FROM AUTOMATIC STAY
8-2-2023 [\[12\]](#)

DEERE & COMPANY/MV
NEIL SCHWARTZ/ATTY. FOR DBT.
JAMES MACLEOD/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted in part and denied in part.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The Moving Party shall submit a proposed order after 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 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). Therefore, the defaults of the above-mentioned parties in interest are entered. 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 only with respect to 11 U.S.C. § 362(d)(2).

As a procedural matter, the property that is the subject of the motion for relief from stay is not specifically identified the motion as required by LBR 9014-1(d)(3)(A). However, the property is identified in the accompanying declaration and neither the debtors nor the chapter 7 trustee timely opposed the motion, so the court will rule on this motion this one time. In the future, counsel for the moving party should specifically identify in the motion for relief from stay the property that is the subject of the motion.

The movant, Deere & Company ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a new John Deere 1025R Tractor (the "Equipment"). Decl. of Angela Johnson, Doc. #14.

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 debtors do not have any equity in such property and such property is not necessary to an effective reorganization.

The court finds that Movant has not met its burden of showing "cause" under 11 U.S.C. § 362(d)(1) to lift the stay because there is no evidence in Movant's declaration testifying with respect to any delinquency. See Johnson Decl., Doc. #14. The only place where any delinquency is listed is on Movant's Relief

from Stay Summary Sheet that expressly states: "THIS IS IN THE NATURE OF A PRETRIAL STATEMENT AND IS NOT EVIDENCE". (Emphasis in original). Doc. #16.

The court finds pursuant to 11 U.S.C. § 362(d)(2) that the debtors do not have any equity in the Equipment and the Equipment is not necessary to an effective reorganization because the debtors are in chapter 7. The Equipment is valued at \$18,000.00 and the debtors owe \$19,617.17. Johnson Decl., Doc. #14.

Accordingly, the motion will be denied pursuant to 11 U.S.C. § 362(d)(1) and granted pursuant to 11 U.S.C. § 362(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. According to Movant's declaration, the debtors do not intend to oppose the motion. Johnson Decl., Doc. #14.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the debtors have no equity and the Equipment is a depreciating asset.

4. [23-11333](#)-A-7 **IN RE: DONNA MATCHETT**
[JEB-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
8-28-2023 [\[29\]](#)

ALBERT'S GRANITE WORKS, INC/MV
JOHN BOUZANE/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted in part and denied in part.

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

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 in part and deny the motion in part. 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.

As a procedural matter, the pleadings filed with this motion do not comply with the court's Local Rules of Practice in several respects:

- (1) The motion and supporting papers do not comply with LBR 9014-1(c). "In motions filed in the bankruptcy case, a Docket Control Number (designated as DCN) shall be included by all parties immediately below the case number on all pleadings and other documents, including proofs of service, filed in support of or opposition to motions." LBR 9014-1(c)(1). "Once a Docket Control Number is assigned, all related papers filed by any party, including motions for orders shortening the amount of notice and stipulations resolving that motion, shall include the same number." LBR 9014-1(c)(4). See LBR 9004-2(b)(6). Here, the moving party used the same

docket control number, JEB-1, as was used for a prior motion for relief from stay that the court denied without prejudice. See Doc. ##20-24, 27-28. Because the prior motion for relief from stay with the DCN of JEB-1 was fully resolved by a court order, this motion for relief from stay should have a different DCN.

- (2) The pleadings filed in connection with this motion do not comply with LBR 9004-2(c)(1), which requires notice of hearing, motion and declarations to be filed as separate documents. Here, the notice, motion, declaration, and memorandum of points and authorities were filed in one document. Doc. #29. The motion and memorandum of points and authorities may be combined as a single document if the combined pleading is six pages or less. LBR 9014-1(d)(4).
- (3) The notice of hearing filed in connection with this motion does not comply with LBR 9014-1(d)(3)(B)(iii), which requires the notice to advise respondents that they can determine whether the matter has been resolved without oral argument or whether the court has issued a tentative ruling by viewing the court's website at www.caeb.uscourts.gov after 4:00 p.m. the day before the hearing, and that parties appearing telephonically must view the pre-hearing dispositions prior to the hearing.
- (4) The certificate of service filed in connection with this motion does not comply with LBR 7005-1 and General Order 22-03, which require attorneys and trustees to use the court's Official Certificate of Service Form as of November 1, 2022.

The court encourages counsel for the moving party to review the local rules to ensure compliance in future matters or those matters may be also denied without prejudice for failure to comply with the local rules. The rules can be accessed on the court's website at <https://www.caeb.uscourts.gov/LocalRules.aspx>.

The movant, Albert's Granite Works Inc ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d) with respect to real property located at 8336 Satinwood Ave., California City, CA 93505 (the "Property"). Doc. #29. Movant is the owner/lessor of the Property, but Donna Jo Matchett ("Debtor") had an interest in the Property before commencing her chapter 7 case. Debtor was the prior owner of the Property before Movant's predecessor in interest, Eric M. Richter, acquired ownership of the real property pre-petition at a public auction pursuant to California Civil Code Section 2924. Exs. 2 & 7, Doc. #32. On November 4, 2022, Movant purchased the Property from Mr. Ritcher. Ex. 7, Doc. #32. Movant seeks relief from the automatic stay to obtain possession of the Property because Debtor no longer has any right, title and/or interest in the Property. Doc. #29.

Movant requests the court take judicial notice of true and correct copies of the following documents: (1) Grant Deed transferring all right, title and interest in the Property, see Ex. 1, Doc. #32; (2) Trustee's Deed Upon Sale, see Ex. 2, Doc. #32; (3) Deed of Trust, Notice of Default, and Notice of Sale, see Exs. 3-5, Doc. #32; and (4) Notice to Quit, State Court Unlawful Detainer Summons and Complaint and State Court Unlawful Detainer Judgment, see Exs. 6-8, Doc. #32.

This court may take judicial notice of and consider the records in this bankruptcy case, filings in other court proceedings, and public records. Fed. R. Evid. 201; Bank of Am., N.A. v. CD-04, Inc. (In re Owner Mgmt. Serv., LLC), 530 B.R. 711, 717 (Bankr. C.D. Cal. 2015). The court takes judicial notice of the existence of exhibits 1 through 8 but does not take judicial

notice of the truth or falsity of the contents of any such document for the purpose of making a finding of fact. In re Harmony Holdings, LLC, 393 B.R. 409, 412-15 (Bankr. D.S.C. 2008) (collecting cases).

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause. "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).

After review of the included evidence, the court finds that "cause" exists to lift the stay. Pre-petition, Movant obtained ownership of the Property, caused a 3/90 Day Post Foreclosure Notice of Termination of Tenancy to be lawfully served on Debtor and All Unknown Occupants, and subsequently commenced an unlawful detainer action against Debtor in the Superior Court of California, Kern County, Case Number MCL-22-000598, which resulted in a judgment in favor of Movant on May 11, 2023. Decl. of Alberto Garcia, Doc. #29; See Exs. 6, 7 & 8. Doc. #32. Debtor filed this chapter 7 case on June 22, 2023. Doc. #1. The court finds there is cause to lift the stay because Debtor no longer has any right, title and/or interest in the Property.

The motion also requests termination or modification of the co-debtor stay of 11 U.S.C. §§ 1201 or 1301. However, this is a chapter 7 case and neither of those sections of the Bankruptcy Code apply to this case. Accordingly, the court denies the request for termination or modification of the co-debtor stay because such relief does not apply in a chapter 7 bankruptcy case.

For the reasons set forth above, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) to permit Movant to proceed under applicable non-bankruptcy law to enforce Movant's remedies to gain possession of the Property.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived to permit Movant to enforce Movant's remedies to gain possession of the Property pursuant to Movant's pre-petition judgment.

5. 23-10841-A-7 **IN RE: KARNVIR SINGH AND MANINDER BAINS**
PBB-1

MOTION TO AVOID LIEN OF GUARANTY SOLUTIONS RECOVERY FUND 1, LLC
8-4-2023 [24]

MANINDER BAINS/MV
PETER BUNTING/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 movants have done here.

As an informative matter, the movant incorrectly completed Section 6 of the court's mandatory Certificate of Service form at Doc. #35. The declarant marked that service was made on parties who requested special notice by U.S. Mail under Rule 5 and Rules 7005, 9036 and checked the Rule 5 Service § 6B2(1): Request for Special Notice box in Section 7 of the Certificate of Service form. Nevertheless, the declarant did not attach a copy of the Clerk of the Court's matrix of creditors who have filed a Request for Special Notice applicable to this case with the court's mandatory Certificate of Service form (Doc. #35). The court cannot determine from the supplemental certificate of service filed whether creditors who have filed a Request for Special Notice were served with the notice of the motion and supporting documents. In the future, the declarant should attach a copy of the Clerk of the Court's matrix of creditors who have filed a Request for Special Notice applicable to this case.

Karnvir Singh and Maninder Kaur Bains (together, "Debtors"), the debtors in this chapter 7 case, move pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014 to avoid the judicial lien of Guaranty Solutions Recovery Fund 1, LLC assignee of BMO Harris Bank, N.A. ("Creditor") on the residential real property commonly referred to as 7684 North Gilroy Avenue, Fresno, CA 93722 (the "Property"). Doc. #24; Schedule C, Doc. #1; Schedule D, 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 debtor's 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)).

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). The court "must approach lien avoidance from the back of the line, or at least some point far enough back in line that there is no nonexempt equity in sight." All Points Cap. Corp. v. Meyer (In re Meyer), 373 B.R. 84, 88 (B.A.P. 9th Cir. 2007). "Judicial liens are avoided in reverse order until the marginal lien, i.e., the junior lien supported in part by equity, is reached." Id.

Debtors filed their bankruptcy petition on April 26, 2023. Doc. ##1,6. A judgment was entered against Karnvir Singh in the amount of \$1,604,132.05 in favor of Creditor on September 27, 2018. Ex. D, Doc. #27. The abstract of judgment was recorded pre-petition in Fresno County on September 6, 2022, as document number 2022-0111379. Id. The lien attached to Debtors' interest in the Property located in Fresno County. Id. Debtors estimate the judicial lien to be \$2,336,319.45 as of August 4, 2023. Doc. #24. Debtors assert a market value for the Property as of the petition date at \$780,000.00. Schedule A/B, Doc. #1. The

Property also is encumbered by a first deed of trust in favor of Wells Fargo Home Mortgage in the amount \$460,884.75 and a tax lien in favor of the Franchise Tax Board in the amount of \$23,541.35 recorded on December 9, 2020. Doc. #24. Debtors claimed an exemption of \$340,000.00 in the Property under California Code of Civil Procedure § 704.730. Schedule C, Doc. #1.

There appear to be thirteen senior judicial liens on the Property:

- (1) The first senior judicial lien was recorded in Fresno County on September 8, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated September 6, 2017 for \$11,919.72. Ex. D, Doc. #94. Debtors estimate the first senior judicial lien to be \$18,620.89 as of August 4, 2023. Doc. #24.
- (2) The second senior judicial lien was recorded in Fresno County on September 8, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated September 6, 2017 for \$22,104.37. Ex. D, Doc. #89. Debtors estimate the second senior judicial lien to be \$34,531.27 as of August 4, 2023. Doc. #24.
- (3) The third senior judicial lien was recorded in Fresno County on September 8, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated September 6, 2017 for \$83,685.50. Ex. D, Doc. #85. Debtors estimate the third senior judicial lien to be \$130,690.62 as of August 4, 2023. Doc. #24.
- (4) The fourth senior judicial lien was recorded in Fresno County on November 7, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated November 2, 2017 for \$13,970.76. Ex. D, Doc. #80. Debtors estimate the fourth senior judicial lien to be \$21,606.83 as of August 4, 2023. Doc. #24.
- (5) The fifth senior judicial lien was recorded in Fresno County on December 26, 2017 with respect to a judgment of \$596,182.57 entered on September 5, 2017. Ex. D, Doc. #75. Debtors estimate the fifth senior judicial lien to be \$931,514.85 as of August 4, 2023. Doc. #24.
- (6) The sixth senior judicial lien was recorded in Fresno County on January 5, 2018 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated January 4, 2018 for \$14,972.36. Ex. D, Doc. #70. Debtors estimate the sixth senior judicial lien to be \$22,897.46 as of August 4, 2023. Doc. #24.
- (7) The seventh senior judicial lien was recorded in Fresno County on March 16, 2018 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated February 26, 2018 for \$6,923.10. Ex. D, Doc. #65. Debtors estimate the seventh senior judicial lien to be \$10,487.07 as of August 4, 2023. Doc. #24.
- (8) The eighth senior judicial lien was recorded in Fresno County on February 7, 2019 with respect to a judgment of \$1,604,132.05 entered on September 27, 2018. Ex. D, Doc. #60. Debtors estimate the eighth senior judicial lien to be \$2,336,319.45 as of August 4, 2023. Doc. #24.
- (9) The ninth senior judicial lien was recorded in Fresno County on May 16, 2019 with respect to a judgment of \$32,002.87 entered on January 10, 2019. Ex. D, Doc. #55. Debtors estimate the ninth senior judicial lien to be \$45,689.58 as of August 4, 2023. Doc. #24.

- (10) The tenth senior judicial lien was recorded in Fresno County on May 20, 2021 with respect to a judgment of \$74,863.15¹ entered on December 5, 2018. Ex. D, Doc. #49. Debtors estimate the tenth senior judicial lien to be \$107,618.34 as of August 4, 2023. Doc. #24.
- (11) The eleventh senior judicial lien was recorded in Fresno County on September 04, 2019 with respect to a judgment of \$249,275.66 entered on July 30, 2019. Ex. D, Doc. #44. Debtors estimate the eleventh senior judicial lien to be \$342,156.45 as of August 4, 2023. Doc. #24.
- (12) The twelfth senior judicial lien was recorded in Fresno County on May 6, 2020 with respect to a judgment of \$4,414,313.19 entered on December 13, 2019. Ex. D, Doc. #39. Debtors estimate the twelfth senior judicial lien to be \$5,894,619.86 as of August 4, 2023. Doc. #24.
- (13) The thirteenth senior judicial lien was recorded in Fresno County on April 02, 2021 with respect to a judgment of \$4,411.77 entered on November 6, 2020. Ex. D, Doc. #32. Debtors estimate the thirteenth senior judicial lien to be \$5,493.56 as of August 4, 2023. Doc. #24.

Applying the statutory formula:

Amount of Creditor's judicial lien		\$2,336,319.45
Total amount of all other liens on the Property (excluding junior judicial liens)	+	\$10,386,672.33
Amount of Debtors' claim of exemption in the Property	+	\$340,000.00
		\$13,062,991.78
Value of Debtors' interest in the Property absent liens	-	\$780,000.00
Amount Creditor's lien impairs Debtors' exemption		\$12,282,991.78

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 Debtors' exemption in the Property and its fixing will be avoided.

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

¹ The abstract of judgment against debtor Karnvir Singh in the amount of \$74,863.15 was recorded pre-petition twice for the same judgment in Fresno County on May 20, 2021, as document numbers 2019-0051956 and 2019-0051962. Doc. #46; Ex. D, Doc. #49. Therefore, the court will count this lien only once in its lien avoidance calculation.

MOTION TO AVOID LIEN OF AMERICAN EXPRESS NATIONAL BANK
8-10-2023 [\[30\]](#)

MANINDER BAINS/MV
PETER BUNTING/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 movants have done here.

Karnvir Singh and Maninder Kaur Bains (together, "Debtors"), the debtors in this chapter 7 case, move 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 Express National Bank ("Creditor") on the residential real property commonly referred to as 7684 North Gilroy Avenue, Fresno, CA 93722 (the "Property"). Doc. #30; Schedule C, Doc. #1; Schedule D, 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 debtor's 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)).

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). The court "must approach lien avoidance from the back of the line, or at least some point far enough back in line that there is no nonexempt equity in sight." All Points Cap. Corp. v. Meyer (In re Meyer), 373 B.R. 84, 88 (B.A.P. 9th Cir. 2007). "Judicial liens are avoided in reverse order until the marginal lien, i.e., the junior lien supported in part by equity, is reached." Id.

Debtors filed their bankruptcy petition on April 26, 2023. Doc. ##1,6. A judgment was entered against Karnvir Singh in the amount of \$4,411,77 in favor of Creditor on November 6, 2020. Ex. D, Doc. #32. The abstract of judgment was recorded pre-petition in Fresno County on April 2, 2021, as document number 2021-0054507. Id. The lien attached to Debtors' interest in the Property located in Fresno County. Id. Debtors estimate the judicial lien to be \$5,493.56 as of August 10, 2023. Doc. #30. Debtors assert a market value for the Property as of the petition date at \$780,000.00. Schedule A/B, Doc. #1. The Property also is encumbered by a first deed of trust in favor of Wells Fargo Home Mortgage in the amount \$460,884.75 and a tax lien in favor of the Franchise Tax Board in the amount of \$23,541.35 recorded on December 9, 2020. Doc. #30. Debtors claimed an exemption of \$340,000.00 in the Property under California Code of Civil Procedure § 704.730. Schedule C, Doc. #1.

There appear to be twelve senior judicial liens on the Property:

- (1) The first senior judicial lien was recorded in Fresno County on September 8, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated September 6, 2017 for \$11,919.72. Ex. D, Doc. #94. Debtors estimate the first senior judicial lien to be \$18,620.89 as of August 10, 2023. Doc. #30.
- (2) The second senior judicial lien was recorded in Fresno County on September 8, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated September 6, 2017 for \$22,104.37. Ex. D, Doc. #89. Debtors estimate the second senior judicial lien to be \$34,531.27 as of August 10, 2023. Doc. #30.
- (3) The third senior judicial lien was recorded in Fresno County on September 8, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated September 6, 2017 for \$83,685.50. Ex. D, Doc. #85. Debtors estimate the third senior judicial lien to be \$130,690.62 as of August 10, 2023. Doc. #30.
- (4) The fourth senior judicial lien was recorded in Fresno County on November 7, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated November 2, 2017 for \$13,970.76. Ex. D, Doc. #80. Debtors estimate the fourth senior judicial lien to be \$21,606.83 as of August 10, 2023. Doc. #30.
- (5) The fifth senior judicial lien was recorded in Fresno County on December 26, 2017 with respect to a judgment of \$596,182.57 entered on September 5, 2017. Ex. D, Doc. #75. Debtors estimate the fifth senior judicial lien to be \$931,514.85 as of August 10, 2023. Doc. #30.
- (6) The sixth senior judicial lien was recorded in Fresno County on January 5, 2018 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated January 4, 2018 for \$14,972.36. Ex. D, Doc. #70. Debtors estimate the sixth senior judicial lien to be \$22,897.46 as of August 10, 2023. Doc. #30.
- (7) The seventh senior judicial lien was recorded in Fresno County on March 16, 2018 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated February 26, 2018 for \$6,923.10. Ex. D, Doc. #65. Debtors estimate the seventh senior judicial lien to be \$10,487.07 as of August 10, 2023. Doc. #30.
- (8) The eighth senior judicial lien was recorded in Fresno County on February 7, 2019 with respect to a judgment of \$1,604,132.05 entered on September 27, 2018. Ex. D, Doc. #60. Debtors estimate the eighth senior judicial lien to be \$2,336,319.45 as of August 10, 2023. Doc. #30.

- (9) The ninth senior judicial lien was recorded in Fresno County on May 16, 2019 with respect to a judgment of \$32,002.87 entered on January 10, 2019. Ex. D, Doc. #55. Debtors estimate the ninth senior judicial lien to be \$45,689.58 as of August 10, 2023. Doc. #30.
- (10) The tenth senior judicial lien was recorded in Fresno County on May 20, 2021 with respect to a judgment of \$74,863.15² entered on December 5, 2018. Ex. D, Doc. #49. Debtors estimate the tenth senior judicial lien to be \$107,618.34 as of August 10, 2023. Doc. #30.
- (11) The eleventh senior judicial lien was recorded in Fresno County on September 04, 2019 with respect to a judgment of \$249,275.66 entered on July 30, 2019. Ex. D, Doc. #44. Debtors estimate the eleventh senior judicial lien to be \$342,156.45 as of August 10, 2023. Doc. #30.
- (12) The twelfth senior judicial lien was recorded in Fresno County on May 6, 2020 with respect to a judgment of \$4,414,313.19 entered on December 13, 2019. Ex. D, Doc. #39. Debtors estimate the twelfth senior judicial lien to be \$5,894,619.86 as of August 10, 2023. Doc. #30.

Applying the statutory formula:

Amount of Creditor's judicial lien		\$5,493.56
Total amount of all other liens on the Property (excluding junior judicial liens)	+	\$10,381,178.77
Amount of Debtors' claim of exemption in the Property	+	\$340,000.00
		\$10,726,672.33
Value of Debtors' interest in the Property absent liens	-	\$780,000.00
Amount Creditor's lien impairs Debtors' exemption		\$9,946,672.33

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 Debtors' exemption in the Property and its fixing will be avoided.

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

² The abstract of judgment against debtor Karnvir Singh in the amount of \$74,863.15 was recorded pre-petition twice for the same judgment in Fresno County on May 20, 2021, as document numbers 2019-0051956 and 2019-0051962. Doc. #46; Ex. D, Doc. #49. Therefore, the court will count this lien only once in its lien avoidance calculation.

MOTION TO AVOID LIEN OF COMMERCIAL CREDIT GROUP, INC.
8-11-2023 [\[36\]](#)

MANINDER BAINS/MV
PETER BUNTING/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 movants have done here.

Karnvir Singh and Maninder Kaur Bains (together, "Debtors"), the debtors in this chapter 7 case, move pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014 to avoid the judicial lien of Commercial Credit Group, Inc. ("Creditor") on the residential real property commonly referred to as 7684 North Gilroy Avenue, Fresno, CA 93722 (the "Property"). Doc. #36; Schedule C, Doc. #1; Schedule D, 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 debtor's 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)).

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). The court "must approach lien avoidance from the back of the line, or at least some point far enough back in line that there is no nonexempt equity in sight." All Points Cap. Corp. v. Meyer (In re Meyer), 373 B.R. 84, 88 (B.A.P. 9th Cir. 2007). "Judicial liens are avoided in reverse order until the marginal lien, i.e., the junior lien supported in part by equity, is reached." Id.

Debtors filed their bankruptcy petition on April 26, 2023. Doc. ##1,6. A judgment was entered against Karnvir Singh in the amount of \$4,414,313.19 in favor of Creditor on December 13, 2019. Ex. D, Doc. #39. The abstract of judgment was recorded pre-petition in Fresno County on May 6, 2020, as document number 2020-0056046. Id. The lien attached to Debtors' interest in the Property located in Fresno County. Id. Debtors estimate the judicial lien to be \$5,894,619.86 as of August 11, 2023. Doc. #36. Debtors assert a market value for the Property as of the petition date at \$780,000.00. Schedule A/B, Doc. #1. The Property also is encumbered by a first deed of trust in favor of Wells Fargo Home Mortgage in the amount \$460,884.75. Doc. #36. Debtors claimed an exemption of \$340,000.00 in the Property under California Code of Civil Procedure § 704.730. Schedule C, Doc. #1.

There appear to be eleven senior judicial liens on the Property:

- (1) The first senior judicial lien was recorded in Fresno County on September 8, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated September 6, 2017 for \$11,919.72. Ex. D, Doc. #94. Debtors estimate the first senior judicial lien to be \$18,620.89 as of August 11, 2023. Doc. #36.
- (2) The second senior judicial lien was recorded in Fresno County on September 8, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated September 6, 2017 for \$22,104.37. Ex. D, Doc. #89. Debtors estimate the second senior judicial lien to be \$34,531.27 as of August 11, 2023. Doc. #36.
- (3) The third senior judicial lien was recorded in Fresno County on September 8, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated September 6, 2017 for \$83,685.50. Ex. D, Doc. #85. Debtors estimate the third senior judicial lien to be \$130,690.62 as of August 11, 2023. Doc. #36.
- (4) The fourth senior judicial lien was recorded in Fresno County on November 7, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated November 2, 2017 for \$13,970.76. Ex. D, Doc. #80. Debtors estimate the fourth senior judicial lien to be \$21,606.83 as of August 11, 2023. Doc. #36.
- (5) The fifth senior judicial lien was recorded in Fresno County on December 26, 2017 with respect to a judgment of \$596,182.57 entered on September 5, 2017. Ex. D, Doc. #75. Debtors estimate the fifth senior judicial lien to be \$931,514.85 as of August 11, 2023. Doc. #36.
- (6) The sixth senior judicial lien was recorded in Fresno County on January 5, 2018 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated January 4, 2018 for \$14,972.36. Ex. D, Doc. #70. Debtors estimate the sixth senior judicial lien to be \$22,897.46 as of August 11, 2023. Doc. #36.
- (7) The seventh senior judicial lien was recorded in Fresno County on March 16, 2018 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated February 26, 2018 for \$6,923.10. Ex. D, Doc. #65. Debtors estimate the seventh senior judicial lien to be \$10,487.07 as of August 11, 2023. Doc. #36.
- (8) The eighth senior judicial lien was recorded in Fresno County on February 7, 2019 with respect to a judgment of \$1,604,132.05 entered on September 27, 2018. Ex. D, Doc. #60. Debtors estimate the eighth senior judicial lien to be \$2,336,319.45 as of August 11, 2023. Doc. #36.

- (9) The ninth senior judicial lien was recorded in Fresno County on May 16, 2019 with respect to a judgment of \$32,002.87 entered on January 10, 2019. Ex. D, Doc. #55. Debtors estimate the ninth senior judicial lien to be \$45,689.58 as of August 11, 2023. Doc. #36.
- (10) The tenth senior judicial lien was recorded in Fresno County on May 20, 2021 with respect to a judgment of \$74,863.15³ entered on December 5, 2018. Ex. D, Doc. #49. Debtors estimate the tenth senior judicial lien to be \$107,618.34 as of August 11, 2023. Doc. #36.
- (11) The eleventh senior judicial lien was recorded in Fresno County on September 04, 2019 with respect to a judgment of \$249,275.66 entered on July 30, 2019. Ex. D, Doc. #44. Debtors estimate the eleventh senior judicial lien to be \$342,156.45 as of August 11, 2023. Doc. #36.

Applying the statutory formula:

Amount of Creditor's judicial lien		\$5,894,619.86
Total amount of all other liens on the Property (excluding junior judicial liens)	+	\$4,463,017.56
Amount of Debtors' claim of exemption in the Property	+	\$340,000.00
		\$10,697,637.42
Value of Debtors' interest in the Property absent liens	-	\$780,000.00
Amount Creditor's lien impairs Debtors' exemption		\$9,917,637.42

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 Debtors' exemption in the Property and its fixing will be avoided.

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

8. [23-10841](#)-A-7 **IN RE: KARNVIR SINGH AND MANINDER BAINS**
[PBB-4](#)

MOTION TO AVOID LIEN OF HITACHI CAPITAL AMERICA CORP.
8-11-2023 [[41](#)]

MANINDER BAINS/MV
PETER BUNTING/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

³ The abstract of judgment against debtor Karnvir Singh in the amount of \$74,863.15 was recorded pre-petition twice for the same judgment in Fresno County on May 20, 2021, as document numbers 2019-0051956 and 2019-0051962. Doc. #46; Ex. D, Doc. #49. Therefore, the court will count this lien only once in its lien avoidance calculation.

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 movants have done here.

Karnvir Singh and Maninder Kaur Bains (together, "Debtors"), the debtors in this chapter 7 case, move pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014 to avoid the judicial lien of Hitachi Capital America Corp. and its successor by merger Mitsubishi HC Capital America, Inc. ("Creditor") on the residential real property commonly referred to as 7684 North Gilroy Avenue, Fresno, CA 93722 (the "Property"). Doc. #41; Schedule C, Doc. #1; Schedule D, 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 debtor's 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)).

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). The court "must approach lien avoidance from the back of the line, or at least some point far enough back in line that there is no nonexempt equity in sight." All Points Cap. Corp. v. Meyer (In re Meyer), 373 B.R. 84, 88 (B.A.P. 9th Cir. 2007). "Judicial liens are avoided in reverse order until the marginal lien, i.e., the junior lien supported in part by equity, is reached." Id.

Debtors filed their bankruptcy petition on April 26, 2023. Doc. ##1,6. A judgment was entered against BKSG Transportation LLC, a California limited liability company in the amount of \$249,275.66 in favor of Creditor on July 30, 2019. Ex. D, Doc. #44. The abstract of judgment was recorded pre-petition in Fresno County on September 4, 2019, as document number 2019-0099936. Id. The lien attached to Debtors' interest in the Property located in Fresno County. Id. Debtors estimate the judicial lien to be \$342,156.45 as of August 11, 2023. Doc. #41. Debtors assert a market value for the Property as of the petition date at \$780,000.00. Schedule A/B, Doc. #1. The Property also is encumbered by a first deed of trust in favor of Wells Fargo Home Mortgage in the amount \$460,884.75. Schedule D, Doc. #1. Debtors claimed an exemption of \$340,000.00 in the Property under California Code of Civil Procedure § 704.730. Schedule C, Doc. #1.

There appear to be ten senior judicial liens on the Property:

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- (1) The first senior judicial lien was recorded in Fresno County on September 8, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated September 6, 2017 for \$11,919.72. Ex. D, Doc. #94. Debtors estimate the first senior judicial lien to be \$18,620.89 as of August 11, 2023. Doc. #41.
- (2) The second senior judicial lien was recorded in Fresno County on September 8, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated September 6, 2017 for \$22,104.37. Ex. D, Doc. #89. Debtors estimate the second senior judicial lien to be \$34,531.27 as of August 11, 2023. Doc. #41.
- (3) The third senior judicial lien was recorded in Fresno County on September 8, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated September 6, 2017 for \$83,685.50. Ex. D, Doc. #85. Debtors estimate the third senior judicial lien to be \$130,690.62 as of August 11, 2023. Doc. #41.
- (4) The fourth senior judicial lien was recorded in Fresno County on November 7, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated November 2, 2017 for \$13,970.76. Ex. D, Doc. #80. Debtors estimate the fourth senior judicial lien to be \$21,606.83 as of August 11, 2023. Doc. #41.
- (5) The fifth senior judicial lien was recorded in Fresno County on December 26, 2017 with respect to a judgment of \$596,182.57 entered on September 5, 2017. Ex. D, Doc. #75. Debtors estimate the fifth senior judicial lien to be \$931,514.85 as of August 11, 2023. Doc. #41.
- (6) The sixth senior judicial lien was recorded in Fresno County on January 5, 2018 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated January 4, 2018 for \$14,972.36. Ex. D, Doc. #70. Debtors estimate the sixth senior judicial lien to be \$22,897.46 as of August 11, 2023. Doc. #41.
- (7) The seventh senior judicial lien was recorded in Fresno County on March 16, 2018 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated February 26, 2018 for \$6,923.10. Ex. D, Doc. #65. Debtors estimate the seventh senior judicial lien to be \$10,487.07 as of August 11, 2023. Doc. #41.
- (8) The eighth senior judicial lien was recorded in Fresno County on February 7, 2019 with respect to a judgment of \$1,604,132.05 entered on September 27, 2018. Ex. D, Doc. #60. Debtors estimate the eighth senior judicial lien to be \$2,336,319.45 as of August 11, 2023. Doc. #41.
- (9) The ninth senior judicial lien was recorded in Fresno County on May 16, 2019 with respect to a judgment of \$32,002.87 entered on January 10, 2019. Ex. D, Doc. #55. Debtors estimate the ninth senior judicial lien to be \$45,689.58 as of August 11, 2023. Doc. #41.
- (10) The tenth senior judicial lien was recorded in Fresno County on May 20, 2021 with respect to a judgment of \$74,863.15⁴ entered on December 5, 2018. Ex. D, Doc. #49. Debtors estimate the tenth senior judicial lien to be \$107,618.34 as of August 11, 2023. Doc. #41.

⁴ The abstract of judgment against debtor Karnvir Singh in the amount of \$74,863.15 was recorded pre-petition twice for the same judgment in Fresno County on May 20, 2021, as document numbers 2019-0051956 and 2019-0051962. Doc. #46; Ex. D, Doc. #49. Therefore, the court will count this lien only once in its lien avoidance calculation.

Applying the statutory formula:

Amount of Creditor's judicial lien		\$342,156.45
Total amount of all other liens on the Property (excluding junior judicial liens)	+	\$4,120,861.11
Amount of Debtors' claim of exemption in the Property	+	\$340,000.00
		\$4,803,017.56
Value of Debtors' interest in the Property absent liens	-	\$780,000.00
Amount Creditor's lien impairs Debtors' exemption		\$4,023,017.56

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 Debtors' exemption in the Property and its fixing will be avoided.

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

9. [23-10841](#)-A-7 **IN RE: KARNVIR SINGH AND MANINDER BAINS**
[PBB-5](#)

MOTION TO AVOID LIEN OF ECN FINANCIAL, LLC
8-11-2023 [\[46\]](#)

MANINDER BAINS/MV
PETER BUNTING/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 movants have done here.

Karnvir Singh and Maninder Kaur Bains (together, "Debtors"), the debtors in this chapter 7 case, move pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014 to avoid the judicial lien of ECN Financial, LLC and its successor in interest the PNC Financial Services Group ("Creditor") on the residential real property commonly referred to as 7684 North Gilroy Avenue, Fresno, CA 93722 (the "Property"). Doc. #46; Schedule C, Doc. #1; Schedule D, 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 debtor's 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)).

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). The court "must approach lien avoidance from the back of the line, or at least some point far enough back in line that there is no nonexempt equity in sight." All Points Cap. Corp. v. Meyer (In re Meyer), 373 B.R. 84, 88 (B.A.P. 9th Cir. 2007). "Judicial liens are avoided in reverse order until the marginal lien, i.e., the junior lien supported in part by equity, is reached." Id.

Debtors filed their bankruptcy petition on April 26, 2023. Doc. #1,6. A judgment was entered against BKSG Transportation LLC, a California limited liability company and Karnvir Singh in the amount of 74,863.15 in favor of Creditor on December 5, 2018. Ex. D, Doc. #49. The abstract of judgment in the amount of \$74,863.15 was recorded two times for the same judgment pre-petition in Fresno County on May 20, 2019, as document numbers 2019-0051962 and 2019-0051956. Id. Therefore, the court will only count this lien once in its lien avoidance calculation. The lien attached to Debtors' interest in the Property located in Fresno County. Id. Debtors estimate the judicial lien to be \$107,618.34 as of August 11, 2023. Doc. #46. Debtors assert a market value for the Property as of the petition date at \$780,000.00. Schedule A/B, Doc. #1. The Property also is encumbered by a first deed of trust in favor of Wells Fargo Home Mortgage in the amount \$460,884.75. Schedule D, Doc. #1. Debtors claimed an exemption of \$340,000.00 in the Property under California Code of Civil Procedure § 704.730. Schedule C, Doc. #1.

There appear to be nine senior judicial liens on the Property:

- (1) The first senior judicial lien was recorded in Fresno County on September 8, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated September 6, 2017 for \$11,919.72. Ex. D, Doc. #94. Debtors estimate the first senior judicial lien to be \$18,620.89 as of August 11, 2023. Doc. #46.
- (2) The second senior judicial lien was recorded in Fresno County on September 8, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated September 6, 2017 for \$22,104.37. Ex. D, Doc. #89. Debtors estimate the second senior judicial lien to be \$34,531.27 as of August 11, 2023. Doc. #46.
- (3) The third senior judicial lien was recorded in Fresno County on September 8, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated September 6, 2017 for \$83,685.50. Ex. D, Doc. #85. Debtors estimate the third senior judicial lien to be \$130,690.62 as of August 11, 2023. Doc. #46.
- (4) The fourth senior judicial lien was recorded in Fresno County on November 7, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated November 2, 2017 for \$13,970.76. Ex. D,

Doc. #80. Debtors estimate the fourth senior judicial lien to be \$21,606.83 as of August 11, 2023. Doc. #46.

- (5) The fifth senior judicial lien was recorded in Fresno County on December 26, 2017 with respect to a judgment of \$596,182.57 entered on September 5, 2017. Ex. D, Doc. #75. Debtors estimate the fifth senior judicial lien to be \$931,514.85 as of August 11, 2023. Doc. #46.
- (6) The sixth senior judicial lien was recorded in Fresno County on January 5, 2018 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated January 4, 2018 for \$14,972.36. Ex. D, Doc. #70. Debtors estimate the sixth senior judicial lien to be \$22,897.46 as of August 11, 2023. Doc. #46.
- (7) The seventh senior judicial lien was recorded in Fresno County on March 16, 2018 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated February 26, 2018 for \$6,923.10. Ex. D, Doc. #65. Debtors estimate the seventh senior judicial lien to be \$10,487.07 as of August 11, 2023. Doc. #46.
- (8) The eighth senior judicial lien was recorded in Fresno County on February 7, 2019 with respect to a judgment of \$1,604,132.05 entered on September 27, 2018. Ex. D, Doc. #60. Debtors estimate the eighth senior judicial lien to be \$2,336,319.45 as of August 11, 2023. Doc. #46.
- (9) The ninth senior judicial lien was recorded in Fresno County on May 16, 2019 with respect to a judgment of \$32,002.87 entered on January 10, 2019. Ex. D, Doc. #55. Debtors estimate the ninth senior judicial lien to be \$45,689.58 as of August 11, 2023. Doc. #46.

Applying the statutory formula:

Amount of Creditor's judicial lien		\$107,618.34
Total amount of all other liens on the Property (excluding junior judicial liens)	+	\$4,013,242.77
Amount of Debtors' claim of exemption in the Property	+	\$340,000.00
		\$4,460,861.11
Value of Debtors' interest in the Property absent liens	-	\$780,000.00
Amount Creditor's lien impairs Debtors' exemption		\$3,680,861.11

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 Debtors' exemption in the Property and its fixing will be avoided.

Debtors have 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 SEVEN STAR SERVICES, INC.
8-14-2023 [\[52\]](#)

MANINDER BAINS/MV
PETER BUNTING/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 movants have done here.

Karnvir Singh and Maninder Kaur Bains (together, "Debtors"), the debtors in this chapter 7 case, move pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014 to avoid the judicial lien of Seven Star Services, Inc. ("Creditor") on the residential real property commonly referred to as 7684 North Gilroy Avenue, Fresno, CA 93722 (the "Property"). Doc. #52; Schedule C, Doc. #1; Schedule D, 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 debtor's 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)).

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). The court "must approach lien avoidance from the back of the line, or at least some point far enough back in line that there is no nonexempt equity in sight." All Points Cap. Corp. v. Meyer (In re Meyer), 373 B.R. 84, 88 (B.A.P. 9th Cir. 2007). "Judicial liens are avoided in reverse order until the marginal lien, i.e., the junior lien supported in part by equity, is reached." Id.

Debtors filed their bankruptcy petition on April 26, 2023. Doc. ##1,6. A judgment was entered against Maninder Kaur Bains, individually and dba BKSG Transportation LLC in the amount of \$32,002.87 in favor of Creditor on January 10, 2019. Ex. D, Doc. #55. The abstract of judgment was recorded pre-petition in Fresno County on May 16, 2019, as document number 2019-0050708. Id. The lien attached to Debtors' interest in the Property located in Fresno County. Id. Debtors estimate the judicial lien to be \$45,689.58 as of August 14, 2023. Doc. #52. Debtors assert a market value for the Property as of the petition date at \$780,000.00. Schedule A/B, Doc. #1. The Property also is encumbered by a first deed of trust in favor of Wells Fargo Home Mortgage in the amount \$460,884.75. Schedule D, Doc. #1. Debtors claimed an exemption of \$340,000.00 in the Property under California Code of Civil Procedure § 704.730. Schedule C, Doc. #1.

There appear to be eight senior judicial liens on the Property:

- (1) The first senior judicial lien was recorded in Fresno County on September 8, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated September 6, 2017 for \$11,919.72. Ex. D, Doc. #94. Debtors estimate the first senior judicial lien to be \$18,620.89 as of August 14, 2023. Doc. #52.
- (2) The second senior judicial lien was recorded in Fresno County on September 8, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated September 6, 2017 for \$22,104.37. Ex. D, Doc. #89. Debtors estimate the second senior judicial lien to be \$34,531.27 as of August 14, 2023. Doc. #52.
- (3) The third senior judicial lien was recorded in Fresno County on September 8, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated September 6, 2017 for \$83,685.50. Ex. D, Doc. #85. Debtors estimate the third senior judicial lien to be \$130,690.62 as of August 14, 2023. Doc. #52.
- (4) The fourth senior judicial lien was recorded in Fresno County on November 7, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated November 2, 2017 for \$13,970.76. Ex. D, Doc. #80. Debtors estimate the fourth senior judicial lien to be \$21,606.83 as of August 14, 2023. Doc. #52.
- (5) The fifth senior judicial lien was recorded in Fresno County on December 26, 2017 with respect to a judgment of \$596,182.57 entered on September 5, 2017. Ex. D, Doc. #75. Debtors estimate the fifth senior judicial lien to be \$931,514.85 as of August 14, 2023. Doc. #52.
- (6) The sixth senior judicial lien was recorded in Fresno County on January 5, 2018 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated January 4, 2018 for \$14,972.36. Ex. D, Doc. #70. Debtors estimate the sixth senior judicial lien to be \$22,897.46 as of August 14, 2023. Doc. #52.
- (7) The seventh senior judicial lien was recorded in Fresno County on March 16, 2018 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated February 26, 2018 for \$6,923.10. Ex. D, Doc. #65. Debtors estimate the seventh senior judicial lien to be \$10,487.07 as of August 14, 2023. Doc. #52.
- (8) The eighth senior judicial lien was recorded in Fresno County on February 7, 2019 with respect to a judgment of \$1,604,132.05 entered on September 27, 2018. Ex. D, Doc. #60. Debtors estimate the eighth senior judicial lien to be \$2,336,319.45 as of August 14, 2023. Doc. #52.

Applying the statutory formula:

Amount of Creditor's judicial lien		\$45,689.58
Total amount of all other liens on the Property (excluding junior judicial liens)	+	\$3,967,553.19
Amount of Debtors' claim of exemption in the Property	+	\$340,000.00
		\$4,353,242.77
Value of Debtors' interest in the Property absent liens	-	\$780,000.00
Amount Creditor's lien impairs Debtors' exemption		\$3,573,242.77

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 Debtors' exemption in the Property and its fixing will be avoided.

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

11. [23-10841](#)-A-7 **IN RE: KARNVIR SINGH AND MANINDER BAINS**
[PBB-7](#)

MOTION TO AVOID LIEN OF BMO HARRIS BANK, N.A.
8-14-2023 [\[57\]](#)

MANINDER BAINS/MV
PETER BUNTING/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 movants have done here.

Karnvir Singh and Maninder Kaur Bains (together, "Debtors"), the debtors in this chapter 7 case, move pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014 to avoid the judicial lien of BMO Harris Bank, N.A. ("Creditor") on the residential real property commonly referred to as 7684 North Gilroy Avenue, Fresno, CA 93722 (the "Property"). Doc. #57; Schedule C, Doc. #1; Schedule D, 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 debtor's 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)).

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). The court "must approach lien avoidance from the back of the line, or at least some point far enough back in line that there is no nonexempt equity in sight." All Points Cap. Corp. v. Meyer (In re Meyer), 373 B.R. 84, 88 (B.A.P. 9th Cir. 2007). "Judicial liens are avoided in reverse order until the marginal lien, i.e., the junior lien supported in part by equity, is reached." Id.

Debtors filed their bankruptcy petition on April 26, 2023. Doc. #1,6. A judgment was entered against BKSG Transportation LLC c/o Karnvir Singh in the amount of \$1,604,132.05, plus post-judgment interest in favor of Creditor on September 27, 2018. Ex. D, Doc. #60. The abstract of judgment was recorded pre-petition in Fresno County on February 7, 2019, as document number 2019-0012931. Id. The lien attached to Debtors' interest in the Property located in Fresno County. Id. Debtors estimate the judicial lien to be \$2,336,319.45 as of August 14, 2023. Doc. #57. Debtors assert a market value for the Property as of the petition date at \$780,000.00. Schedule A/B, Doc. #1. The Property also is encumbered by a first deed of trust in favor of Wells Fargo Home Mortgage in the amount \$460,884.75. Schedule D, Doc. #1. Debtors claimed an exemption of \$340,000.00 in the Property under California Code of Civil Procedure § 704.730. Schedule C, Doc. #1.

There appear to be seven senior judicial liens on the Property:

- (1) The first senior judicial lien was recorded in Fresno County on September 8, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated September 6, 2017 for \$11,919.72. Ex. D, Doc. #94. Debtors estimate the first senior judicial lien to be \$18,620.89 as of August 14, 2023. Doc. #57.
- (2) The second senior judicial lien was recorded in Fresno County on September 8, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated September 6, 2017 for \$22,104.37. Ex. D, Doc. #89. Debtors estimate the second senior judicial lien to be \$34,531.27 as of August 14, 2023. Doc. #57.
- (3) The third senior judicial lien was recorded in Fresno County on September 8, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated September 6, 2017 for \$83,685.50. Ex. D, Doc. #85. Debtors estimate the third senior judicial lien to be \$130,690.62 as of August 14, 2023. Doc. #57.
- (4) The fourth senior judicial lien was recorded in Fresno County on November 7, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated November 2, 2017 for \$13,970.76. Ex. D, Doc. #80. Debtors estimate the fourth senior judicial lien to be \$21,606.83 as of August 14, 2023. Doc. #57.

- (5) The fifth senior judicial lien was recorded in Fresno County on December 26, 2017 with respect to a judgment of \$596,182.57 entered on September 5, 2017. Ex. D, Doc. #75. Debtors estimate the fifth senior judicial lien to be \$931,514.85 as of August 14, 2023. Doc. #57.
- (6) The sixth senior judicial lien was recorded in Fresno County on January 5, 2018 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated January 4, 2018 for \$14,972.36. Ex. D, Doc. #70. Debtors estimate the sixth senior judicial lien to be \$22,897.46 as of August 14, 2023. Doc. #57.
- (7) The seventh senior judicial lien was recorded in Fresno County on March 16, 2018 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated February 26, 2018 for \$6,923.10. Ex. D, Doc. #65. Debtors estimate the seventh senior judicial lien to be \$10,487.07 as of August 14, 2023. Doc. #57.

Applying the statutory formula:

Amount of Creditor's judicial lien		\$2,336,319.45
Total amount of all other liens on the Property (excluding junior judicial liens)	+	\$1,631,233.74
Amount of Debtors' claim of exemption in the Property	+	\$340,000.00
		\$4,307,553.19
Value of Debtors' interest in the Property absent liens	-	\$780,000.00
Amount Creditor's lien impairs Debtors' exemption		\$3,527,553.19

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 Debtors' exemption in the Property and its fixing will be avoided.

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

12. [23-10841](#)-A-7 **IN RE: KARNVIR SINGH AND MANINDER BAINS**
[PBB-8](#)

MOTION TO AVOID LIEN OF THE LABOR COMMISSIONER
8-14-2023 [[62](#)]

MANINDER BAINS/MV
PETER BUNTING/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 movants have done here.

Karnvir Singh and Maninder Kaur Bains (together, "Debtors"), the debtors in this chapter 7 case, move pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014 to avoid the judicial lien of Labor Commissioner and its assignee Muneet Mehta ("Creditor") on the residential real property commonly referred to as 7684 North Gilroy Avenue, Fresno, CA 93722 (the "Property"). Doc. #62; Schedule C, Doc. #1; Schedule D, 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 debtor's 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)).

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). The court "must approach lien avoidance from the back of the line, or at least some point far enough back in line that there is no nonexempt equity in sight." All Points Cap. Corp. v. Meyer (In re Meyer), 373 B.R. 84, 88 (B.A.P. 9th Cir. 2007). "Judicial liens are avoided in reverse order until the marginal lien, i.e., the junior lien supported in part by equity, is reached." Id.

Debtors filed their bankruptcy petition on April 26, 2023. Doc. ##1,6. A judgment was entered against Debtors in the amount of \$6,923.10 in favor of Creditor on February 26, 2018. Ex. D, Doc. #65. A Certificate of Lien pursuant to Labor Code § 98.2(g)(1) was recorded pre-petition as to debtor Maninder Bains in Fresno County on March 16, 2018, as document number 2018-0031176. Ex. D, Doc. #65. A Certificate of Lien pursuant to Labor Code § 98.2(g)(1) was recorded pre-petition as to debtor Karnvir Singh in Fresno County on March 16, 2018, as document number 2018-0031178. Ex. D, Doc. #65. The lien attached to Debtors' interest in the Property located in Fresno County. Id. Debtors estimate the judicial lien to be \$10,487.07 as of August 14, 2023. Doc. #62. Debtors assert a market value for the Property as of the petition date at \$780,000.00. Schedule A/B, Doc. #1. The Property also is encumbered by a first deed of trust in favor of Wells Fargo Home Mortgage in the amount \$460,884.75. Schedule D, Doc. #1. Debtors claimed an exemption of \$340,000.00 in the Property under California Code of Civil Procedure § 704.730. Schedule C, Doc. #1.

There appear to be six senior judicial liens on the Property:

- (1) The first senior judicial lien was recorded in Fresno County on September 8, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated September 6, 2017 for \$11,919.72. Ex. D,

Doc. #94. Debtors estimate the first senior judicial lien to be \$18,620.89 as of August 14, 2023. Doc. #62.

- (2) The second senior judicial lien was recorded in Fresno County on September 8, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated September 6, 2017 for \$22,104.37. Ex. D, Doc. #89. Debtors estimate the second senior judicial lien to be \$34,531.27 as of August 14, 2023. Doc. #62.
- (3) The third senior judicial lien was recorded in Fresno County on September 8, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated September 6, 2017 for \$83,685.50. Ex. D, Doc. #85. Debtors estimate the third senior judicial lien to be \$130,690.62 as of August 14, 2023. Doc. #62.
- (4) The fourth senior judicial lien was recorded in Fresno County on November 7, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated November 2, 2017 for \$13,970.76. Ex. D, Doc. #80. Debtors estimate the fourth senior judicial lien to be \$21,606.83 as of August 14, 2023. Doc. #62.
- (5) The fifth senior judicial lien was recorded in Fresno County on December 26, 2017 with respect to a judgment of \$596,182.57 entered on September 5, 2017. Ex. D, Doc. #75. Debtors estimate the fifth senior judicial lien to be \$931,514.85 as of August 14, 2023. Doc. #62.
- (6) The sixth senior judicial lien was recorded in Fresno County on January 5, 2018 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated January 4, 2018 for \$14,972.36. Ex. D, Doc. #70. Debtors estimate the sixth senior judicial lien to be \$22,897.46 as of August 14, 2023. Doc. #62.

Applying the statutory formula:

Amount of Creditor's judicial lien		\$10,487.07
Total amount of all other liens on the Property (excluding junior judicial liens)	+	\$1,620,746.67
Amount of Debtors' claim of exemption in the Property	+	\$340,000.00
		\$1,971,233.74
Value of Debtors' interest in the Property absent liens	-	\$780,000.00
Amount Creditor's lien impairs Debtors' exemption		\$1,191,233.74

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 Debtors' exemption in the Property and its fixing will be avoided.

Debtors have 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 THE LABOR COMMISSIONER
8-14-2023 [\[67\]](#)

MANINDER BAINS/MV
PETER BUNTING/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 movants have done here.

Karnvir Singh and Maninder Kaur Bains (together, "Debtors"), the debtors in this chapter 7 case, move pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014 to avoid the judicial lien of Labor Commissioner and its assignee Sukhjinder Singh ("Creditor") on the residential real property commonly referred to as 7684 North Gilroy Avenue, Fresno, CA 93722 (the "Property"). Doc. #67; Schedule C, Doc. #1; Schedule D, 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 debtor's 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)).

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). The court "must approach lien avoidance from the back of the line, or at least some point far enough back in line that there is no nonexempt equity in sight." All Points Cap. Corp. v. Meyer (In re Meyer), 373 B.R. 84, 88 (B.A.P. 9th Cir. 2007). "Judicial liens are avoided in reverse order until the marginal lien, i.e., the junior lien supported in part by equity, is reached." Id.

Debtors filed their bankruptcy petition on April 26, 2023. Doc. ##1,6. A judgment was entered against Debtors in the amount of \$14,972.36 in favor of Creditor on January 5, 2018. Ex. D, Doc. #70. A Certificate of Lien pursuant to Labor Code § 98.2(g)(1) was recorded pre-petition as to debtor Maninder Bains in Fresno County on January 5, 2018, as document number 2018-0002111. Ex. D, Doc. #70. A Certificate of Lien pursuant to Labor Code § 98.2(g)(1) was recorded pre-petition as to debtor Karnvir Singh in Fresno County on January 5, 2018, as document number 2018-0002112. Ex. D, Doc. #70. The lien attached to Debtors' interest in the Property located in Fresno County. Id. Debtors estimate the judicial lien to be \$22,897.46 as of August 14, 2023. Doc. #67. Debtors assert a market value for the Property as of the petition date at \$780,000.00. Schedule A/B, Doc. #1. The Property also is encumbered by a first deed of trust in favor of Wells Fargo Home Mortgage in the amount \$460,884.75. Schedule D, Doc. #1. Debtors claimed an exemption of \$340,000.00 in the Property under California Code of Civil Procedure § 704.730. Schedule C, Doc. #1.

There appear to be five senior judicial liens on the Property:

- (1) The first senior judicial lien was recorded in Fresno County on September 8, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated September 6, 2017 for \$11,919.72. Ex. D, Doc. #94. Debtors estimate the first senior judicial lien to be \$18,620.89 as of August 14, 2023. Doc. #67.
- (2) The second senior judicial lien was recorded in Fresno County on September 8, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated September 6, 2017 for \$22,104.37. Ex. D, Doc. #89. Debtors estimate the second senior judicial lien to be \$34,531.27 as of August 14, 2023. Doc. #67.
- (3) The third senior judicial lien was recorded in Fresno County on September 8, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated September 6, 2017 for \$83,685.50. Ex. D, Doc. #85. Debtors estimate the third senior judicial lien to be \$130,690.62 as of August 14, 2023. Doc. #67.
- (4) The fourth senior judicial lien was recorded in Fresno County on November 7, 2017 with respect to a Labor Code § 98.2(g)(1) Certificate of Lien dated November 2, 2017 for \$13,970.76. Ex. D, Doc. #80. Debtors estimate the fourth senior judicial lien to be \$21,606.83 as of August 14, 2023. Doc. #67.
- (5) The fifth senior judicial lien was recorded in Fresno County on December 26, 2017 with respect to a judgment of \$596,182.57 entered on September 5, 2017. Ex. D, Doc. #75. Debtors estimate the fifth senior judicial lien to be \$931,514.85 as of August 14, 2023. Doc. #67.

Applying the statutory formula:

Amount of Creditor's judicial lien		\$22,897.46
Total amount of all other liens on the Property (excluding junior judicial liens)	+	\$1,597,849.21
Amount of Debtors' claim of exemption in the Property	+	\$340,000.00
		\$1,960,746.67
Value of Debtors' interest in the Property absent liens	-	\$780,000.00
Amount Creditor's lien impairs Debtors' exemption		\$1,180,746.67

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 Debtors' exemption in the Property and its fixing will be avoided.

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

14. [23-11352](#)-A-7 **IN RE: STEVEN EVANS**
[AP-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
8-2-2023 [\[13\]](#)

FIRST TECHNOLOGY FEDERAL CREDIT UNION/MV
JERRY LOWE/ATTY. FOR DBT.
WENDY LOCKE/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 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.

The movant, First Technology Federal Credit Union ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2022 Mazda CX5 (the "Vehicle"). Doc. #13.

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 voluntarily surrendered the Vehicle to Movant on July 21, 2023. Decl. of Jamie Kekaulua, Doc. #16. Movant has produced evidence that the debtor is unable or unwilling to provide adequate protection to Movant. Kekaulua Decl., Doc. #16; Memo of P&A, Doc. #17.

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. The Vehicle is valued at \$35,175.00 and the debtor owes \$44,002.37. Kekaulua Decl., Doc. #16.

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. According to the debtor's Statement of Intention, the Vehicle will be surrendered. Doc. #1.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the debtor has surrendered the Vehicle and the Vehicle is a depreciating asset.

15. [08-13957](#)-A-7 **IN RE: HERBERT/THERESE ANDERSON**
[RTW-2](#)

MOTION FOR COMPENSATION FOR RATZLAFF, TAMBERI & WONG, ACCOUNTANT(S)
7-27-2023 [\[71\]](#)

RATZLAFF, TAMBERI & WONG/MV
ADRIAN 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 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.

Ratzlaff, Tamberi and Wong ("Movant"), certified public accountants for chapter 7 trustee James E. Salven ("Trustee"), requests allowance of final compensation and reimbursement for expenses for services rendered from August 30, 2022 through July 24, 2023. Doc. #71; Ex. A, Doc. #75. Movant provided accounting services valued at \$1,867.00, and requests compensation for that amount. Id. Movant requests reimbursement for expenses in the amount of \$21.96. Id. This is Movant's first and final fee application.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a "professional person." 11 U.S.C. § 330(a)(1). In determining the amount of reasonable compensation to be awarded to a

professional person, 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) conflict review and prepare employment application; (2) review of petition and information related to potential settlement regarding tax attributes of the estate; (3) review of Trustee's final accounting information; (4) preparation of federal and state income tax returns for the period ending June 30, 2023; and (5) prepare, file and serve fee application. Decl. of Christopher A. Ratzlaff, Doc. #74; Ex. A, Doc. #75. The court finds the compensation sought is reasonable, actual, and necessary.

This motion is GRANTED on a final basis. The court allows final compensation in the amount of \$1,867.00 and reimbursement for expenses in the amount of \$21.96. Trustee is authorized to make a payment of \$1,888.96, representing compensation and reimbursement, to Movant. Trustee is authorized to pay the amount allowed by this order from available funds only if the estate is administratively solvent and such payment is consistent with the priorities of the Bankruptcy Code.

16. [23-10691](#)-A-7 **IN RE: KAYE KIM**
[ICE-2](#)

MOTION TO SELL
8-14-2023 [\[34\]](#)

JAMES SALVEN/MV
LEONARD WELSH/ATTY. FOR DBT.
IRMA EDMONDS/ATTY. FOR MV.
RESPONSIVE PLEADING

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 set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The debtor timely filed written opposition on August 29, 2023. Doc. #46. 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 to permit the debtor to address this tentative ruling overruling her opposition as well as for higher and better offers.

James E. Salven ("Trustee"), the chapter 7 trustee of the bankruptcy estate of Kaye Yekyung Kim ("Debtor"), moves the court pursuant to 11 U.S.C. § 363 for an order authorizing the sale of 100% of the corporate stock in NambieKim Enterprises, Inc. (the "Property") to Calvin Kim ("Buyer") for the purchase price of \$67,000.00, subject to higher and better bids at the hearing. Doc. #34. Debtor valued the Property at \$0.00 in her bankruptcy schedules. Doc. #18.

While not disclosed in the sale motion, based on the complaint attached to the proof of claim filed by Buyer in this bankruptcy case, Buyer and Debtor are siblings who each owned one-half of the Property. Ex. A, Claim 1. Debtor's debt to Buyer stems from a pre-petition agreement between Debtor and Buyer in which Debtor agreed to purchase Buyer's share of the Property. Id.

Pursuant to 11 U.S.C. § 363(b)(1), the trustee, after notice and a hearing, may "use, sell, or lease, other than in the ordinary course of business, property of the estate." Proposed sales under § 363(b) are reviewed to determine whether they are: (1) in the best interests of the estate resulting from a fair and reasonable price; (2) supported by a valid business judgment; and (3) proposed in good faith. In re Alaska Fishing Adventure, LLC, 594 B.R. 883, 887 (Bankr. D. Alaska 2018) (citing 240 N. Brand Partners, Ltd. v. Colony GFP Partners, L.P. (In re 240 N. Brand Partners, Ltd.), 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996)). "In the context of sales of estate property under § 363, a bankruptcy court 'should determine only whether the trustee's judgment [is] reasonable and whether a sound business justification exists supporting the sale and its terms.'" Alaska Fishing Adventure, 594 B.R. at 889 (quoting 3 COLLIER ON BANKRUPTCY ¶ 363.02[4] (Richard Levin & Henry J. Sommer eds., 16th ed.)). "[T]he trustee's business judgment is to be given great judicial deference." Id. at 889-90 (quoting In re Psychometric Sys., Inc., 367 B.R. 670, 674 (Bankr. D. Colo. 2007)).

Trustee believes that approval of the sale of the Property on the terms set forth in the motion is in the best interests of creditors and the estate. Doc. #34. Buyer has agreed to a \$40,000 non-refundable deposit to be paid in all events, except if an overbidder prevails or the bankruptcy court does not approve the sale agreement, with the remaining \$27,000.00 to be paid within 7 calendar days following the day the order approving the sale becomes final and non-appealable. Decl. of Trustee, Doc. #36. There will be no commission in connection with the sale, so the net proceeds to the bankruptcy estate will be \$67,000.00, or the amount of any overbid. Id.

Debtor opposes the motion on the basis that the sale of the Property will strip Debtor of her business and deprive Debtor of the fundamental goal of a bankruptcy case, i.e., a financial "fresh start" for Debtor. Doc. #46. Debtor has filed a motion to convert her chapter 7 case to chapter 13 that, if granted, would render this motion moot. Id.

As set forth in the tentative ruling with respect to Debtor's motion to convert her bankruptcy case from chapter 7 to chapter 13, the court is inclined to deny that motion. See Tentative Ruling for matter #17, below. As additional grounds for overruling Debtor's opposition, the court notes that a fundamental goal of a chapter 7 bankruptcy case, along with providing a debtor with a fresh start, is to liquidate estate assets with value for the benefit of creditors, which the motion to sell accomplishes. Heath v. Farmer (In re Heath), BAP NO. CC-06-1275-PaDMo, 2007 Bankr. LEXIS 4847, at *15 (B.A.P. 9th Cir. Apr. 2, 2007).

Based on the evidence before this court, it appears that the sale of the estate's interest in the Property is in the best interests of the estate, the Property will be sold for a fair and reasonable price, and the sale is supported by a valid business judgment and proposed in good faith.

Accordingly, subject to overbid offers made at the hearing, the court will overrule Debtor's opposition to the motion, GRANT Trustee's motion, and authorize the sale of the Property pursuant to 11 U.S.C. § 363(b)(1). The motion does not specifically request, nor will the court authorize, the sale free and clear of any liens or interests.

MOTION TO CONVERT CASE FROM CHAPTER 7 TO CHAPTER 13
8-23-2023 [\[42\]](#)

LEONARD WELSH/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Denied.

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 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. Though not required, on September 6, 2023, the chapter 7 trustee filed written opposition. Doc. ##48-52. On September 11, 2023, the chapter 7 trustee filed an amended memorandum of points and authorities in opposition to the motion. Doc. #55. Further opposition may be presented at the hearing, and this matter will proceed as scheduled.

Kaye Yekyung Kim ("Debtor"), the debtor in this chapter 7 case, moves pursuant to 11 U.S.C. § 706(a) to convert this chapter 7 case to a case under chapter 13. Doc. #42.

Bankruptcy Code § 706(a) authorizes a debtor to convert a case under chapter 7 to a case under chapter 11, 12, or 13 of this title at any time, if the case has not been converted under section 1112, 1208, or 1307 of this title. 11 U.S.C. § 706(a). Any waiver of the right to convert a case under this subsection is unenforceable. Id.

Debtor filed a voluntary petition under chapter 7 on April 4, 2023. Doc. #1. Debtor received her chapter 7 discharge on July 19, 2023. Doc. #31.

At the time this chapter 7 bankruptcy case was filed, Debtor held 100% of the corporate stock in NambieKim Enterprises, Inc. ("NambieKim"), which Debtor valued at \$0.00 in her schedules. Doc. #18. When Debtor filed her chapter 7 bankruptcy petition, NambieKim also was in bankruptcy, having filed a voluntary chapter 11 subchapter V petition on March 24, 2023, Case No. 23-10571 (Bankr. E.D. Cal.). Doc. #1. While Debtor initially claimed no exemption in her NambieKim stock, on July 6, 2023, Debtor amended her Schedule C to claim a \$26,567.06 exemption in her NambieKim stock. Doc. ##18, 25.

On August 14, 2023, James E. Salven ("Trustee"), the chapter 7 trustee of Debtor's bankruptcy estate of filed a motion to sell the corporate stock Debtor holds in NambieKim to Calvin Kim ("Buyer") for \$67,000.00, subject to overbid. Doc. #34. While not disclosed in the sale motion, based on the complaint attached to the proof of claim filed by Buyer in this bankruptcy case, Buyer and Debtor are siblings who each owned one-half of NambieKim. Ex. A, Claim 1. Debtor's debt to Buyer stems from a pre-petition agreement between Debtor and Buyer in which Debtor agreed to purchase Buyer's one-half share of NambieKim. Id.

On August 23, 2023, Debtor filed this motion to convert her case to chapter 13. Doc. #42. The United States Trustee and Trustee were duly, timely, and properly

served with the motion to convert. Doc. #45. While not required, Trustee has filed written opposition to the motion. Doc. ##48-52, 55.

Debtor seeks conversion of her chapter 7 bankruptcy case to chapter 13 to prevent Trustee from selling Debtor's stock in NambieKim. Decl. of Kaye Yekyung Kim, Doc. #44. Debtor is the president and general manager of NambieKim and earns her living through NambieKim. Id. Debtor asserts that the sale of her NambieKim stock would be devastating to Debtor and would prejudice NambieKim as the result of NambieKim losing Debtor's management and leadership. Id. Debtor further asserts that Debtor's interest and the interests of other parties concerned would be best served if Debtor converts her chapter 7 case to chapter 13 and if Debtor resolves her debtor-creditor problems in chapter 13 and not chapter 7. Id. Debtor's bankruptcy case has not been converted previously. Id. Debtor believes Debtor is eligible to be a debtor under chapter 13 and can file chapter 13 plan that will satisfy the requirements of the law. Id.

In Marrama v. Citizens Bank, 549 U.S. 365 (2007), the United States Supreme Court held that a chapter 7 debtor does not have the absolute right to convert to chapter 13 because 11 U.S.C. § 706(a) is expressly limited by 11 U.S.C. § 706(d). Marrama, 549 U.S. at 372. In considering motions to convert from chapter 7 to chapter 13 after Marrama, courts consider a variety of factors including:

(i) whether the debtor is seeking to convert to chapter 13 in good faith (including a review of facts such as timing of the motion to convert; the debtor's motive in filing the motion; and whether the debtor has been forthcoming with the bankruptcy court and creditors); (ii) whether the debtor can propose a confirmable chapter 13 plan; (iii) the impact on the debtor of denying conversion weighed against the prejudice to creditors caused by allowing conversion; (iv) the effect of conversion on the efficient administration of the bankruptcy estate; and (v) whether conversion would further an abuse of the bankruptcy process.

Santiago-Monte Verde v. Pereira (In re Santiago-Monte Verde), 512 B.R. 432, 444 (S.D.N.Y. 2014) (quoting In re Pakuris, 262 B.R. 330, 335-36 (Bankr. E.D. Pa. 2001)) (citations omitted).

Turning to the first factor, whether Debtor is seeking to convert to chapter 13 in good faith, the court is to review facts such as timing of the motion to convert, Debtor's motive in filing the motion, and whether Debtor has been forthcoming with the bankruptcy court and creditors. Here, Debtor filed this chapter 7 bankruptcy petition on April 4, 2023 and received her discharge on July 19, 2023. Doc. ##1, 31. In her bankruptcy schedules, Debtor valued the shares of NambieKim stock at \$0.00. Doc. #18. Debtor filed this motion to convert only after Debtor received her chapter 7 discharge and Trustee filed a motion to sell her stock in NambieKim to Buyer for \$67,000.00. Doc. #42. Based on the proof of claim filed by Buyer in this bankruptcy case, Buyer is Debtor's brother and from whom Debtor previously purchased one-half of the stock in NambieKim. Claim 1. Debtor's shares of corporate stock in NambieKim are the only asset of value in Debtor's estate. While Debtor valued her shares of NambieKim stock at \$0.00 in her bankruptcy schedules, NambieKim was in a chapter 11 bankruptcy case without a confirmed plan at the time Debtor filed her bankruptcy petition. Due to NambieKim's pending bankruptcy case, the court does not find that Debtor's valuation of her corporate stock to be misleading to creditors. However, it appears that Debtor is seeking to convert to chapter 13 to thwart the proposed sale of the NambieKim stock to Buyer. Based

on the evidence before the court, the court finds that Debtor is not seeking to convert this chapter 7 case to chapter 13 in good faith.

With respect to whether Debtor can propose a confirmable chapter 13 plan, Debtor's declaration states that Debtor can file chapter 13 plan that will satisfy the requirements of the law. However, based on the evidence before the court, it does not appear that Debtor can confirm a chapter 13 plan. Pursuant to 11 U.S.C. § 1325(a)(4), "the court shall confirm a plan if . . . the value, as of the effective date of the plan, of property to be distributed under the plan on account of each allowed unsecured claim is not less than the amount that would be paid on such claim if the estate of the debtor were liquidated under chapter 7 of this title on such date[.]" 11 U.S.C. § 1325(a)(4). Based on Debtor's Schedules I and J, Debtor has \$70.00 in net excess income per month to fund a chapter 13 plan. Doc. #18. Assuming a 5-year plan, Debtor would pay a total of \$4,200.00 in plan payments that would be used to pay trustee compensation and creditors. On the other hand, based on the pending sale of the NambieKim corporate stock to Buyer, the chapter 7 bankruptcy estate will receive at least \$67,000.00. Debtor has claimed an exemption of \$26,567.06 in the NambieKim stock so there will be at least \$40,400.00 to pay trustee compensation, other administrative expenses of the bankruptcy estate, and creditors. Thus, it appears that Debtor will not be able to meet the requirements of 11 U.S.C. § 1325(a)(4) and cannot propose a confirmable chapter 13 plan.

Turning to the impact on Debtor of denying conversion weighed against the prejudice to creditors caused by allowing conversion, Debtor contends that the sale of her NambieKim stock would be devastating to Debtor and would prejudice NambieKim because NambieKim would lose Debtor's management and leadership. Debtor further asserts that Debtor's interest and the interests of other parties concerned would be best served if Debtor converts her chapter 7 case to chapter 13 and if Debtor resolves her debtor-creditor problems in chapter 13 and not chapter 7. However, permitting conversion of Debtor's bankruptcy case from chapter 7 to chapter 13 will delay payment to Debtor's creditors because, if the court grants the motion to convert, Debtor's creditors will be paid a significantly smaller amount of money over time through a chapter 13 plan whereas if the case remains in chapter 7, Debtor's creditors will share in a significantly large amount of money and can be paid promptly, since the corporate stock is the last asset for Trustee to liquidate in the chapter 7 case based on the court's analysis of Debtor's schedules. Doc. ##18, 25.

Turning to the effect of conversion on the efficient administration of the bankruptcy estate, it appears that once the sale of the NambieKim stock is complete, the chapter 7 estate can be completed quickly. Pursuant to the sale motion, Buyer will pay the purchase price in full within 7 calendar days following the day the order approving the sale becomes final and non-appealable. Because there is a 14-day period in which to file an appeal under Federal Rule of Bankruptcy Procedure 8002(a)(1), this means that the purchase price would be paid in full 21 days after the order approving the sale is entered. Based on Debtor's claimed exemptions and the assertion in Debtor's schedules that NambieKim holds the equitable interest in two vehicles titled in Debtor's name, the stock in NambieKim is the only asset of value in Debtor's bankruptcy estate. Doc. ##18, 25. Accordingly, conversion of this bankruptcy case from chapter 7 to chapter 13 would significantly delay the efficient administration of this bankruptcy estate.

Finally, turning to whether conversion would further an abuse of the bankruptcy process, it appears to the court that Debtor seeks to convert this bankruptcy case to thwart the sale of the NambieKim stock to Buyer and such conversion would reduce the amount available to pay Debtor's creditors and delay payment

to Debtor's creditors. The court finds that the proposed conversion would further an abuse of the bankruptcy process.

After due consideration of the above factors, the court finds that the proposed motion to convert Debtor's bankruptcy case from chapter 7 to chapter 13 is not in good faith, is not likely to result in a confirmable chapter 13 plan, will prejudice creditors more than it will prejudice Debtor, will negatively impact the efficient administration of this bankruptcy estate, and would further an abuse of the bankruptcy process. Accordingly, the motion will be DENIED.