



**UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable René Lastreto II  
Department B – Courtroom #13  
Fresno, California**

**Hearing Date: Tuesday, October 22, 2024**

Unless otherwise ordered, all matters before the Honorable René Lastreto II, shall be simultaneously: (1) **In Person** at, Courtroom #13 (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 or stated below.

All parties or their attorneys who wish to appear at a hearing remotely must sign up by **4:00 p.m. one business day** prior to the hearing. Information regarding how to sign up can be found on the **Remote Appearances** page of our website at <https://www.caeb.uscourts.gov/Calendar/CourtAppearances>. Each party/attorney who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

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

Please also note the following:

- Parties in interest and/or their attorneys may connect to the video or audio feed free of charge and should select which method they will use to appear when signing up.
- Members of the public and the press who wish to attend by ZoomGov may only listen in to the hearing using the Zoom telephone number. Video participation or observing are not permitted.
- Members of the public and the press may not listen in to trials or evidentiary hearings, though they may attend in person unless otherwise ordered.

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

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
2. Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#). If you are appearing by ZoomGov phone or video, please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

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

## 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.

**Post-Publication Changes:** 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 any possible updates.

9:30 AM

1. [24-11015](#)-B-11     **IN RE: PINNACLE FOODS OF CALIFORNIA LLC**  
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 SUBCHAPTER V  
VOLUNTARY PETITION  
4-22-2024    [[1](#)]

MICHAEL BERGER/ATTY. FOR DBT.

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

DISPOSITION:        Continued to January 28, 2025, at 9:30 a.m.

ORDER:                The court will prepare the order.

This matter is hereby CONTINUED to **January 28, 2025, at 9:30 a.m.** to be heard in conjunction with the Confirmation Hearing (see Item #2). No later than seven (7) days before the continued hearing date, the Debtor shall submit a status report to the court, and any other party in interest may do so.

2. [24-11015](#)-B-11     **IN RE: PINNACLE FOODS OF CALIFORNIA LLC**  
[MJB-7](#)

CONFIRMATION HEARING RE: CHAPTER 11 SUBCHAPTER V SMALL  
BUSINESS PLAN  
8-2-2024    [[177](#)]

MICHAEL BERGER/ATTY. FOR DBT.  
RESPONSIVE PLEADING

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

DISPOSITION:        Continued to January 28, 2025, at 9:30 a.m.

ORDER:                The court will prepare the order.

On October 15, 2024, Pinnacle Foods of California LLC ("Debtor") requested a continuance of 90 days so that it can amend its Plan and Disclosure statement. Doc. #278. Debtor avers that this continuance is necessary because of the court's denial of Debtor's *Motion to Assume Franchise Agreement*. See Doc. #276. As Debtor's reorganization under the current plan appears to be conditional, the assumption of the franchise agreements Debtor requests an additional 90 days to amend its Plan and Disclosure Statement. Doc. #278. Debtor avers that Debtor's counsel has spoken with Subchapter V Trustee Walter Dahl, who purportedly supports the request for additional time. *Id.*

Accordingly, this matter will be CONTINUED until **January 28, 2025, at 9:30 a.m.** This continuance is without prejudice to any appropriate party filing motions or other proceedings they may deem necessary.

3. [24-11016](#)-B-11     **IN RE: TYCO GROUP LLC**  
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 SUBCHAPTER V  
VOLUNTARY PETITION NON-INDIVIDUAL  
4-22-2024    [[1](#)]

MICHAEL BERGER/ATTY. FOR DBT.

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

DISPOSITION:        Continued to January 28, 2025, at 9:30 a.m.

ORDER:                The court will prepare the order.

This matter is hereby CONTINUED to **January 28, 2025, at 9:30 a.m.** to be heard in conjunction with the Confirmation Hearing (see Item #4). No later than seven (7) days before the continued hearing date, the Debtor shall submit a status report to the court, and any other party in interest may do so.

4. [24-11016](#)-B-11     **IN RE: TYCO GROUP LLC**  
[MJB-6](#)

CONFIRMATION HEARING RE: CHAPTER 11 SMALL BUSINESS  
SUBCHAPTER V PLAN  
8-2-2024    [[149](#)]

MICHAEL BERGER/ATTY. FOR DBT.  
RESPONSIVE PLEADING

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

DISPOSITION:        Continued to January 28, 2025, at 9:30 a.m.

ORDER:                The court will prepare the order.

On October 15, 2024, Tyco Group LLC ("Debtor") requested a continuance of 90 days so that it can amend its Plan and Disclosure statement. Doc. #212. Debtor avers that this continuance is necessary because of the court's denial of the *Motion to Assume Franchise Agreement* filed by related debtor in a separate Chapter 11 case. *Id.*; see *In re Pinnacle Foods of California, LLC*, Case No. 24-11015 ("the Pinnacle Case"), Doc. #276. As Debtor's reorganization under the current plan is closely intertwined with the disposition of the Pinnacle Case,

Debtor requests an additional 90 days to amend its Plan and Disclosure Statement. Doc. #212. Debtor avers that Debtor's counsel has spoken with Subchapter V Trustee Walter Dahl, who purportedly supports the request for additional time. *Id.*

Accordingly, this matter will be CONTINUED until **January 28, 2025, at 9:30 a.m.** This continuance is without prejudice to any appropriate party filing motions or other proceedings they may deem necessary.

5. [24-11017](#)-B-11     **IN RE: CALIFORNIA QSR MANAGEMENT, INC.**  
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 SUBCHAPTER V  
VOLUNTARY PETITION NON-INDIVIDUAL  
4-22-2024    [[1](#)]

MICHAEL BERGER/ATTY. FOR DBT.

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

DISPOSITION:     Continued to January 28, 2025, at 9:30 a.m.

ORDER:             The court will prepare the order.

This matter is hereby CONTINUED to **January 28, 2025, at 9:30 a.m.** to be heard in conjunction with the Confirmation Hearing (see Item #6). No later than seven (7) days before the continued hearing date, the Debtor shall submit a status report to the court, and any other party in interest may do so.

6. [24-11017](#)-B-11     **IN RE: CALIFORNIA QSR MANAGEMENT, INC.**  
[MJB-7](#)

CONFIRMATION HEARING RE: AMENDED CHAPTER 11 SMALL BUSINESS  
SUBCHAPTER V PLAN  
8-9-2024    [[172](#)]

MICHAEL BERGER/ATTY. FOR DBT.  
RESPONSIVE PLEADING

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

DISPOSITION:     Continued to January 28, 2025, at 9:30 a.m.

ORDER:             The court will prepare the order.

On October 15, 2024, California QSR Management, Inc. ("Debtor") requested a days so that it can amend its Plan and Disclosure statement. Doc. #213. Debtor avers that this continuance is necessary because of the court's denial of the *Motion to Assume Franchise*

Agreement filed by related debtor in a separate Chapter 11 case. *Id.*; see *In re Pinnacle Foods of California, LLC*, Case No. 24-11015 ("the Pinnacle Case"), Doc. #276. As Debtor's reorganization under the current plan is closely intertwined with the disposition of the Pinnacle Case, Debtor requests an additional 90 days to amend its Plan and Disclosure Statement. Doc. #213. Debtor avers that Debtor's counsel has spoken with Subchapter V Trustee Walter Dahl, who purportedly supports the request for additional time. *Id.*

Accordingly, this matter will be CONTINUED until **January 28, 2025, at 9:30 a.m.** This continuance is without prejudice to any appropriate party filing motions or other proceedings they may deem necessary.

7. [24-11198](#)-B-12     **IN RE: EDUARDO/AMALIA GARCIA**  
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: CHAPTER 12 VOLUNTARY  
PETITION  
5-1-2024    [[1](#)]

PETER FEAR/ATTY. FOR DBT.

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

DISPOSITION:     Concluded and dropped from calendar.

ORDER:             The court will prepare the order.

In Item #8, below, the court granted the Debtors' *Motion to Confirm Chapter 12 Plan*. Accordingly, this Status Conference is hereby CONCLUDED and will be DROPPED FROM THE CALENDAR.

8. [24-11198](#)-B-12     **IN RE: EDUARDO/AMALIA GARCIA**  
[FW-3](#)

CONTINUED MOTION TO CONFIRM CHAPTER 12 PLAN  
8-1-2024    [[43](#)]

AMALIA GARCIA/MV  
PETER FEAR/ATTY. FOR DBT.

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

DISPOSITION:     Granted.

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

Eduardo and Amalia Garcia ("Debtors") seek an order confirming the *Chapter 12 Plan* dated July 30, 2024, 2023, as modified by the redlined

plan attached to the Stipulation filed by Debtors ("the Redline Plan"), creditor Robott Land Company ("Robott"), and the Chapter 12 Trustee ("Trustee"). Doc. #43. See also Docs. #42, #88.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). Thus, pursuant to LBR 9014-1(f)(1)(B), the failure of any party in interest (including but not limited to creditors, the debtor, the U.S. Trustee, or any other properly-served party in interest) to file written opposition at least 14 days prior to the hearing may be deemed a waiver of any such opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). When there is no opposition to a motion, the defaults of all parties in interest who failed to timely respond will be entered, and, in the absence of any opposition, the movant's factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary when an unopposed movant has made a prima facie case for the requested relief. See *Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006).

Other than Robott, no party in interest has objected, and the defaults of all non-responding parties are entered. With the Stipulation, Robott's objections are resolved via changes identified in the Redline Plan which the Debtors aver will not negatively affect any creditors. See Doc. #88.

The 36-month plan proposes the following treatment of administrative claims and creditor claims:

Class	Description	Treatment
Class 1	Administrative Claims, including Debtors' attorney fees and Chapter 12 Trustee fees.	To be paid through Trustee or directly by Debtors, as the order approving Class 1 claims provides. Attorneys' fees estimated at \$30,000.00 above the pre-filing retainer paid by Debtors. Any attorneys' fees still owing after case completion will be non-dischargeable.
Class 2	Real Property Taxes owed to Kern County. An estimated \$269,920.85 that is fully secured by lien on Debtors' property.	To be paid in full through the liquidations described below.
Class 3	Robott Land Company, Inc. \$7,671,283.47, which is secured by a first deed	To be treated as outlined in Section 2.04 et seq of the Redline Plan. See Doc. #88 at pg. 11.

	of trust on approximately 3,300 acres of farm property.	
Class 11	Unsecured Priority Claims. Estimated at \$0.00.	To be paid in full under the Plan after all Class 1 claims have been paid.
Class 12	Unsecured Non-priority Claims.	To be paid any remaining net proceeds from the liquidations described below.

Doc. #88. To finance the plan, Debtors propose to sell certain assets as outlined in Section IV of the plan. Doc. #88, § IV. All the property set for sale in Section IV secures the Class 3 creditor, which will be paid off first, with any remaining proceeds used to pay all remaining creditors in full. *Id.* Should the aforementioned sales fail to generate proceeds sufficient to pay all unsecured claims in full, Debtors shall liquidate such portion of their non-exempt assets as is necessary to pay all unsecured claims in full, including interest as described in paragraph 2.06 of the Redline Plan. See Doc. #88, ¶ 4.05.

The requirements for confirmation of a Chapter 12 plan are outlined in 11 U.S.C. § 1225(a)-(b). The six requirements of § 1225(a) apply to all plans. The requirements of § 1225(b) are only applicable where the trustee or the holder of an allowed unsecured claims objects to confirmation. Neither the Trustee nor any claimholder has objected other than Robott, whose objection has been resolved by stipulation. Consequently, only the § 1225(a) requirements need be considered at this time, those being:

- (1) the plan complies with the provisions of this chapter [11 USCS §§ 1201 et seq.] and with the other applicable provisions of this title. The Plan complies with §1222(a), (b) and (c).
- (2) any fee, charge, or amount required under chapter 123 of title 28 [28 USCS §§ 1911 et seq.], or by the plan, to be paid before confirmation, has been paid. All fees have been paid as required by the Code.
- (3) the plan has been proposed in good faith and not by any means forbidden by law. No party has a remaining good faith objection, and the court finds the Plan has been proposed in good faith.
- (4) 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 [11 USCS §§ 701 et seq.] on such date. The Plan provides for payment of allowed unsecured claims from net proceeds which is at least as favorable to unsecured claimants as a



Chapter 7 liquidation. If there are insufficient proceeds from asset sales, non-exempt property will be sold.

(5) with respect to each allowed secured claim provided for by the plan—

(A) the holder of such claim has accepted the plan;

(B)

(i) the plan provides that the holder of such claim retain the lien securing such claim; and  
(ii) the value, as of the effective date of the plan, of property to be distributed by the trustee or the debtor under the plan on account of such claim is not less than the allowed amount of such claim; or

(C) the debtor surrenders the property securing such claim to such holder. With the withdrawal of the objection, Robott accepts the Plan and there are no other objections.

(6) the debtor will be able to make all payments under the plan and to comply with the plan. The Plan provides for a timed liquidation of property to pay claims which is feasible. The time for liquidation has been agreed upon by the parties-in-interest.

(7) the debtor has paid all amounts that are required to be paid under a domestic support obligation and that first become payable after the date of the filing of the petition if the debtor is required by a judicial or administrative order, or by statute, to pay such domestic support obligation. The court is unaware of any domestic support obligation involving the Debtors.

11 U.S.C. § 1225(a). Based on the moving papers it appears that all these requirements have been met. No party in interest has objected other than Robott, whose objection has been resolved. Accordingly, this motion will be GRANTED. The confirmation order shall include the docket control number of the motion. The Plan incorporating the redline changes shall be attached to the confirmation order as an exhibit. The Chapter 12 Trustee and counsel for Robott to sign the order.

11:00 AM

1. [24-12039](#)-B-7     **IN RE: LANETTE MARCYES**

PRO SE REAFFIRMATION AGREEMENT WITH GOLDEN 1 CREDIT UNION  
10-4-2024     [\[22\]](#)

NO RULING.

2. [24-11753](#)-B-7     **IN RE: HARWINDER SINGH**

REAFFIRMATION AGREEMENT WITH MERCEDES-BENZ FINANCIAL  
SERVICES USA LLC  
9-16-2024     [\[28\]](#)

SUNITA SOOD/ATTY. FOR DBT.

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

DISPOSITION:     Denied.

ORDER:     The court will issue an order.

Debtor's counsel shall notify the debtor that no appearance is necessary.

A Reaffirmation Agreement between Harwinder Singh ("Debtor") Mercedes-Benz Financial Services for a 2019 Mercedez-Benz M2PV46 was filed on September 16, 2024. Doc. #28.

Debtor did not sign page 2 of the Reaffirmation Cover Sheet. Debtor's Schedule A/B includes information that the Debtor is a co-signer with two other parties on the contract. This means other parties may be liable for this obligation.

Accordingly, approval of the Reaffirmation Agreement between Debtor and Mercedes-Benz Financial Services will be DENIED.

1:30 PM

1. [23-11508](#)-B-7     **IN RE: ANGELA WARREN**  
[JES-2](#)

MOTION FOR COMPENSATION FOR JAMES E. SALVEN, ACCOUNTANT(S)  
9-16-2024     [\[48\]](#)

JAMES SALVEN/MV  
MARK ZIMMERMAN/ATTY. FOR DBT.

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

DISPOSITION:     Granted.

ORDER:             The Moving Party shall submit a proposed order that  
conforms with the opinion below.

James E. Salven ("Applicant") seeks approval of a final allowance of compensation under 11 U.S.C. § 330 of the Bankruptcy Code for professional services rendered and reimbursement for expenses incurred as accountant for Peter L. Fear, Trustee in the above-styled case ("Trustee"). Doc. #48.

Applicant was employed to perform services under § 327 of the Code pursuant to an order of this court dated September 3, 2023. Doc. #47. This is Applicant's first and final request for compensation.

Applicant seeks **\$1,904.00** in fees based on **6.8** billable hours from August 22, 2024, through September 3, 2024. Doc. #51. Based on the moving papers, it appears that Applicant was the only employee of Applicant's firm to work on this case, and he billed at a rate of \$280.00. *Id.* Applicant seeks an award of \$210.00 for expenses, as follows:

Copies	\$31.20
Envelopes	\$1.25
Lacerte Tax Proc.	\$99.00
Serving the Employment Agreement	\$27.56
Serving the Fee Application	\$51.68
<b>Total</b>	<b>\$210.69</b>

*Id.*

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

all relevant factors, including those enumerated in subsections (a) (3) (A) through (E). § 330(a) (3). Previous interim compensation awards under 11 U.S.C. § 331, if any, are subject to final review under § 330.

Applicant's services here included, without limitation: conflict review and preparation of the employment application; investigation of the purchase price of Debtor's home; input data and process tax returns; prepare prompt determination and transmittal letters; finalizing and delivering returns; preparing, filing, and serving the fee applications. Doc. #51. The court finds the services and expenses reasonable, actual, and necessary. The Trustee has reviewed the Application and finds the requested fees and expenses to be reasonable. Doc. #52.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f) (1). Thus, pursuant to LBR 9014-1(f) (1) (B), the failure of any party in interest (including but not limited to creditors, the debtor, the U.S. Trustee, or any other properly-served party in interest) to file written opposition at least 14 days prior to the hearing may be deemed a waiver of any such opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). When there is no opposition to a motion, the defaults of all parties in interest who failed to timely respond will be entered, and, in the absence of any opposition, the movant's factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary when an unopposed movant has made a prima facie case for the requested relief. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006).

No party in interest has responded, and the defaults of all such parties are entered.

This Application is GRANTED. The court will approve on a final basis under 11 U.S.C. § 330 compensation in the amount of **\$1,904.00** in fees and **\$210.69** in expenses. The court grants the Application for a total award **\$2,114.69** as an administrative expense of the estate and an order authorizing and directing the Trustee to pay such to Applicant from the first available estate funds.

2. [14-14529](#)-B-7     **IN RE: DAVID/CRYSTAL GONZALEZ**  
[WPT-101](#)

MOTION TO AVOID LIEN OF ALTAONE FEDERAL CREDIT UNION  
9-17-2024     [\[30\]](#)

CRYSTAL GONZALEZ/MV  
SUNDEE TEEPLE/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.

David and Crystal Gonzalez ("Debtors") move to avoid a lien in favor of Altaone Federal Credit Union ("Altaone" or "Creditor") in the sum of \$51,237.93 and encumbering residential real property located at 9116 Columbine Ave., California City, CA 93506 ("the Property"). Doc. #30.

Debtor complied with Rule 7004(h), which requires service to be made by certified mail and addressed to an officer, unless one of three exceptions specified in subsections (h)(1) to (3) have been met, one of which are relevant here.

No party in interest timely filed written opposition. This motion will be GRANTED.

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 the creditors, the chapter 7 trustee, 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 amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

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). § 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), *aff'd*, 24 F.3d 247 (9th Cir. 1994)).

Here, a judgment was entered against Debtors in favor of Creditor in the amount of \$51,237.93 on June 20, 2014. *Ex. B*, Doc. #34. The abstract of judgment was issued on August 1, 2024, and was recorded in Kern County on August 20, 2014. *Id.* That lien attached to Debtor's interest in Property. *Id.*; Doc. #32.

Per the Debtors' Amended Schedules, Property had an approximate value of \$115,000.00. *Sched. A/B*, Doc. #21. Debtor claimed a \$20,426.23 exemption in Property pursuant to Cal. Code Civ. Proc. ("CCP") § 704.730. *Sched. C*, *Id.*

Property is encumbered by a first deed of trust in favor of Wells Fargo Home Mortgage ("Wells Fargo") in the amount of \$112,147.98. *Sched. D*, Doc. #1.

Creditor	Amount	Recorded	Status
1. Wells Fargo	\$112,147.98		Unavoidable
2. Creditor	\$51,237.93	08/20/2014	Avoidable

When a debtor seeks to avoid multiple liens under § 522(f)(1) and there is equity to which liens can attach, 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), *aff'd*, 196 F.3d 1292 (9th Cir. 1999). Liens already avoided are excluded from the exemption impairment calculation. *Ibid.*; § 522(f)(2)(B). Creditor's lien is the only lien to be avoided.

"Under the full avoidance approach, as used in *Brantz*, the only way a lien would be avoided 'in full' was if the debtor's gross equity were equal to or less than the amount of the exemption." *Bank of Am. Nat'l Tr. & Sav. Ass'n v. Hanger (In re Hanger)*, 217 B.R. 592, 596 (B.A.P. 9th Cir. 1997), *aff'd*, 196 F.3d 1292 (9th Cir. 1999), citing *In re Brantz*, 106 B.R. 62, 68 (Bankr. E.D. Pa. 1989) ("Avoidance of all judicial liens results unless (3) [the result of deducting the debtor's allowable exemptions and the sum of all liens not avoided from the value of the property] is a positive figure."), citing *In re Magosin*, 75 B.R. 545, 547 (Bankr. E.D. Pa. 1987) (judicial lien was avoidable in its entirety where equity is less than exemption).

This lien is the most junior lien subject to avoidance and there is not any equity to support the lien. Strict application of the § 522(f)(2) formula with respect to Creditor's junior lien is illustrated as follows:

Amount of judgment lien	\$51,237.93
Total amount of unavoidable liens	+ \$112,147.98
Debtor's claimed exemption in Property	+ 20,426.33
Sum	= \$183,812.24
Debtor's claimed value of interest absent liens	- \$110,000.00
Extent lien impairs exemption	= \$73,812.24

*All Points Capital Corp. v. Meyer (In re Meyer)*, 373 B.R. 84, 91 (B.A.P. 9th Cir. 2007); accord. *Hanger* 217 B.R. at 596, *Higgins v. Household Fin. Corp. (In re Higgins)*, 201 B.R. 965, 967 (B.A.P. 9th Cir. 1996); cf. *Brantz*, 106 B.R. at 68, *Magosin*, 75 B.R. at 549-50, *In re Piersol*, 244 B.R. 309, 311 (Bankr. E.D. Pa. 2000). Since there is no equity for liens to attach and this case does not involve fractional interests or co-owned property with non-debtor third parties, the § 522(f)(2) formula can be re-illustrated using the *Brantz* formula with the same result:

Fair market value of Property	\$110,000.00
Total amount of unavoidable liens	- \$112,147.98
Homestead exemption	- 20,426.33
Remaining equity for judicial liens	= (\$22,574.31)
Creditor's judicial lien	- \$51,237.93
Extent Debtor's exemption impaired	= (\$73,812.24)

After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is insufficient equity to support any judicial liens. Therefore, the fixing of Creditor's judicial lien impairs Debtor's exemption in the Property and its fixing will be avoided.

Debtor has established the four elements necessary to avoid a lien under § 522(f)(1). Accordingly, this motion will be GRANTED. The proposed order shall state that Creditor's lien is avoided from the subject Property only and include a copy of the abstract of judgment as an exhibit.

3. [24-12755](#)-B-7     **IN RE: JOSH/FAITH MILLER**  
[KBS-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
9-30-2024    [\[15\]](#)

LOS ALAMITOS LUXURY  
APARTMENTS, LLC/MV  
KATHRYN SALMOND/ATTY. FOR MV.

**After posting the original pre-hearing dispositions, the court has modified its intended ruling on this matter.**

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

DISPOSITION:        Denied as moot.

ORDER:                The court will issue an order.

An order dismissing this case was entered on October 15, 2024. (Doc. #38). The motion will be DENIED AS MOOT.

4. [23-11559](#)-B-7     **IN RE: PREMIER LABOR CONTRACTING, INC.**  
[JES-2](#)

MOTION FOR COMPENSATION FOR JAMES E. SALVEN, ACCOUNTANT(S)  
9-16-2024    [\[45\]](#)

JAMES SALVEN/MV  
LEONARD WELSH/ATTY. FOR DBT.

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

DISPOSITION:        Granted.

ORDER:                The Moving Party shall submit a proposed order that conforms with the opinion below.

James E. Salven ("Applicant") seeks approval of a final allowance of compensation under 11 U.S.C. § 330 of the Bankruptcy Code for professional services rendered and reimbursement for expenses incurred as accountant for Jeffrey M. Vetter, Trustee in the above-styled case ("Trustee"). Doc. #45.

Applicant was employed to perform services under § 327 of the Code pursuant to an order of this court dated September 3, 2023. Doc. #42. This is Applicant's first and final request for compensation.

Applicant seeks **\$5,712.00** in fees based on **20.4** billable hours from August 22, 2024, through September 3, 2024. Doc. #51. Based on the moving papers, it appears that Applicant was the only employee of



Applicant's firm to work on this case, and he billed at a rate of \$280.00. *Id.* Applicant seeks an award of **\$444.00** for expenses, as follows:

Copies	\$80.40
Envelopes	\$2.00
Lacerte Tax Proc.	\$132.00
Lacerte Tax Proc.	\$132.00
Serving the Employment Agreement	\$29.16
Serving the Fee Application	\$51.68
Postage: K-1s for 2 years	\$3.00
Postage: Returns for 2 years	\$13.79
<b>Total</b>	<b>\$444.03</b>

*Id.*

11 U.S.C. § 330(a)(1)(A) and (B) permit approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person, or attorney" and "reimbursement for actual, necessary expenses." 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, considering all relevant factors, including those enumerated in subsections (a)(3)(A) through (E). § 330(a)(3). Previous interim compensation awards under 11 U.S.C. § 331, if any, are subject to final review under § 330.

Applicant's services here included, without limitation: preparation and filing of the employment/fee application motions; work relevant to Debtor's payroll documentation; work relevant to various IRS claims against Debtor; preparation and transmittal of tax returns. Doc. #51. The court finds the services and expenses reasonable, actual, and necessary. The Trustee has reviewed the Application and finds the requested fees and expenses to be reasonable. Doc. #48.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). Thus, pursuant to LBR 9014-1(f)(1)(B), the failure of any party in interest (including but not limited to creditors, the debtor, the U.S. Trustee, or any other properly-served party in interest) to file written opposition at least 14 days prior to the hearing may be deemed a waiver of any such opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). When there is no opposition to a motion, the defaults of all parties in interest who failed to timely respond will be entered, and, in the absence of any opposition, the movant's factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary when an unopposed movant has made a prima facie case for the requested

relief. See *Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006).

No party in interest has responded, and the defaults of all such parties are entered.

This Application is GRANTED. The court will approve on a final basis under 11 U.S.C. § 330 compensation in the amount of **\$5,712.00** in fees and **\$444.00** in expenses. The court grants the Application for a total award **\$6,156.00** as an administrative expense of the estate and an order authorizing and directing the Trustee to pay such to Applicant from the first available estate funds.

5. [24-12164](#)-B-7     **IN RE: DAVID/NORMAJEAN FERLAND**  
[PFT-1](#)

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO  
APPEAR AT SEC. 341(A) MEETING OF CREDITORS  
8-27-2024     [\[14\]](#)

DAVID BOONE/ATTY. FOR DBT.

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

DISPOSITION:     Conditionally denied.

ORDER:     The court will issue an order.

Chapter 7 trustee Peter L. Fear ("Trustee") seeks dismissal of this case for the debtor's failure to appear and testify at the § 341(a) meeting of creditors held on August 26, 2024. Doc. #13.

David and Normajean Ferland ("Debtors") timely filed written opposition. Doc. #16. Debtors aver that they did not attend the hearing because Joint-debtor is undergoing medical treatment for an unspecified ailment and had an important medical appointment which conflicted with the time set for the 341 meeting and which they aver could not be postponed without increased health risks. *Id.* Debtors otherwise confess the motion, consent to an extension of relevant deadlines as outlined below. *Id.*

This motion to dismiss will be **CONDITIONALLY DENIED**.

Debtor shall attend the meeting of creditors rescheduled for November 7, 2024, at 3:00 p.m. See Doc. #14. If Debtor fails to appear at testify at the rescheduled meeting, Trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

The times prescribed in Fed. R. Bankr. P. 1017(e)(1) and 4004(a) for the Chapter 7 Trustee and U.S. trustee to object to Debtor's discharge

or file motions for abuse, other than presumed abuse under § 707, are extended to 60 days after the conclusion of the meeting of creditors.

6. [24-12297](#)-B-7     **IN RE: STEVEN WILCOX**  
[PFT-1](#)

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO  
APPEAR AT SEC. 341(A) MEETING OF CREDITORS  
9-10-2024     [[14](#)]

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

DISPOSITION:     Conditionally denied.

ORDER:     The court will issue an order.

Chapter 7 trustee Peter L. Fear ("Trustee") seeks dismissal of this case for the debtor's failure to appear and testify at the § 341(a) meeting of creditors held on September 9, 2024. Doc. #15.

Steven Wilcox ("Debtor") timely filed written opposition stating that he did not receive notice of the prior hearing date because Debtor, who is pro se, did not receive his PACER pin in time and could not check the status of his case. Doc. #21.

This motion to dismiss will be CONDITIONALLY DENIED.

Debtor shall attend the meeting of creditors rescheduled for November 7, 2024, at 3:00 p.m. See Doc. #14. If Debtor fails to appear at testify at the rescheduled meeting, Trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

The times prescribed in Fed. R. Bankr. P. 1017(e)(1) and 4004(a) for the Chapter 7 Trustee and U.S. trustee to object to Debtor's discharge or file motions for abuse, other than presumed abuse under § 707, are extended to 60 days after the conclusion of the meeting of creditors.