

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA**

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

DAY: TUESDAY
DATE: NOVEMBER 30, 2021
CALENDAR: 9:00 A.M. CHAPTER 7 CASES

RULINGS

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

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

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

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

CHANGES TO PREVIOUSLY PUBLISHED RULINGS

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

ERRORS IN RULINGS

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

1. [20-21743](#)-A-7 **IN RE: PATH LABS, LLC, A DELAWARE LIMITED
LIABILITY COMPANY
[HSM-12](#)**

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH IMDP AND PSI
11-9-2021 [\[157\]](#)

ERIC SCHWAB/ATTY. FOR DBT.
HOWARD NEVINS/ATTY. FOR MV.

Tentative Ruling

Motion: Approve Compromise or Settlement of Controversy
Notice: LBR 9014-1(f)(2); no written opposition required
Disposition: Granted
Order: Civil minute order

Parties to Compromise: Kimberly J. Husted, Chapter 7 Trustee;
Integrated Molecular Diagnostics Pathology, Inc.; Pathology Service,
Inc.

Dispute Compromised: Transfers

Summary of Material Terms: \$86,890.13 payable to Bankruptcy Estate
in exchange for Mutual General Release of all Claims with limited
exceptions

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

The chapter 7 trustee, Kimberly J. Husted, moves for an order
approving the agreement and compromise of claims with Integrated
Molecular Diagnostics Pathology, Inc. and Pathology Services, Inc.

APPROVAL OF COMPROMISE

In determining whether to approve a compromise under Federal Rule of
Bankruptcy Procedure 9019, the court determines whether the
compromise was negotiated in good faith and whether the party
proposing the compromise reasonably believes that the compromise is
the best that can be negotiated under the facts. *In re A & C*
Props., 784 F.2d 1377, 1381 (9th Cir. 1982). More than mere good
faith negotiation of a compromise is required. The court must also
find that the compromise is fair and equitable. *Id.* "Fair and
equitable" involves a consideration of four factors: (i) the
probability of success in the litigation; (ii) the difficulties to
be encountered in collection; (iii) the complexity of the
litigation, and expense, delay and inconvenience necessarily
attendant to litigation; and (iv) the paramount interest of
creditors and a proper deference to the creditors' expressed wishes,
if any. *Id.* The party proposing the compromise bears the burden of
persuading the court that the compromise is fair and equitable and
should be approved. *Id.*

The movant requests approval of a compromise that settles the dispute described above. The compromise is reflected in the settlement agreement attached to the motion as an exhibit. Based on the motion and supporting papers, the court finds that the compromise presented for the court's approval is fair and equitable considering the relevant *A & C Properties* factors. The compromise or settlement will be approved.

CIVIL MINUTE ORDER

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

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

Kimberly J. Husted's motion to approve a compromise has been presented to the court. Having considered the motion, oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the motion is granted. The court hereby approves the compromise that is reflected in the settlement agreement attached to the motion as an exhibit and filed at docket no. 161.

2. [20-21743](#)-A-7 **IN RE: PATH LABS, LLC, A DELAWARE LIMITED LIABILITY COMPANY**
[LBB-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
10-29-2021 [\[150\]](#)

ERIC SCHWAB/ATTY. FOR DBT.
MARIA GARCIA/ATTY. FOR MV.
PUBLIC STORAGE VS.
TRUSTEE NON-OPPOSITION

Final Ruling

Motion: Stay Relief

Notice: LBR 9014-1(f)(1); non-opposition filed by chapter 7 trustee

Disposition: Granted

Order: Civil minute order

Subject: Personal Property located in Storage Unit Nos. 1424 & 1510 at 4200 Northgate Blvd., Sacramento, California.

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true.

TeleVideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917-18 (9th Cir. 1987).

BACKGROUND

Movant, Public Storage, seeks an order under 11 U.S.C. § 362(d)(1) allowing it to: proceed with enforcement of its contractual remedies under rental agreements between the debtor and movant and remedies under California Business and Professions Code § 21700 et. seq.; to terminate the rental agreements; and to foreclose on its possessory liens upon the personal properties of the debtor and debtor's estate. Movant also requests a waiver of the 14-day stay of Fed. R. Bankr. P. 4001(a)(3).

Movant and the debtor entered into pre-petition rental agreements whereby the debtor rented two storage units from Movant. The units are located at 4200 Northgate Blvd., Sacramento, California. The units are identified by number: Unit 1424 and Unit 1510.

Unit 1424

The debtor has missed 15 monthly post-petition rental payments of \$159.00 for Unit 1424, ECF No. 155. The total amount owed in post-petition delinquency is \$2,294.00.

Unit 1510

The debtor has failed to pay 15 monthly post-petition rental payments for Unit 1510, ECF No. 155. The total amount owed in post-petition delinquency is \$5,420.00.

This bankruptcy case was filed on March 24, 2020. On August 18, 2020, the court ordered the remaining assets located in the storage units described in the preceding paragraphs abandoned, ECF No. 95. The chapter 7 trustee has filed a non-opposition to this motion and has never assumed the storage unit leases.

STAY RELIEF

(d)(1) In a case under chapter 7 of this title, if the trustee does not assume or reject an executory contract or unexpired lease of residential real property or of personal property of the debtor within 60 days after the order for relief, or within such additional time as the court, for cause, within such 60-day period, fixes, then such contract or lease is deemed rejected.

...

(m) For purposes of this section 365 and sections 541(b)(2) and 362(b)(10), leases of real property shall include any rental agreement to use real property.

...

(p)(1) If a lease of personal property is rejected or not timely assumed by the trustee under subsection (d), the leased property is no longer property of the estate and the stay under section 362(a) is automatically terminated.

11 U.S.C. § 365(d)(1), (m), (p)(1).

Because the storage unit leases were not assumed they are deemed rejected by operation of law and the court confirms that the automatic stay is terminated in this case.

LIEN RIGHTS

The owner of a self-service storage facility and his or her heirs, executors, administrators, successors, and assigns have a lien upon all personal property located at a self-service storage facility for rent, labor, late payment fees, or other charges, present or future, incurred pursuant to the rental agreement and for expenses necessary for the preservation, sale, or disposition of personal property subject to the provisions of this chapter. The lien may be enforced consistent with the provisions in this chapter.

Cal. Bus. & Prof. Code § 21702.

As the trustee has abandoned the assets contained in the storage units, and the automatic stay has been terminated the movant may proceed with its lien rights as indicated under California law.

The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

CIVIL MINUTE ORDER

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

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

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

IT IS ORDERED that the motion is granted. The court finds the automatic stay is terminated under 11 U.S.C. § 365(d)(1), (m), (p)(1) with respect to the property described in the motion, commonly known as Unit 1424 and Unit 1510 located at 4200 Northgate Blvd., Sacramento, California, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that the movant is authorized to enforce its lien rights under Cal. Bus. & Prof. Code § 21702 as to all assets located in the storage units.

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

3. [21-23051](#)-A-7 **IN RE: NICHOLAS/JENNIFER WILLIAMS**
[DEF-3](#)

MOTION TO ABANDON
10-20-2021 [\[48\]](#)

DAVID FOYIL/ATTY. FOR DBT.

No Ruling

4. [21-22953](#)-A-7 **IN RE: RAYMOND BRAGG**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
11-5-2021 [\[30\]](#)

11/15/21 FILING FEE PAID \$188

Final Ruling

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

5. [21-22953](#)-A-7 **IN RE: RAYMOND BRAGG**
[RCB1-1](#)

MOTION TO COMPEL ABANDONMENT
10-22-2021 [\[25\]](#)

RAYMOND BRAGG/ATTY. FOR MV.

Final Ruling

Motion: Compel Abandonment of Property of the Estate

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

Disposition: Granted only as to the business and such business assets described in the motion

Order: Prepared by moving party pursuant to the instructions below

Business Description: Images 2 a sole proprietorship; business supplies and equipment.

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

Debtor seeks an order under 11 U.S.C. § 554 compelling the trustee to abandon assets relating to the operation of his business named Images 2. Debtor is a self-employed individual operating a barbershop.

11 U.S.C. § 554

Property of the estate may be abandoned under § 554 of the Bankruptcy Code if property of the estate is "burdensome to the estate or of inconsequential value and benefit to the estate." See 11 U.S.C. § 554(a)-(b); Fed. R. Bankr. P. 6007(b). Upon request of a party in interest, the court may issue an order that the trustee abandon property of the estate if the statutory standards for abandonment are fulfilled.

The movant bears the burden of proof. *In re Pilz Compact Disc., Inc.*, 229 B.R. 630 (Bankr. E.D. Pa. 1999) (Chapter 7 trustee). "[B]urdensome to the estate" means "consumes the resources and drains the income of the estate." *In re Smith-Douglass, Inc.*, 856 F.2d 12, 16 (4th Cir. 1988). "[O]f inconsequential value and benefit to the estate" refers to assets not likely to be liquidated for the benefit of creditors. 11 U.S.C. § 704(a)(1); *Matter of Taxman Clothing Co.*, 49 F3d 310, 315 (7th Cir. 1995) (Chapter 7 trustee has no duty to liquidate assets where costs of doing so likely to exceed asset's value). Of inconsequential value and benefit to the estate includes assets that (1) have no equity (including post-petition appreciation), *In re Viet Vu*, 245 B.R. 644 (9th Cir. BAP 2000); and (2) assets with equity, which has been

wholly and properly exempted by the debtor. *In re Montanaro*, 307 B.R. 194 (Bankr. E.D. Cal. 2004).

The business described above is either burdensome to the estate or of inconsequential value to the estate. An order compelling abandonment of such business is warranted. The order will compel abandonment of only the business and its assets that are described in the motion.

6. [21-22267](#)-A-7 **IN RE: MICHAEL VASQUEZ**
[MB-2](#)

MOTION TO AVOID LIEN OF CITIBANK
10-18-2021 [\[29\]](#)

MICHAEL BENAVIDES/ATTY. FOR DBT.
DEBTOR DISCHARGED: 10/19/2021

Tentative Ruling

Motion: Avoid Lien that Impairs Exemption

Notice: LBR 9014-1(f)(2); written opposition not required

Disposition: Granted

Order: Prepared by moving party

Judicial Lien Avoided: \$6,254.23 - Citibank

All Other Liens:

- Deed of Trust Mid America Mortgage \$181,829.00

Exemption: \$351,000.00

Value of Property: \$532,000.00

Subject Property: 6608 Oak Branch Court, Citrus Heights, California

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

The debtor moves for an order under 11 U.S.C. § 522(f) avoiding the judicial lien of Citibank in the amount of \$6,254.23.

LIEN AVOIDANCE

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3)

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

The responding party's judicial lien, all other liens, and the exemption amount together exceed the property's value by an amount greater than or equal to the judicial lien. As a result, the responding party's judicial lien will be avoided entirely.

7. [21-22976](#)-A-7 **IN RE: THE DESIGN BUILD COMPANY, LLC**
[DNL-6](#)

MOTION TO ABANDON
10-27-2021 [\[73\]](#)

ANTHONY ASEBEDO/ATTY. FOR DBT.
J. CUNNINGHAM/ATTY. FOR MV.

Final Ruling

Motion: Authorized Trustee's Abandonment of Property of the Estate

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

Disposition: Granted only as to the business assets described in the motion

Order: Prepared by moving party pursuant to the instructions below

Business Description: Inventory, supplies, office furniture, and office equipment

Value: \$18,038.00 as listed in Schedules A/B

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

The chapter 7 trustee moves for an order authorizing his abandonment of the bankruptcy estate's interest in the inventory, supplies, office furniture, and office equipment described in the motion, ECF No. 73.

The movant bears the burden of proof. *In re Pilz Compact Disc., Inc.*, 229 B.R. 630 (Bankr. E.D. Pa. 1999) (Chapter 7 trustee). "[B]urdensome to the estate" means "consumes the resources and

drains the income of the estate." *In re Smith-Douglass, Inc.*, 856 F.2d 12, 16 (4th Cir. 1988). "[O]f inconsequential value and benefit to the estate" refers to assets not likely to be liquidated for the benefit of creditors. 11 U.S.C. § 704(a)(1); *Matter of Taxman Clothing Co.*, 49 F3d 310, 315 (7th Cir. 1995) (Chapter 7 trustee has no duty to liquidate assets where costs of doing so likely to exceed asset's value). Of inconsequential value and benefit to the estate includes assets that (1) have no equity (including post-petition appreciation), *In re Viet Vu*, 245 B.R. 644 (9th Cir. BAP 2000); and (2) assets with equity, which has been wholly and properly exempted by the debtor. *In re Montanaro*, 307 B.R. 194 (Bankr. E.D. Cal. 2004).

11 U.S.C. § 554(a)

"After notice and a hearing, the trustee may abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate." 11 U.S.C. § 554(a).

The motion states that the items indicated were inspected by West Auctions, Inc. at the request of the trustee. After reviewing information provided by West Auction, Inc. the trustee has determined that after commissions and related costs and expenses a sale of these assets would not likely produce a meaningful return to creditors. The trustee contends that in his estimation the sale would likely produce revenues of less than \$400.00. See *Declaration of J. Michael Hopper*, ECF No. 75, 2:19-26.

The assets described above are either burdensome to the estate or of inconsequential value to the estate. An order authorizing the trustee's abandonment of such assets is warranted. The order will authorize abandonment of only the assets that are described in the motion.

8. [14-20680](#)-A-7 **IN RE: RODOLFO/FEDELINA REYES**
[MKJ-2](#)

MOTION TO AVOID LIEN OF TARGET NATIONAL BANK
10-30-2021 [\[30\]](#)

MICHAEL JOHNSON/ATTY. FOR DBT.
DEBTORS DISCHARGED: 05/12/2014

Tentative Ruling

Motion: Avoid Lien that Impairs Exemption

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

Disposition: Granted

Order: Prepared by moving party

Judicial Lien Avoided: \$5,982.74 Target National Bank

All Other Liens:

- Deed of Trust - U.S. Bank \$324,000.00

Exemption: \$1.00

Value of Property: \$280,000.00

Subject Property: 9725 Marianna Way, Elk Grove, California

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

The debtors seek an order under 11 U.S.C. § 522(f) avoiding the judicial lien of Target National Bank in the amount of \$5,982.74.

LIEN AVOIDANCE

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

The responding party's judicial lien, all other liens, and the exemption amount together exceed the property's value by an amount greater than or equal to the judicial lien. As a result, the responding party's judicial lien will be avoided entirely.

9. [14-20680](#)-A-7 **IN RE: RODOLFO/FEDELINA REYES**
[MKJ-3](#)

MOTION TO AVOID LIEN OF CAVALRY SPV I, LLC
10-30-2021 [\[26\]](#)

MICHAEL JOHNSON/ATTY. FOR DBT.
DEBTORS DISCHARGED: 05/12/2014

Tentative Ruling

Motion: Avoid Lien that Impairs Exemption

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

Disposition: Granted

Order: Prepared by moving party

Judicial Lien Avoided: \$10,421.86 Cavalry SPV I, LLC

All Other Liens:

- Deed of Trust - U.S. Bank \$324,000.00
- Judicial Lien - Target National Bank \$5,982.74

Exemption: \$1.00

Value of Property: \$280,000.00

Subject Property: 9725 Marianna Way, Elk Grove, California

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

The debtors seek an order under 11 U.S.C. § 522(f) avoiding the judicial lien of Cavalry SPV I, LLC in the amount of \$10,421.86.

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an

exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

The responding party's judicial lien, all other liens, and the exemption amount together exceed the property's value by an amount greater than or equal to the judicial lien. As a result, the responding party's judicial lien will be avoided entirely.

10. [19-23491](#)-A-7 **IN RE: SABRINA LUCAS**
[JLK-1](#)

MOTION TO AVOID LIEN OF MIDLAND FUNDING LLC
11-2-2021 [\[22\]](#)

JAMES KEENAN/ATTY. FOR DBT.
DEBTORS DISCHARGED: 09/16/2019

Final Ruling

Motion: Avoid Lien that Impairs Exemption

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

Disposition: Granted

Order: Prepared by moving party

Judicial Lien Avoided: \$5,621.95 Midland Funding, LLC

All Other Liens:

Deed of Trust - Mill City Mortgage \$279,478.00

Exemption: \$13,522.00

Value of Property: \$293,000.00

Subject Property: 7205 Aberfeldy Way, Sacramento, California

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

The debtor moves for an order under 11 U.S.C. § 522(f) avoiding the judicial lien of Midland Funding, LLC in the amount of \$5,621.95

LIEN AVOIDANCE

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an

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

The responding party's judicial lien, all other liens, and the exemption amount together exceed the property's value by an amount greater than or equal to the judicial lien. As a result, the responding party's judicial lien will be avoided entirely.