

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Ronald H. Sargis
Chief Bankruptcy Judge
Modesto, California

December 2, 2021 at 10:30 a.m.

1. <u>21-90026-E-7</u> <u>BLF-2</u>	JIMMY/SHIRLEY SANDERS Brian Haddix	MOTION TO SELL 11-10-21 <u>[51]</u>
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Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 7 Trustee, creditors, parties requesting special notice, and Office of the United States Trustee on November 10, 2021. By the court's calculation, 22 days' notice was provided. 21 days' notice is required. FED. R. BANKR. P. 2002(a)(2) (requiring twenty-one days' notice).

The Motion to Sell Property was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 7 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing, unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. At the hearing, -----

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<p>The Motion to Sell Property is granted.</p>

The Bankruptcy Code permits Gary Farrar, the Chapter 7 Trustee, ("Movant") to sell property of the estate after a noticed hearing. 11 U.S.C. § 363. Here, Movant proposes to sell the personal property commonly known as 2011 Chevy Silverado ("Property").

The proposed purchaser of the Property is Nationwide Fleet, and the terms of the sale are:

- A. The Property will be sold for \$17,500.00 to Nationwide Fleet.
- B. Nationwide Fleet shall pay a deposit of \$5,000.00 at the time of signing the Agreement.
- C. Nationwide Fleet shall pay the balance of the Purchase Amount by delivering Movant a cashier's check for \$12,500.00 within five (5) days of entry of the order approving the agreement.
- D. If a third-party outbids, Nationwide Fleet shall be entitled to a breakup fee from the bankruptcy estate as reimbursement of the expenses incurred by Buyer.

DISCUSSION

At the time of the hearing, the court announced the proposed sale and requested that all other persons interested in submitting overbids present them in open court. At the hearing, the following overbids were presented in open court: XXXXXXXXXXXXXXXXXX.

Based on the evidence before the court, the court determines that the proposed sale is in the best interest of the Estate because it allows the Trustee to collect \$17,500.00 for the estate, \$983.61 to be distributed to the Debtors for their exemption.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Sell Property filed by Gary Farrar, the Chapter 7 Trustee, ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that Gary Farrar, the Chapter 7 Trustee, is authorized to sell pursuant to 11 U.S.C. § 363(b) to Nationwide Fleet or nominee ("Buyer"), the Property commonly known as 2011 Chevy Silverado ("Property"), on the following terms:

- A. The Property shall be sold to Buyer for \$17,500.00, on the terms and conditions set forth in the Purchase Agreement, Exhibit A, Dckt. 54, and as further provided in this Order.
- B. The sale proceeds shall first be applied to closing costs, other customary and contractual costs and expenses incurred to effectuate the sale.

C. The Chapter 7 Trustee is authorized to execute any and all documents reasonably necessary to effectuate the sale.

2. [04-94131](#)-E-7
[FWP-21](#)
2 thru 3

UNIQUE HEALTHCARE
MANAGEMENT, INC.
David Johnston

OMNIBUS OBJECTION TO CLAIMS
10-19-21 [\[400\]](#)

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 3007-1 Objection to Claim—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Objection to Claim and supporting pleadings were served on Debtor, Debtor's Attorney, United States Trustee, Chapter 7 Trustee, and Creditors on October 19, 2021. By the court's calculation, 44 days' notice was provided. 30 days' notice is required. FED. R. BANKR. P. 3007(a) (requiring thirty days' notice); LOCAL BANKR. R. 3007-1(b)(2).

The Objection to Claim was properly set for hearing on the notice required by Local Bankruptcy Rule 3007-1(b)(2). Debtor, creditors, the Chapter 12 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing, unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. At the hearing, -----

The Objections to Proof of Claim Numbers 19, 46, 10, 54, 40, 53, 41, 45, and 48 of Creditors are sustained, and the claims are disallowed in their entirety.

Jonathan E. Tesar, the Chapter 7 Trustee ("Objector") requests that the court disallow Proof of Claim No.'s 19, 46, 10, 54, 40, 53, 41, 45, and 48 ("Claims"), Official Registry of Claims in this case. Objector asserts claims are duplicative of other claims already filed by the listed creditors.

DISCUSSION

Section 502(a) provides that a claim supported by a Proof of Claim is allowed unless a party in interest objects. Once an objection has been filed, the court may determine the amount of the claim after a noticed hearing. 11 U.S.C. § 502(b). It is settled law in the Ninth Circuit that the party objecting to a proof of claim has the burden of presenting substantial evidence to overcome the prima facie validity of a proof of claim, and the evidence must be of probative force equal to that of the creditor's proof of claim. *Wright v. Holm (In re Holm)*, 931 F.2d 620, 623 (9th Cir. 1991); *see also United Student Funds, Inc. v. Wylie (In re Wylie)*, 349 B.R. 204, 210 (B.A.P. 9th Cir. 2006). Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, and requires financial information and factual arguments. *In re Austin*, 583 B.R. 480, 483 (B.A.P. 8th Cir. 2018). Notwithstanding the prima facie validity of a proof of claim, the ultimate burden of persuasion is always on the claimant. *In re Holm*, 931 F.2d at p. 623.

The Trustee's Exhibit identifies the following duplicative claims:

Claim No. 19, Duplicate of 18

Creditor Name: Citicorp Vendor Finance, Inc.
Date Filed: 1/25/2005
Filed Claim Amount: \$255.28 Unsecured
Duplicative Claim Allowed Amount: \$0.00

Claim No. 46, Duplicate of 24

Creditor Name: City of Modesto
Date Filed: 9/22/2005
Filed Claim Amount: \$1,616.00 Priority
Duplicative Claim Allowed Amount: \$0.00

Claim No. 10, Duplicate of 42

Creditor Name: County Bank
Date Filed: 1/7/2005
Filed Claim Amount: \$27,834.01 Secured
Duplicative Claim Allowed Amount: \$0.00

Claim No. 54, Duplicate of 59

Creditor Name: Hamilton & Company LLP
Date Filed: 12/13/2005
Filed Claim Amount: \$9,632.64 Unsecured
Duplicative Claim Allowed Amount: \$0.00

Claim No. 40, Duplicate of 29

Creditor Name: Hewlett Packard Financial Services
Date Filed: 8/15/2005
Filed Claim Amount: \$5,560.51 Unsecured
Duplicative Claim Allowed Amount: \$0.00

Claim No. 53, Duplicate of 7

Creditor Name: In Reach Internet
Date Filed: 11/21/2005
Filed Claim Amount: \$144.60 Unsecured

Duplicative Claim Allowed Amount: \$0.00

Claim No. 41, Duplicate of 11

Creditor Name: Lynne Jowski

Date Filed: 8/18/2005

Filed Claim Amount: \$14,753.28 Unsecured

Duplicative Claim Allowed Amount: \$0.00

Claim No. 45, Duplicate of 23

Creditor Name: Kelly Lemons Design

Date Filed: 9/19/2005

Filed Claim Amount: \$4,688.13 Unsecured

Duplicative Claim Allowed Amount: \$0.00

Claim No. 48, Duplicate of 1

Creditor Name: Univision Television

Date Filed: 9/30/2005

Filed Claim Amount: \$49,999.90 Secured

Duplicative Claim Allowed Amount: \$0.00

Exhibit A, Dckt. 403.

Upon review, it appears to the court the disputed claims (19, 46, 10, 54, 40, 53, 41, 45, and 48) are duplicative.

Based on the evidence before the court, Creditor's duplicative claims are disallowed in their entirety. The Objection to the Proof of Claim is sustained.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Omnibus Objection to Claims, filed in this case by Jonathan E. Tesar, the Chapter 7 Trustee, ("Objector") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection to Proof of Claim No.'s 19, 46, 10, 54, 40, 53, 41, 45, and 48 of Creditors is sustained, and the duplicative claims are disallowed in their entirety.

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 3007-1 Objection to Claim—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Objection to Claim and supporting pleadings were served on Creditor, Debtor, Debtor's Attorney, Chapter 7 Trustee, and Office of the United States Trustee on November 2, 2021. By the court's calculation, 30 days' notice was provided. 30 days' notice is required. FED. R. BANKR. P. 3007(a) (requiring thirty days' notice); LOCAL BANKR. R. 3007-1(b)(2).

The Objection to Claim was properly set for hearing on the notice required by Local Bankruptcy Rule 3007-1(b)(2). Debtor, creditors, the Chapter 7 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing, unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. At the hearing, -----

The Objection to Proof of Claim Number 30 of University Pain Specialists Medical Group, Inc., is sustained.

Jonathan E. Tesar, the Chapter 7 Trustee, ("Objector") requests that the court estimate the claim of University Pain Specialists Medical Group, Inc. ("Creditor"), Proof of Claim No. 30 ("Claim"), Official Registry of Claims in this case at \$0.00. The Claim is asserted to be an unsecured nonpriority claim in the "unknown" amount. Objector asserts that the Claim is disputed, contingent, and unliquidated, and should be estimated at \$0.00. Dckt. 405.

DISCUSSION

Section 502(a) provides that a claim supported by a Proof of Claim is allowed unless a party in interest objects. Once an objection has been filed, the court may determine the amount of the claim

after a noticed hearing. 11 U.S.C. § 502(b). It is settled law in the Ninth Circuit that the party objecting to a proof of claim has the burden of presenting substantial evidence to overcome the prima facie validity of a proof of claim, and the evidence must be of probative force equal to that of the creditor's proof of claim. *Wright v. Holm (In re Holm)*, 931 F.2d 620, 623 (9th Cir. 1991); *see also United Student Funds, Inc. v. Wylie (In re Wylie)*, 349 B.R. 204, 210 (B.A.P. 9th Cir. 2006). Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, and requires financial information and factual arguments. *In re Austin*, 583 B.R. 480, 483 (B.A.P. 8th Cir. 2018). Notwithstanding the prima facie validity of a proof of claim, the ultimate burden of persuasion is always on the claimant. *In re Holm*, 931 F.2d at p. 623.

Pursuant to 11 U.S.C. § 502(c), an estimation is required of any contingent or unliquidated claim when failure to do so would “unduly delay the administration of the case.” Under § 502(c), the court must estimate any claim in which it is contingent or unliquidated and cannot be fixed or liquidated within an appropriate time frame. Collier on Bankruptcy, ¶ 502.04 (16th Edition, 2021). The claim must be estimated to fix the claimant's right to the assets of the debtor. *Id.*

Here, the disputed Claim is based on a state court lawsuit filed in October 2003. Exhibit A, Dckt. 408. The Claim seeks damages in the unknown amount for breach of contract, breach of covenant of good faith and fair dealing, common counts, accounting, and declaratory relief. *Id.*; Motion, Dckt. 405. The Creditor does not know the amount of its claim against the Debtor, and the Trustee cannot determine whether there is liability and in what amount. Attempting to liquidate the claim would “unduly delay the administration of the case,” pursuant to § 502(c).

Based on the evidence before the court, Creditor's claim is estimated at \$0.00. The Objection to the Proof of Claim is sustained.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to Claim of University Pain Specialists Medical Group, Inc. (“Creditor”), filed in this case by Jonathan E. Tesar, Chapter 7 Trustee, (“Objector”) having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection to Proof of Claim Number 30 of Creditor is sustained, and the claim is estimated at \$0.00.

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 7 Trustee, creditors, and Office of the United States Trustee on November 5, 2021. By the court's calculation, 27 days' notice was provided. 21 days' notice is required. FED. R. BANKR. P. 2002(a)(4) (requiring twenty-one-days' notice).

The Motion to Convert was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 11 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing, unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. At the hearing, -----

The Motion to Convert the Chapter 7 Bankruptcy Case to a Case under Chapter 13 is granted, and the case is converted to one under Chapter 13.

Ronald Ray Gobbell and Rosetta Belonda Gobbell ("Debtors") seeks to convert this case from one under Chapter 7 to one under Chapter 13. The Bankruptcy Code authorizes a one-time, near-absolute right of conversion from Chapter 7 to Chapter 13. 11 U.S.C. § 706(a); *see also Marrama v. Citizens Bank of Mass.*, 549 U.S. 365 (2007).

Debtor asserts that the case should be converted because they have not converted their case to any other chapter under the Bankruptcy Code and they are not eligible for discharge in their Chapter 7 case. Declaration, Dckt. 16.

Here, Debtor's case has not been converted previously, and Debtor qualifies for relief under Chapter 13. Notice was provided to the Chapter 7 Trustee, Office of the United States Trustee, and other interested parties. No opposition has been filed.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Convert filed by Ronald Ray Gobbell and Rosetta belonda Gobbell (“Debtors”) having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion to Convert is granted, and the case is converted to a proceeding under Chapter 13 of Title 11, United States Code.

5. 721-90480-E-7

RONALD/ROSETTA GOBBELL
Rabin Pournazarian

**NOTICE OF INTENT TO CLOSE CASE
WITHOUT ENTRY OF DISCHARGE AS
TRANSMITTED TO BNC FOR SERVICE
10-22-21 [10]**

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 7 Trustee, creditors, and Office of the United States Trustee on November 5, 2021. By the court's calculation, 27 days' notice was provided. 28 days' notice is required.

Under the facts and circumstances of this Motion, the court shortens the time to the 27 days given.

The Opposition to Court's Notice of Intent to Close Case Without Discharge has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). The defaults of the non-responding parties and other parties in interest are entered.

The Opposition to Court’s Notice of Intent to Close Case Without Discharge is overruled, without prejudice to Debtors’ right to a discharge in a Chapter 13 case.

On October 22, 2021, the Clerk of the Court, Wayne Blackwelder, issued a Notice of Intent to Close Case Without Entry of Discharge. Dckt. 10. The Clerk determined that pursuant to 11 USC § 727(a)(8) this case is not entitled to a discharge. The Social Security Number(s) used in the Current Case is the same as the Social Security Number(s) used in a Prior Case which received a discharge and commenced within eight years of the filing of the Current Case.

DEBTOR'S OPPOSITION

On November 5, 2021, Ronald and Rosetta Gobbell ("Debtors") filed an opposition notice that their previous bankruptcy was filed twelve to fourteen years ago, well before the eight years required by 11 U.S.C. § 727(a)(8). Dckt 18. Their attorney of record, Rabin J. Pournazarian, thereafter discovered Debtors had in fact filed a previous Chapter 7 Bankruptcy Case on December 30, 2014, No. 14-91666, and received a discharge on April 20, 2015. The Debtors filed a Motion to Convert Case to a Chapter 13, also scheduled for hearing on December 2, 2021. Dckt. 14.

As the Motion to Convert Case to Chapter 13 was granted, the Opposition to Court's Notice of Intent to Close Case Without Discharge is overruled as moot.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Opposition to Court's Notice of Intent to Close Case Without Discharge having been presented to the court, the case having been previously dismissed, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is overruled as moot, without prejudice to Debtors' right to a discharge in a Chapter 13 case.

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Chapter 7, creditors, and Office of the United States Trustee on November 5, 2021. By the court's calculation, 27 days' notice was provided. 14 days' notice is required.

The Motion to Compel Abandonment was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 7 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing, unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. At the hearing, -----

The Motion to Compel Abandonment is granted.

After notice and a hearing, the court may order a trustee to abandon property of the Estate that is burdensome to the Estate or is of inconsequential value and benefit to the Estate. 11 U.S.C. § 554(b). Property in which the Estate has no equity is of inconsequential value and benefit. *Cf. Vu v. Kendall (In re Vu)*, 245 B.R. 644 (B.A.P. 9th Cir. 2000).

The Motion filed by Sargon Bebla ("Debtor") requests the court to order Sheri L. Carello ("the Chapter 7 Trustee") to abandon property claimed as exempt in Debtor's Schedule C. Motion, Dckt. 118; Voluntary Petition, Dckt. 1. The Motion is supported by the Declaration of Debtor. Dckt. 120. Debtor received her discharge on August 30, 2021, Dckt. 53.

A claimed exemption is presumptively valid. *In re Carter*, 182 F.3d 1027, 1029 at fn.3 (9th Cir.1999); *See also* 11 U.S.C. § 522(l). Once an exemption has been claimed, "the objecting party has the burden of proving that the exemptions are not properly claimed." FED. R. BANKR. P. RULE 4003(c); *In re Davis*, 323 B.R. 732, 736 (9th Cir. B.A.P. 2005). If the objecting party produces evidence to rebut the presumptively valid exemption, the burden of production then shifts to the debtor to produce

unequivocal evidence to demonstrate the exemption is proper. *In re Elliott*, 523 B.R. 188, 192 (9th Cir. B.A.P. 2014). The burden of persuasion, however, always remains with the objecting party. *Id.*

Here, no objections were made to Debtor's claimed exemptions. Therefore, the exemptions claimed in their Schedule C are presumptively valid.

Debtor lists the following to be exempted and abandoned in their Motion and Schedule C:

<u>PROPERTY INTEREST</u>	<u>VALUE</u>	<u>LIEN / ENCUMBRANCE</u>	<u>EXEMPTION</u>	<u>NET TO ESTATE (VALUE - LIEN - EXEMPTION)</u>
1. Real Property: 7731 E. Keyes Rd. Hughson, Ca	\$1,050,000.00	\$312,912.00 Ascentium Abstract: \$665,917.59 4701 Stoddard Abstract: \$71,871.87 Fowler Bro's Abstract: \$15,021.00	\$360,000 (CCP § 704.730)	\$0.00
2. Vehicle: 2016/2014 Toyota Tundra*	\$25,501.00	\$25,501.00	\$3,325.00 (CCP § 704.020)	\$0.00
3. Household Belongings	\$10,000.00	\$0.00	\$10,000.00 (CCP § 704.020)	\$0.00
4. Electronics: 2 laptops, 1 iPad, TV	\$1,000.00	\$0.00	\$1,000.00 (CCP § 704.020)	\$0.00
5. Sports/Hobby: Golf Clubs	\$250.00	\$0.00	\$250.00 (CCP § 704.020)	\$0.00
6. Firearms: 2 pistols, 1 shotgun	\$1,500.00	\$0.00	\$1,500.00 (CCP § 704.020)	\$0.00
7. Clothes	\$2,000.00	\$0.00	\$2,000.00 (CCP § 704.020)	\$0.00
8. Jewelry: 1 gold ring, 1 necklace	\$1,000.00	\$0.00	\$1,000.00 (CCP § 704.040)	\$0.00

9. Checking - MOCSE Credit Union	\$300.00	\$0.00	\$225.00 (CCP § 704.070)	\$75.00
10. Checking - Tri Counties Bank	\$50.21	\$0.00	\$37.66 (CCP § 704.070)	\$12.55
11. Checking - Ameritrade	\$122.85	\$0.00	\$92.14 (CCP § 704.070)	\$30.71
12. Retirement - 401k Fidelity	\$40,256.90	\$0.00	\$30,899.28 (CCP § 704.115(a)(1); (2)(b))	\$0.00
13. Retirement - 401k PAI - 1414	\$31,536.50	\$0.00	\$31,536.50 (CCP § 704.15(a)(1); (2)(b))	\$0.00
14. Retirement - Permanente Medical Group	\$675.00	\$0.00	\$675.00 (CCP § 704.15(a)(1); (2)(b))	\$0.00
15. College Savings Program	\$76,913.35	\$0.00	\$76,913.35 (CCP § 704.105)	\$0.00
16. Claim Against Brother	~\$350,000.00			?
<u>Total Net Value to Estate</u>				\$118.26

*In Debtor's Schedule C, they note the Toyota Tundra is a 2014 Model. However, in their Motion, they label it as a 2016 Model. At the hearing, **XXXXXXXXXX**

The court finds that the debt secured and exemptions claimed by all Property, except items listed as 9, 10, and 11, creates no net value to the Estate. As such, all exemptions except 9, 10, and 11 have inconsequential value and benefit to the Estate. For items 9, 10, and 11, only the claimed exemptions shall be abandoned. Anything in excess value remains property of the Estate and is not abandoned. The court orders the Chapter 7 Trustee abandons such property.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Compel Abandonment filed by Sargon Bebla ("Debtor"), having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion to Compel Abandonment is granted, and the following Property is by Sheri L. Carello (“the Chapter 7 Trustee”) to Sargon Bebla (“Debtor”) by this order, with no further act of the Trustee required:

1. Real Property:
7731 E. Keyes Rd.
Hughson, Ca
2. Vehicle:
~~2016/2014~~ Toyota Tundra
3. Household Belongings
4. Electronics: 2 laptops, 1 iPad, Television
5. Sports/Hobby: Golf clubs
6. Firearms: 2 pistols, 1 shotgun
7. Clothes
8. Jewelry: 1 gold ring, 1 necklace
9. Checking - MOCSE Credit Union:

\$225.00 is abandoned to the Debtor
and all amounts thereof are not
abandoned and remain property of
the bankruptcy estate.
10. Checking - Tri Counties Bank:

\$37.66 is abandoned to the Debtor
and all amounts thereof are not
abandoned and remain property of
the bankruptcy estate.
11. Checking - Ameritrade:

\$92.14 is abandoned to the Debtor
and all amounts thereof are not
abandoned and remain property of
the bankruptcy estate.
12. Retirement - 401k Fidelity
13. Retirement - 401k PAI - 1414

December 2, 2021 at 10:30 a.m.

14. Retirement - Permanente Medical Group
15. College Savings Program
16. Claim Against Brother

FINAL RULINGS

7. [20-90645-E-7](#)
[BLF-5](#)

MOHIT RANDHAWA
G. Michael Williams

CONTINUED OBJECTION TO
HOMESTEAD EXEMPTION
8-5-21 [\[112\]](#)

Final Ruling: No appearance at the December 2, 2021 hearing is required.

Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, Chapter 7 Trustee, creditors, and Office of the United States Trustee on August 5, 2021. By the court’s calculation, 35 days’ notice was provided. 28 days’ notice is required.

The Objection to Homestead Exemption has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). The defaults of the non-responding parties and other parties in interest are entered.

<p>The Objection to Homestead Exemption is dismissed without prejudice.</p>
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The Chapter 7 Trustee, Gary Farrar (“Trustee”) objects to Mohit Singh Randhawa’s (“Debtor”) claimed homestead exemptions under California law.

The court originally continued the hearing on this Objection to allow the court additional time to research and address some very novel issues arising concerning the California homestead exemption law.

On September 28, 2021, discovered through a Status Report in an unrelated adversary proceeding, the court has learned that counsel for the Debtor has been diagnosed with COVID-19 and has been hospitalized. Also, that counsel for Debtor will be unable to practice law for the period from late September 2021 through late November 2021.

At the hearing on the Motion to Sell the property in which the homestead exemption is claimed, counsel for the Debtor and counsel for the Trustee reported that an agreement had been reached, with Debtor withdrawing the objection to the sale, amending the exemption in the property sold to \$100,000, and allowing the trustee to expediently close the sale. The Trustee reported that their buyers financing commitment would expire in fourteen days and the sale would be lost.

Trustee's Declaration

On November 18, 2021, Trustee filed a supplemental declaration with the court. Dckt. 158. Trustee informs the court that Trustee and Debtor reached an agreement where Debtor would withdraw his opposition to the sale of the Property, Debtor would amend his Schedules to reduce the homestead exemption to \$100,000.00, and Debtor could remain in their property until noon on October 6, 2021. The Court granted the motion to sell property and entered a final order based on the Agreement.

Trustee is currently holding Debtor's \$100,000.00 homestead exemption pursuant to the Agreement. At the time of Trustee's supplemental declaration, Debtor had still not filed his Amended Schedule C.

Amended Schedule C

On November 22, 2021, Debtor filed their Amended Schedule C. Dckt. 165. Debtor's Amended Schedule C reflects a claimed homestead exemption of \$100,000.00, pursuant to California Code of Civil Procedure § 704.730.

Parties' Joint Ex Parte Motion and Stipulation to Dismiss

On November 23, 2021, Trustee, Debtor, and Bikram Saha ("Creditor") filed a Joint *Ex Parte* Motion and Stipulation to Withdraw Objection ("Motion to Withdraw"). Dckt. 166. Unfortunately, the Docket Control Number ("DCN") was inadvertently labeled as "BLF-9," instead of "BLF-5," the correct DCN. As such, the Order granting the Motion to Withdraw signed on November 24, 2021 does not "grant" the Motion at issue. Dckt. 167.

The court notes the filed stipulation to dismissal was signed by all parties. Dckt. 166. All parties having stipulated to the Motion's dismissal, the Trustee's Objection to Homestead Exemption is dismissed without prejudice.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to Homestead Exemption filed by Gary Farrar ("The Chapter 7 Trustee") having been presented to the court, the Chapter 7 Trustee, Debtor, and Creditor having requested that the Objection itself be dismissed pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, Dckt. 166, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection to Homestead Exemption is dismissed without prejudice.

Final Ruling: No appearance at the December 2, 2021 hearing is required.

Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 7 Trustee, and Office of the United States Trustee on November 1, 2021. By the court's calculation, 31 days' notice was provided. 28 days' notice is required.

The Motion to Approve Loan Modification has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties and other parties in interest are entered. Upon review of the record, there are no disputed material factual issues, and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

The Motion to Approve Loan Modification is granted.

The Motion to Approve Loan Modification filed by NewRez LLC d/b/a Shellpoint Mortgage Servicing ("Movant") seeks court approval for Son H. Le and Vong D. Le ("Debtor") to incur post-petition credit. Movant has agreed to a loan modification that will increase Debtor's mortgage payment from the current \$1,472.50 per month to \$1,916.74 per month. Exhibit B, A, Dckt. 25. Movant claims the purpose of the Motion is to obtain a "comfort order" so the court may find that negotiating and entering into the Loan Modification Agreement does not violate the automatic stay provision of 11 U.S.C. § 362 or any other provision of the Bankruptcy Code or Law. The Motion is supported by the Declaration of Philip Brown. Dckt. 24. Declarant states the modification will bring Debtor current as of the modification effective date, adjust the amount of interest-bearing principal, adjust the maturity date and interest rate of their obligation to Movant.

The automatic stay provisions of 11 U.S.C. § 362 provides for a "broad stay of litigation, lien enforcement and other actions, judicial or otherwise that are attempts to enforce or collect prepetition claims." Collier on Bankruptcy, ¶ 362.01 (16th Edition, 2020). Therefore, the automatic stay is to prevent enforcement actions against Debtor from Creditor. 11 U.S.C. § 362 does not prevent Creditors and Debtors from modifying loans. Given this is a Chapter 7 case, there is no Plan that the Debtor needs

to fund. Debtor's current monthly income is \$7,304.00 and their current monthly expenses are \$7,304.00. Chapter 7 Statement of Current Monthly Income Form, Dckt. 13. Debtor includes \$2,000.00 for monthly mortgage payments in their current monthly expenses report. *Id.* Therefore, the modification of \$1,916.74 per month already appears to be accounted for.

The court notes that reaffirmation agreements under 11 U.S.C. § 524 provide for strict limitations on the ability to reaffirm a debt. This court does not approve real property reaffirmation agreements. However, the court recognizes that parties to such post-petition modifications may reasonably need to have the court authorize such post-petition agreement for a pre-petition debt.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Approve Loan Modification filed by NewRez LLC d/b/a Shellpoint Mortgage Servicing ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the court authorizes Son H. Le and Vong D. Le ("Debtor") to amend the terms of the loan with NewRez LLC d/b/a Shellpoint Mortgage Servicing ("Movant"), which is secured by the real property commonly known as 2514 Arcadia Court, Riverbank, California, on such terms as stated in the Modification Agreement filed as Exhibit A in support of the Motion (Dckt. 25).