

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

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

**DAY:** MONDAY  
**DATE:** December 7, 2020  
**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. [19-27800](#)-A-7     **IN RE: EDUARDO/FLORINDA SAN ANTONIO**  
[AF-5](#)

MOTION TO COMPEL ABANDONMENT  
10-30-2020    [[137](#)]

ARASTO FARSAD/ATTY. FOR DBT.

**Final Ruling**

**Motion:** Compel Abandonment of Property of the Estate  
**Notice:** LBR 9014-1(f)(1); no further filings authorized without leave of court  
**Disposition:** Continued to December 21, 2020, at 9:00 a.m.  
**Order:** Civil minute order

**CONTINUANCE**

A motion to abandon and a motion to approve stipulation on the same subject real property are set for a hearing on December 21, 2020, at 9:00 a.m. To avoid entering inconsistent orders regarding the subject real property, the court will continue this motion to coincide with the other motions.

**CIVIL MINUTE ORDER**

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

IT IS ORDERED that the motion is continued to December 21, 2020, at 9:00 a.m.

IT IS FURTHER ORDERED that the record for this motion to compel abandonment is now closed and no further filings are authorized without leave of the court.

2. [19-27800](#)-A-7     **IN RE: EDUARDO/FLORINDA SAN ANTONIO**  
[AF-6](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF FARSAD LAW  
OFFICE, P.C. FOR NANCY WENG, DEBTORS' ATTORNEY(S)  
11-9-2020    [[148](#)]

ARASTO FARSAD/ATTY. FOR DBT.  
RESPONSIVE PLEADING

**No Ruling**

3. [19-27507](#)-A-7     **IN RE: KENNETH/LIELANIE STEERS**  
[AP-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
10-30-2020    [[197](#)]

WALTER DAHL/ATTY. FOR DBT.  
WENDY LOCKE/ATTY. FOR MV.  
WILMINGTON SAVINGS FUND SOCIETY, FSB VS.; NON-OPPOSITION

### **Final Ruling**

**Motion:** Stay Relief

**Notice:** LBR 9014-1(f)(1); trustee's non-opposition filed

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** Nationwide Insurance Claim/Proceeds for Mold Repair

These minutes constitute the court's findings of fact and conclusions of law required by Fed. R. Civ. P. 52(a), *incorporated* by Fed. R. Bankr. P. 7052, 9014(c). The findings of fact are as set forth above; the conclusions of law are as set forth below.

### **DEFAULT OF RESPONDENT**

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).

### **STAY RELIEF**

"[A]fter notice and a hearing," the court may terminate, annul, modify or condition the stay: (1) "for cause, including the lack of adequate protection"; or (2) "with respect to a stay of an act against property [of the estate]" if the debtor lacks "equity" in that property and if that "property is not necessary for an effective reorganization." 11 U.S.C. § 362(d); *see also* Fed. R. Bankr. P. 4001(a)(1). The party seeking stay relief bears the burden of proof as to "the debtor's equity in the property" and on the validity and perfection of its security interest, as well as the amount of its debt. 11 U.S.C. § 362(g)(1); *In re Dahlquist*, 34 B.R. 476, 481 (Bankr. S.D. 1983). The party opposing stay relief, e.g., the debtor or Chapter 7 trustee, bears the burden of proof on all other issues. 11 U.S.C. § 362(g)(2).

The debtors owned real property located at 4901 Trails End Road, Cameron Park, CA 95682. The movant holds a note/deed of trust against that property. The real property was insured by Nationwide Homeowners Insurance, Schedule A and Statement of Financial Affairs, Exhibits, ECF No. 202. Prior to filing, the debtors sustained a loss

for which Nationwide owed coverage. Nationwide issued an insurance check for \$84,199.38 to the trustee. The trustee returned the check to Nationwide, stating he would not administer the check. Exhibit 6, ECF No. 202. Nationwide then re-issued two checks to the debtors(i) \$10,033.01 payable to "Kenneth Steers & Lielanie Steers & Citadel Servicing Corporation" and ii) \$76,025.56 to "Kenneth Steers & Lielanie Steers & Citadel Servicing Corporation & Five Star Restoration"). The movant is informed the debtors remain in possession of the checks and that the trustee intends to sell the estate's interest in the property once the Insurance Claim is fully resolved. The trustee has indicated non-opposition to this motion.

Since the court deems the estate has no interest based on the trustee's return of the insurance check and his non-opposition to this motion, and since the apparent dispute between the secured lender and debtor will be resolved by terms of the note and the deed of trust para. 5, Exhibit 1, ECF No. 202, cause exists to grant stay relief under § 362(d)(1). 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. Nothing in the court's order or findings of fact and conclusions of law shall be deemed an adjudication of rights to the proceeds as between the debtor and the secured party.

#### **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.

Wilmington Savings Fund Society, FSB'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 automatic stay is vacated with respect to the property described in the motion, commonly known as Nationwide Insurance Claim/Proceeds for Mold Repair, 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 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.

4. [20-25018](#)-A-7     **IN RE: MARISSA CARCAMO**  
[MET-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
11-9-2020    [\[11\]](#)

CARL GUSTAFSON/ATTY. FOR DBT.  
MARY TANG/ATTY. FOR MV.  
BANK OF THE WEST VS.; NON-OPPOSITION

### **Final Ruling**

**Motion:** Stay Relief

**Notice:** LBR 9014-1(f)(1); trustee's non-opposition filed

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 2017 GMC Canyon Crew Cab

**Value of Collateral:** \$17,000.00

**Aggregate of Liens:** \$24,542.87

These minutes constitute the court's findings of fact and conclusions of law required by Fed. R. Civ. P. 52(a), *incorporated* by Fed. R. Bankr. P. 7052, 9014(c). The findings of fact are as set forth above; the conclusions of law are as set forth below.

### **DEFAULT OF RESPONDENT**

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).

### **STAY RELIEF**

"[A]fter notice and a hearing," the court may terminate, annul, modify or condition the stay: (1) "for cause, including the lack of adequate protection"; or (2) "with respect to a stay of an act against property [of the estate]" if the debtor lacks "equity" in that property and if that "property is not necessary for an effective reorganization." 11 U.S.C. § 362(d); *see also* Fed. R. Bankr. P. 4001(a)(1). The party seeking stay relief bears the burden of proof as to "the debtor's equity in the property" and on the validity and perfection of its security interest, as well as the amount of its debt. 11 U.S.C. § 362(g)(1); *In re Dahlquist*, 34 B.R. 476, 481 (Bankr. S.D. 1983). The party opposing stay relief, e.g., the debtor or Chapter 7 trustee, bears the burden of proof on all other issues. 11 U.S.C. § 362(g)(2).

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism

for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. 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.

Bank of the West'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 automatic stay is vacated with respect to the property described in the motion, commonly known as 2017 GMC Canyon Crew Cab, 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 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.

5. [20-24321](#)-A-7     **IN RE: LARRY/ROSE HESLIN**  
[NUU-1](#)

OPPOSITION TO NOTICE TO CLOSE CASE WITHOUT ENTRY OF  
DISCHARGE AND MOTION TO CONVERT CASE FROM CHAPTER 7 TO  
CHAPTER 13  
11-2-2020    [\[24\]](#)

CHINONYE UGORJI/ATTY. FOR DBT.

### **Tentative Ruling**

**Motion:** Convert Case from Chapter 7 to Chapter 13

**Disposition:** Denied

**Order:** Civil minute order

In this case, the debtors have filed opposition to the notice of intent to close without discharge and now moves to convert the case to chapter 13, ECF No. 24.

### **VIOLATION OF L.B.R. 9014-1(d)(5)**

"Every application, motion, contested matter or other request for an order, shall be filed separately from any other request, except (1) that relief in the alternative based on the same statute or rule may be filed in a single motion; and (2) as otherwise provided by these rules. Without incorporation by reference to any other document, exhibit or supporting pleading, the motion shall state with particularity the grounds therefor, and shall set forth the relief or order sought. Where the motion combines requests for relief with differing notice periods or persons entitled to notice, the movant shall give notice consistent with the more expansive notice requirements." L.B.R. 9014-1(d)(5).

Here the debtors filed the same motion both to convert the case to Chapter 13 and to oppose the clerk's notice of intention to close the case without discharge. Such joinder of motions is impermissible under L.B.R. 9014-1(d)(5).

### **11 U.S.C. 727(a)(8)**

The court shall grant the debtor a discharge, unless "the debtor has been granted a discharge under this section, under section 1141 of this title, or under section 14, 371, or 476 of the Bankruptcy Act, in a case commenced within 8 years before the date of the filing of the petition." 11 U.S.C. 727(a)(8).

Here, the debtors' previously filed Chapter 7 case # 16-25114, which was commenced within 8 years before the date of filing this case and received a discharge in that case. The debtors opposed closure based on their attempt to convert the case to chapter 13. But that is not a basis to oppose closure of the case without discharge. The debtors are not entitled to a chapter 7 discharge.

**MARAMMA V. CITIZENS BANK OF MASS. ISSUE**

Section 706 of the Bankruptcy Code gives chapter 7 debtors a qualified conversion right. See 11 U.S.C. § 706(a), (d). A debtor's right to convert a case from Chapter 7 to Chapter 11, 12, or 13 is conditioned on (i) the debtor's eligibility for relief under the chapter to which the case will be converted and (ii) the case not having been previously converted under §§ 1112, 1208, or 1307. 11 U.S.C. § 706(a), (d); see also *Marrama v. Citizens Bank of Mass.*, 549 U.S. 365, 372-74 (2007) (affirming denial of debtor's conversion from Chapter 7 to Chapter 13 based on bad faith conduct sufficient to establish cause under § 1307(c)).

Here the debtors' income and expense schedules to their bankruptcy petition filed in this case show a negative monthly income (-\$692.00), Schedules I/J, ECF No. 17. The debtors therefore admitted that the debtors cannot fund a chapter 13 plan under § 1325(a)(6). For the foregoing reasons, the court will deny conversion.

**CIVIL MINUTE ORDER**

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

The debtors' motion for conversion under § 706(a) has been presented to the court. Having reviewed the papers and evidence filed in support and opposition to the motion,

IT IS ORDERED that the motion is denied.

6. [19-23226](#)-A-7     **IN RE: FEELING GROOVY AT EAGLE CREEK RANCH**  
LLC  
[MPD-3](#)

MOTION TO EMPLOY MERRELL, IRWIN & ASSOCIATES AS  
ACCOUNTANT(S) AND/OR MOTION FOR COMPENSATION FOR MERRELL,  
IRWIN & ASSOCIATES, ACCOUNTANT(S)  
11-3-2020    [\[80\]](#)

STEPHAN BROWN/ATTY. FOR DBT.  
MICHAEL DACQUISTO/ATTY. FOR MV.

**No Ruling**



7. [19-23226](#)-A-7     **IN RE: FEELING GROOVY AT EAGLE CREEK RANCH**  
LLC  
[MPD-4](#)

MOTION FOR ADMINISTRATIVE EXPENSES  
11-3-2020    [\[85\]](#)

STEPHAN BROWN/ATTY. FOR DBT.  
MICHAEL DACQUISTO/ATTY. FOR MV.

### **Tentative Ruling**

**Motion:** Allow Administrative Expense [Estate Taxes]

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

**Disposition:** Granted

**Order:** Civil minute order

Chapter 7 trustee Nikki Farris seeks court approval to pay taxes, and penalties, due the Franchise Tax Board for 2019 and 2020 in an amount not to exceed \$1,900 (\$800 taxes and \$150 per year). The debtor, Feeling Groovy at Eagle Creek Ranch, LLC, opposes the motion, noting that the debtor operated a bed and breakfast and a marijuana cultivation operation, licensed by California. The trustee has the better side of the argument.

### **ALLOWANCE OF ADMINISTRATIVE EXPENSE**

"Subject to limited exceptions, a trustee must pay the taxes of the estate on or before the date they come due, 28 U.S.C. § 960(b), even if no request for administrative expenses is filed by the tax authorities, 11 U.S.C. § 503(b)(1)(D), and the trustee must insure that 'notice and a hearing' have been provided before doing so, see *id.* § 503(b)(1)(B). The hearing requirement insures that interested parties . . . have an opportunity to contest the amount of tax paid before the estate's funds are diminished, perhaps irretrievably." *In re Clooback*, 788 F.3d 1243, 1246 (9th Cir. 2015). It is error to approve a trustee's final report without first holding a hearing, see 11 U.S.C. § 102(1), to allow creditors and parties in interest an opportunity to object to the allowance or amount of tax before it is paid. *Id.* 1245 n.1, 1246.

Assuming the debtor has standing to be heard, their argument fails under its own weight. First, the debtors rely on *Garvin v. Cook Investments*, 922 F.3d 0131, 1035 (9th Cir. 2019), for the proposition that "administration of an estate is improper where it involves an operation that is not permitted under federal law, including the Controlled Substances Act, 21 U.S.C. § 801 et seq." *Garvin* is a Chapter 11 case and does not stand for the sweeping proposition cited by the debtor. Second, and more importantly, the funds from which the tax emanates do not arise from the cultivation of marijuana. Rather the trustee sold an undisclosed cause of action that the debtor held against ReProp Investments to ReProp Investments for \$10,000 and it is those funds that form the basis of the tax. So even if federal law precludes a chapter 7 trustee from administering funds arising from actions, lawful under state law but not lawful under federal law, that is not the case here.

Accordingly, the taxes specified in the motion shall be allowed as an administrative expense under 11 U.S.C. § 503(b)(1)(B).

#### **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.

The chapter 7 trustee's motion for allowance of administrative expense 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 allows California state taxes not to exceed \$1,900 as an administrative expense under 11 U.S.C. § 503(b)(1)(B).

8. [19-23226](#)-A-7     **IN RE: FEELING GROOVY AT EAGLE CREEK RANCH**  
LLC  
[MPD-5](#)

MOTION FOR COMPENSATION FOR MICHAEL P. DACQUISTO, TRUSTEE'S  
ATTORNEY(S)  
11-3-2020    [\[89\]](#)

STEPHAN BROWN/ATTY. FOR DBT.

#### **Final Ruling**

**Application:** Allowance of First and Final Compensation and Expense Reimbursement

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

**Disposition:** Approved

**Order:** Civil minute order

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 application was required not less than 14 days before the hearing on the application. 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).

#### **COMPENSATION AND EXPENSES**

In this Chapter 7 case, Michael P. Dacquisto, attorney for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court

allow compensation in the amount of \$2,300.00 and reimbursement of expenses in the amount of \$0.00.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis.

#### **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.

Michael P. Dacquist's application for allowance of final compensation and reimbursement of expenses 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 application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$2,300.00 and reimbursement of expenses in the amount of \$0.00

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

9. [20-23729](#)-A-7     **IN RE: DARRELL/JENNIFER MCDANIEL**  
[GMR-2](#)

MOTION FOR ADMINISTRATIVE EXPENSES  
10-26-2020    [\[21\]](#)

BRUCE DWIGGINS/ATTY. FOR DBT.  
GEOFFREY RICHARDS/ATTY. FOR MV.  
DEBTOR DISCHARGED; 11/3/20; JOINT DEBTOR DISCHARGED: 11/3/20

### **Final Ruling**

**Motion:** Allow Administrative Expense [Estate Taxes]  
**Notice:** LBR 9014-1(f)(1); written opposition required  
**Disposition:** Denied without prejudice  
**Order:** Civil minute order

Chapter 7 trustee Geoffrey Richards move for authority to pay taxes under 11 U.S.C. § 503(b)(1)(B).

### **ALLOWANCE OF ADMINISTRATIVE EXPENSE**

"Subject to limited exceptions, a trustee must pay the taxes of the estate on or before the date they come due, 28 U.S.C. § 960(b), even if no request for administrative expenses is filed by the tax authorities, 11 U.S.C. § 503(b)(1)(D), and the trustee must insure that 'notice and a hearing' have been provided before doing so, see *id.* § 503(b)(1)(B). The hearing requirement insures that interested parties . . . have an opportunity to contest the amount of tax paid before the estate's funds are diminished, perhaps irretrievably." *In re Clooback*, 788 F.3d 1243, 1246 (9th Cir. 2015). It is error to approve a trustee's final report without first holding a hearing, see 11 U.S.C. § 102(1), to allow creditors and parties in interest an opportunity to object to the allowance or amount of tax before it is paid. *Id.* 1245 n.1, 1246.

Such a motion must be served on creditors. 11 U.S.C. § 503(b)(1)(B). A Certificate of Service must be filed with the court not later than three days after the motion is filed. LBR 9014-1(e)(2). The docket does not reflect a certificate of service and, as a result, the motion will be denied without prejudice.

### **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.

The chapter 7 trustee's motion for allowance of administrative expense has been presented to the court. Having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is denied without prejudice.

10. [20-23533](#)-A-7     **IN RE: JOSEPH/VALERIE CLARK**  
[JHW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
11-4-2020    [[63](#)]

MARK SHMORGON/ATTY. FOR DBT.  
JENNIFER WANG/ATTY. FOR MV.  
DEBTORS DISCHARGED: 10/27/2020;

AMERICREDIT FINANCIAL SERVICES, INC. VS.;

NON-OPPOSITION

### **Final Ruling**

**Motion:** Stay Relief

**Notice:** LBR 9014-1(f)(1); trustee's non-opposition filed

**Disposition:** Granted in part, denied in part as moot

**Order:** Civil minute order

**Subject:** 2016 Ford F-150

**Value of Collateral:** \$29,700.00

**Aggregate of Liens:** \$32,491.05

**Discharge:** October 27, 2020

These minutes constitute the court's findings of fact and conclusions of law required by Fed. R. Civ. P. 52(a), *incorporated* by Fed. R. Bankr. P. 7052, 9014(c). The findings of fact are as set forth above; the conclusions of law are as set forth below.

### **DEFAULT OF RESPONDENT**

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).

### **STAY RELIEF**

"[A]fter notice and a hearing," the court may terminate, annul, modify or condition the stay: (1) "for cause, including the lack of adequate protection"; or (2) "with respect to a stay of an act against property [of the estate]" if the debtor lacks "equity" in that property and if that "property is not necessary for an effective reorganization." 11 U.S.C. § 362(d); *see also* Fed. R. Bankr. P. 4001(a)(1). The party seeking stay relief bears the burden of proof as to "the debtor's equity in the property" and on the validity and perfection of its security interest, as well as the amount of its debt. 11 U.S.C. § 362(g)(1); *In re Dahlquist*, 34 B.R. 476, 481 (Bankr. S.D. 1983). The party opposing stay relief, e.g., the debtor or Chapter 7 trustee, bears the burden of proof on all other issues. 11 U.S.C. § 362(g)(2).

### As to the Debtor

The motion will be denied in part as moot to the extent it seeks stay relief as to the debtor. The stay that protects the debtor terminates at the entry of discharge. 11 U.S.C. § 362(c)(2). In this case, discharge has been entered. As a result, the motion will be denied as moot as to the debtor.

### As to the Estate

"[A]fter notice and a hearing," the court may terminate, annual, modify or condition the stay: (1) "for cause, including the lack of adequate protection"; or (2) "with respect to a stay of an act against property [of the estate]" if the debtor lacks "equity" in that property and if that "property is not necessary for an effective reorganization." 11 U.S.C. § 362(d); see also Fed. R. Bankr. P. 4001(a)(1). The party seeking stay relief bears the burden of proof as to "the debtor's equity in the property" and on the validity and perfection of its security interest, as well as the amount of its debt. 11 U.S.C. § 362(g)(1); *In re Dahlquist*, 34 B.R. 476, 481 (Bankr. S.D. 1983). The party opposing stay relief, e.g., the debtor or Chapter 7 trustee, bears the burden of proof on all other issues. 11 U.S.C. § 362(g)(2).

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. 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.

Americredit Financial Services, Inc.'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 in part and denied as moot in part. The automatic stay is vacated with respect to the interest of the trustee in the property described in the motion, commonly known as 2016 Ford F-150. Relief from the automatic stay as to the interest of the debtor in such property is denied as moot given the entry of the discharge in this case. 11 U.S.C. § 362(c)(2)(C).

IT IS FURTHER ORDERED that 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 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.

11. [18-25447](#)-A-7     **IN RE: JAVIER LOPEZ**  
[MWB-3](#)

MOTION TO AVOID LIEN OF CAPITAL ONE BANK  
11-4-2020    [[28](#)]

MARK BRIDEN/ATTY. FOR DBT.  
DEBTORS DISCHARGED: 01/07/2019;

#### **Final Ruling**

**Motion:** Avoid Lien that Impairs Exemption

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Subject Property:** 3134 West Street, Shasta Lake, CA 96019

**Judicial Lien:** \$4,250.15

**Consensual Lien:** \$212,491.00

**Exemption:** \$17,509.00

**Value:** \$230,000.00

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).

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.

12. [12-29050](#)-A-7     **IN RE: GLORYA DIAZ**  
[RWF-1](#)

MOTION TO AVOID LIEN OF DISCOVER BANK  
11-2-2020    [\[26\]](#)

ROBERT FONG/ATTY. FOR DBT.  
DEBTOR DISCHARGED: 08/21/2012

### **Final Ruling**

**Motion:** Avoid Lien that Impairs Exemption

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Subject Property:** 5104 Hemlock Street, Sacramento, CA 95841

**Judicial Lien:** \$8,262.31

**Consensual Lien:** \$243,723.00

**Exemption:** \$1.00

**Value:** \$151,000.00

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).

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.

13. [20-23750](#)-A-7     **IN RE: KATHERINE BRUNER**  
[SLE-1](#)

CONTINUED MOTION TO CONVERT CASE FROM CHAPTER 7 TO CHAPTER  
13  
9-25-2020    [[14](#)]

STEELE LANPHIER/ATTY. FOR DBT.  
RESPONSIVE PLEADING

#### **Final Ruling**

**Motion:** Convert Case from Chapter 7 to Chapter 13

**Disposition:** Denied

**Order:** Civil minute order

#### **MARAMMA V. CITIZENS BANK OF MASS. ISSUE**

Section 706 of the Bankruptcy Code gives chapter 7 debtors a qualified conversion right. See 11 U.S.C. § 706(a), (d). A debtor's right to convert a case from Chapter 7 to Chapter 11, 12, or 13 is conditioned on (i) the debtor's eligibility for relief under the chapter to which the case will be converted and (ii) the case not having been previously converted under §§ 1112, 1208, or 1307. 11 U.S.C. § 706(a), (d); see also *Marrama v. Citizens Bank of Mass.*, 549 U.S. 365, 372-74 (2007) (affirming denial of debtor's conversion from Chapter 7 to Chapter 13 based on bad faith conduct sufficient to establish cause under § 1307(c)).

Here the debtor's income and expense schedules to her bankruptcy petition filed in this case show a negative monthly income (-\$28.17), ECF No. 17. The debtor therefore admitted that she cannot fund a chapter 13 plan under § 1325(a)(6). For the foregoing reasons, the court will deny conversion.

## **CIVIL MINUTE ORDER**

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

The debtor's motion for conversion under § 706(a) has been presented to the court. Having reviewed the papers and evidence filed in support and opposition to the motion,

IT IS ORDERED that the motion is denied.

14. [18-22453](#)-A-7     **IN RE: ECS REFINING, INC.**  
[DMC-21](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT  
AGREEMENT WITH CLOVER TELECOM  
11-13-2020    [[1484](#)]

CHRISTOPHER BAYLEY/ATTY. FOR DBT.  
HOWARD NEVINS/ATTY. FOR MV.

**No Ruling**

15. [18-22453](#)-A-7     **IN RE: ECS REFINING, INC.**  
[DMC-22](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT  
AGREEMENT WITH DOUBLE R ELECTRIC INCORPORATED  
11-13-2020    [[1488](#)]

CHRISTOPHER BAYLEY/ATTY. FOR DBT.  
HOWARD NEVINS/ATTY. FOR MV.

**No Ruling**

16. [18-22453](#)-A-7     **IN RE: ECS REFINING, INC.**  
[DMC-23](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT  
AGREEMENT WITH GUARDIAN DATA DESTRUCTION, INC.  
11-13-2020    [[1492](#)]

CHRISTOPHER BAYLEY/ATTY. FOR DBT.  
HOWARD NEVINS/ATTY. FOR MV.

**No Ruling**

17. [18-22453](#)-A-7     **IN RE: ECS REFINING, INC.**  
[DMC-24](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT  
AGREEMENT WITH THE HEDY COMPANY, INC.  
11-13-2020    [[1496](#)]

CHRISTOPHER BAYLEY/ATTY. FOR DBT.  
HOWARD NEVINS/ATTY. FOR MV.

**No Ruling**

18. [18-22453](#)-A-7     **IN RE: ECS REFINING, INC.**  
[DMC-25](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT  
AGREEMENT WITH PALMER KAZANJIAN WOHL HODSON  
11-13-2020    [[1500](#)]

CHRISTOPHER BAYLEY/ATTY. FOR DBT.  
HOWARD NEVINS/ATTY. FOR MV.

**No Ruling**

19. [18-22453](#)-A-7     **IN RE: ECS REFINING, INC.**  
[DMC-26](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT  
AGREEMENT WITH GOODWILL INDUSTRIES OF SAN JOAQUIN VALLEY,  
INC.  
11-13-2020    [[1504](#)]

CHRISTOPHER BAYLEY/ATTY. FOR DBT.  
HOWARD NEVINS/ATTY. FOR MV.

**No Ruling**

20. [18-22453](#)-A-7     **IN RE: ECS REFINING, INC.**  
[DMC-27](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT  
AGREEMENT WITH WAL-MART STORES EAST, L.P.  
11-13-2020    [[1508](#)]

CHRISTOPHER BAYLEY/ATTY. FOR DBT.  
HOWARD NEVINS/ATTY. FOR MV.

**No Ruling**

21. [20-24253](#)-A-7     **IN RE: JESSE/DENISE RUIZ**  
[JHW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
10-27-2020    [\[18\]](#)

GEORGE BURKE/ATTY. FOR DBT.  
JENNIFER WANG/ATTY. FOR MV.  
CREDIT ACCEPTANCE CORPORATION VS.

## **Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 2017 Hyundai Accent

**Value of Collateral:** \$10,725.00

**Aggregate of Liens:** \$18,000.07

These minutes constitute the court's findings of fact and conclusions of law required by Fed. R. Civ. P. 52(a), *incorporated* by Fed. R. Bankr. P. 7052, 9014(c). The findings of fact are as set forth above; the conclusions of law are as set forth below.

## **DEFAULT OF RESPONDENT**

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).

## **STAY RELIEF**

"[A]fter notice and a hearing," the court may terminate, annul, modify or condition the stay: (1) "for cause, including the lack of adequate protection"; or (2) "with respect to a stay of an act against property [of the estate]" if the debtor lacks "equity" in that property and if that "property is not necessary for an effective reorganization." 11 U.S.C. § 362(d); *see also* Fed. R. Bankr. P. 4001(a)(1). The party seeking stay relief bears the burden of proof as to "the debtor's equity in the property" and on the validity and perfection of its security interest, as well as the amount of its debt. 11 U.S.C. § 362(g)(1); *In re Dahlquist*, 34 B.R. 476, 481 (Bankr. S.D. 1983). The party opposing stay relief, e.g., the debtor or Chapter 7 trustee, bears the burden of proof on all other issues. 11 U.S.C. § 362(g)(2).

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism

for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. 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.

Credit Acceptance Corporation'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 automatic stay is vacated with respect to the property described in the motion, commonly known as 2017 Hyundai Accent, 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 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.

22. [19-23860](#)-A-7     **IN RE: SAMUEL/ERICA MOORE**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
11-19-2020    [[68](#)]

RICHARD HALL/ATTY. FOR DBT.  
DEBTORS DISCHARGED: 09/30/2019;

**No Ruling**

23. [12-39071](#)-A-7     **IN RE: TODD/CATRINA RAY**  
[GJS-2](#)

MOTION TO AVOID LIEN OF TARGET NATIONAL BANK  
11-19-2020    [\[20\]](#)

GREGORY SMITH/ATTY. FOR DBT.  
DEBTORS DISCHARGED: 02/11/2013;

### **Tentative Ruling**

**Motion:** Avoid Lien that Impairs Exemption

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

**Disposition:** Granted as to \$7,154.29, denied as to the remainder

**Order:** Prepared by the moving party

**Subject Property:** 1125 Theo Way, Sacramento, CA 95822

**Judgment lien:** \$8,246.29

**Consensual lien:** \$341,000.00 (Schedule D)

**Exemption Available:** Homestead \$22,075, Cal. Code of Civ. P.  
703.140(b)(1) and wildcard \$1,175.00, Cal. Code of Civ. P.  
703.140(b)(5)

**Value:** \$344,567.00 (Schedule A)

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).

### **LAW**

#### 11 U.S.C. 522(f)

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).

### Exemptions-Operative Dates

The debtor's right to claim exemptions is determined on the petition date.

[21:1470] Operative dates: The debtor's right to avoid a judicial lien is determined as of the date the bankruptcy petition is filed. [*In re Chiu* (9th Cir. BAP 2001) 266 BR 743, 751, aff'd (9th Cir. 2002) 304 F3d 905; *In re Salanoa* (BC SD CA 2001) 263 BR 120, 123—petition date is “operative date to make all § 522(f) determinations”].

[21:1471] Debtor's right to exemption: For lien avoidance purposes, the debtor's exemption rights are determined as of the date the petition is filed, *not when the lien is fixed*. [*Owen v. Owen* (1991) 500 US 305, 314, 111 S.Ct. 1833, 1838, fn. 6; *In re Reaves* (9th Cir. 2002) 285 F3d 1152, 1156; *In re Chiu*, supra, 266 BR at 751].

March, Ahart & Shapiro, *California Practice Guide: Bankruptcy* § 21:1470 et seq. (Rutter Group 2020).

### **DISCUSSION**

The debtors filed their chapter 7 petition on October 29, 2012, and their entitlement to claim exemption is determined on that date.

As of October 29, 2012, debtors were entitled to claim a homestead exemption in the amount of \$22,075.00 and a wildcard exemption of \$1,175.00 plus any amount of the homestead exemption that was not used. At that time the debtors did not claim any exemption under C.C.P. § 703.140(b)(1). The debtors claimed wildcard exemptions aggregating \$20,775. Schedule C, October 29, 2012, ECF No. 1. Based on these representations, the trustee closed their case as a no-asset case.

More than 7 years later, the debtors reopened their case to avoid the judicial lien that underlies this motion. The debtors substantially re-ordered their claims of exemption. To the extent that the debtor's Amended Schedule C reduces its claim of wildcard exemption on a particular asset, the court finds that the debtors are judicially estopped from doing so. *Allen v. C & H Distributors, LLC*, 813 F.3d 566, 572 (5th Cir. 2015). That is true because the chapter 7 trustee detrimentally relied on the debtors' claimed exemption and determined this to be a no-asset case.

But to the extent that the debtor retained unused applicable exemption under the then-applicable exemption scheme they may do so. At the time of their original filing the debtors used their wildcard \$1,175 under the amount specified, Cal. Code of Civ. P. § 703.140(b)(5), and \$19,600 of the homestead (\$20,775 - \$1,175), *Id.* at § 703.140(b)(1). That left them \$2,475 of unused homestead exemption available for this motion. Section 522(f)(2) is a formula to avoid liens. Applied here it works as follows: \$8,246.29 (judicial lien) + \$341,000 (consensual lien) + \$2,475 (remaining homestead lien) = \$351,721.29 - \$344,567 = 7,154.29. That amount

may be avoided. Since the judicial lien is \$8,246.29 and since the avoided amount is less, only part of the lien may be avoided.

The debtors have not addressed post-judgment interest. California law allows 10% interest on the unpaid portions of judgment liens.

Interest: The judgment creditor is entitled to recover interest on the principal amount of the judgment that remains unsatisfied, C.C.P. § 685.010(a).

[6:15] Rate: The rate of interest on a money judgment is 10% per annum. [C.C.P. § 685.010(a); *Hyundai Securities Co. Ltd. v. Lee*, 232 C.A. 4th 1379, 1390 (2015); *Lucky United Properties Investment, Inc. v. Lee*, *supra*, 213 C.A. 4th at 642 (The 10% limit applies to stipulated judgments as well as to judgments rendered by a court; see *John Siebel Assocs. v. Keele* 188 C.A. 3d. 560, 565 (1986))."]

Ahart, *California Practice Guide: Enforcing Judgments and Debts* § 6:15 et seq. (Rutter Group 2020).

Here, the abstract of judgment is not attached as an exhibit to the motion. But it should have been attached. The supporting declaration states only, "On July 26, 2012, Target National Bank recorded an abstract of Judgment Lien in the Sacramento County Recorder's Office in the amount \$8,246.29." Ray decl. ¶ 6, November 19, 2020, ECF No. 22. It does not indicate whether payments were made against the judgment, the date of those payments, the amounts of those payments or a calculation of post-judgment interest. Had the court been presented with such evidence, the entire lien may have been avoided.

For each of these reasons the motion will be granted in part and denied in part.

24. [20-24297](#)-A-7      **IN RE: DENNIS FISK**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
11-12-2020    [\[23\]](#)

11/16/20 FILING FEE PAID \$31

### **Final Ruling**

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