

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable Jennifer E. Niemann  
Hearing Date: Wednesday, December 15, 2021  
Place: Department A – Courtroom #11  
Fresno, California

*Beginning the week of June 28, 2021, and in accordance with District Court General Order No. 631, the court resumed in-person courtroom proceedings in Fresno. Parties to a case may still appear by telephone, provided they comply with the court's telephonic appearance procedures, which can be found on the court's website.*

**INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS**

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

**No Ruling:** All parties will need to appear at the hearing unless otherwise ordered.

**Tentative Ruling:** If a matter has been designated as a tentative ruling it will be called, and all parties will need to appear at the hearing unless otherwise ordered. The court may continue the hearing on the matter, set a briefing schedule or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

**Final Ruling:** Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

**Orders:** Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within 14 days of the final hearing on the matter.

**THE COURT ENDEAVORS TO PUBLISH ITS RULINGS AS SOON AS POSSIBLE. HOWEVER, CALENDAR PREPARATION IS ONGOING AND THESE RULINGS MAY BE REVISED OR UPDATED AT ANY TIME PRIOR TO 4:00 P.M. THE DAY BEFORE THE SCHEDULED HEARINGS. PLEASE CHECK AT THAT TIME FOR POSSIBLE UPDATES.**

1. [20-10010](#)-A-11      **IN RE: EDUARDO/AMALIA GARCIA**

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION  
1-2-2020    [[1](#)]

LEONARD WELSH/ATTY. FOR DBT.

NO RULING.

2. [20-10010](#)-A-11      **IN RE: EDUARDO/AMALIA GARCIA**  
[LKW-21](#)

CONTINUED AMENDED/MODIFIED PLAN  
2-18-2021    [[520](#)]

LEONARD WELSH/ATTY. FOR DBT.  
RESPONSIVE PLEADING

TENTATIVE RULING:      This matter will proceed as scheduled.

DISPOSITION:            Denied.

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

Eduardo and Amalia Garcia (collectively, "Debtors"), the chapter 11 debtors and debtors-in-possession in this case, move the court for confirmation of their Second Amended Plan of Reorganization dated February 18, 2021, as modified by the first and second modifications to their plan before confirmation, amendment to the second modification and correction thereto (collectively, the "Plan"). Doc. ##520-525, 540, 542-543, 561-573, 583-587, 742-743, 748-749. The original hearing to confirm the Plan was set by order of the court filed on March 11, 2021 ("Order"). Doc. #540. In the Order, the court ordered transmission of the Plan, accompanying disclosure statement, ballots, and notice of the confirmation hearing by March 17, 2021; acceptances or rejections of the Plan, and objections to confirmation by April 14, 2021; and responses to objections, tabulation of ballots, and brief by April 21, 2021. The court finds notice and service of the Plan and related documents were proper. Doc. #543.

Debtors are married individuals who own several parcels of real property and operate a cattle business in California. Debtors own significant amounts of farmland and are shareholders in 4G Farming, Inc. Debtors filed this chapter 11 case on January 2, 2020, to prevent foreclosure sales on two of Debtors' properties as well as stop collection actions initiated against them by other creditors.

The Plan designates creditors into eighteen classes of claims. Class 1 consists of priority unsecured claims. Debtors do not believe there are any Class 1 claimants. Class 2 through Class 14 consist of various secured claims. Class 15 and Class 16 consist of general unsecured creditors. Class 17 consists of Debtors' executory contracts and unexpired leases. Class 18 consists of Debtors' interests. The Plan provides that secured creditors in Classes 5, 6,

7, 8, 11 and 12 and unsecured creditors in Class 15 will be paid in full, with interest, on or before December 31, 2021 from the sale of real property identified as: (i) Hacienda 1 and Hacienda West Ranch (478.18 acres); (ii) Hacienda 2 and Buena Vista Ranch (345.29 acres); (iii) Pole Barn Ranch and Grazing Land (474.62 acres); (iv) Portillo Ranch (77.04 acres); and (v) Hacienda Feed lot (50 acres). Doc. #523.

Timely objections to confirmation of the Plan were filed by: (1) Keevmo, LLC ("Keevmo") (Doc. ## 546-549); (2) Stephanie Hudson ("Hudson") (Doc. ## 550-553); (3) Meggan Phillips ("Phillips") (Doc. ## 544-558, 588-589); and (4) NewRez LLC d/b/a Shellpoint Mortgage Servicing ("NewRez") (Doc. ##559-560). The objection to confirmation of NewRez has been resolved through modifications to the Plan. Doc. #571.

Classes 2 through 4, 13 and 17 are unimpaired and deemed to have accepted the Plan. Classes 5, 6, 8, 10, 12, 15 and 18 are impaired and voted to accept the Plan. There are no members of Class 1, and it did not vote on the Plan. Classes 14 and 16 are impaired and are comprised of disputed claims that were not temporarily allowed and were not entitled to vote on the Plan. Classes 7 (Keevmo), 9 (Phillips) and 11 (Hudson) are impaired and voted to reject the Plan. Based on resolutions of objections to the Plan, Hudson now accepts the Plan. On October 27, 2021, Phillips withdrew her objection to the Plan because her claim has been satisfied in full through the sale of real property owned by Debtors. Doc. #776.

It is unclear to the court whether Keevmo still objects to confirmation of the Plan. In any event, the court has an independent duty to ensure that chapter 11 plans comply with the requirements of § 1129. In re Las Vegas Monorail Co., 462 B.R. 795, 798 (Bankr. D. Nev. 2011) (quoting 7 COLLIER ON BANKRUPTCY ¶1129.05[1][e] (Allan N. Resnick & Henry J. Sommer eds., 16th ed.) ("The court has a mandatory, independent duty to review plans and ensure they comply with the requirements of section 1129.")). Based on the proceedings before this court, the court finds that confirmation of the Plan should be denied because the Plan does not meet the requirements of 11 U.S.C. § 1129(a)(11).

Section 1129(a)(11) requires the court to find that the plan is feasible and confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization of Debtors or any successor to Debtors under the Plan. "Feasibility has been defined as whether the things which are to be done after confirmation can be done as a practical matter under the facts." Jorgensen v. Fed. Land Bank of Spokane (In re Jorgensen), 66 B.R. 104, 108 (B.A.P. 9th Cir. 1986) (citation omitted).

Based on evidence and proceedings currently before the court, the court finds that Debtors have not met their burden of proof as to feasibility by a preponderance of the evidence. Acequia, Inc. v. Clinton (In re Acequia, Inc.), 787 F.2d 1352, 1358 (9th Cir. 1986) (proponent has burden of demonstrating that the plan complies with the Bankruptcy Code). Specifically, the court finds that Debtors have not shown that sufficient real property will be sold or that Debtors will be able to obtain "take-out" financing such that Debtors will be able to pay secured creditors in Classes 5, 6, 7, 8, 11 and 12 and unsecured creditors in Class 15 in full, with interest, on or before December 31, 2021, as required by the terms of the Plan. As acknowledged by Debtors, only two pieces of property have been sold as required under the Plan, and Debtors will not be able to pay secured creditors in Classes 5, 6, 7, 8, 11 and 12 and unsecured creditors in Class 15 in full, with interest, on or before December 31, 2021, as required by the terms of the Plan. Doc. #848.

Accordingly, Debtors have not shown that the Plan is feasible as required by 11 U.S.C. § 1129(a)(11), and confirmation of the Plan is denied. This ruling is without prejudice to Debtors proposing a new plan and disclosure statement for solicitation and confirmation.

3. [21-11814](#)-A-11     **IN RE: MARK FORREST**

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 SUBCHAPTER V  
VOLUNTARY PETITION  
7-22-2021    [\[1\]](#)

LEONARD WELSH/ATTY. FOR DBT.

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

DISPOSITION:     Continued to January 26, 2022 at 9:30 a.m.

ORDER:             The court will issue an order.

The status conference will be continued to January 26, 2022 at 9:30 a.m. to be heard in conjunction with the motion to confirm the plan.

4. [21-11814](#)-A-11     **IN RE: MARK FORREST**  
[LKW-6](#)

CONTINUED MOTION TO CONFIRM CHAPTER 11 PLAN  
10-19-2021    [\[66\]](#)

MARK FORREST/MV  
LEONARD WELSH/ATTY. FOR DBT.  
CONT'D TO 1/26/22 PER ORDER DOC. #102

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

DISPOSITION:     Continued to January 26, 2022 at 9:30 a.m.

NO ORDER REQUIRED.

On November 29, 2021, the court issued an order continuing the motion to confirm the chapter 11 plan to January 26, 2022 at 9:30 a.m. Doc. #102.

1. [21-12178](#)-A-7      **IN RE: GURPREET JOHAL**

REAFFIRMATION AGREEMENT WITH CAPITAL ONE AUTO FINANCE  
11-15-2021    [[14](#)]

TIMOTHY SPRINGER/ATTY. FOR DBT.

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

DISPOSITION:      Denied.

ORDER:              The court will issue an order.

The debtor's counsel will inform the debtor that no appearance is necessary.

The debtor was represented by counsel when he entered into the reaffirmation agreement. Pursuant to 11 U.S.C. § 524(c)(3), "'if the debtor is represented by counsel, the agreement *must* be accompanied by an affidavit of the debtor's attorney' attesting to the referenced items before the agreement will have legal effect." In re Minardi, 399 B.R. 841, 846 (Bankr. N.D. Okla. 2009) (emphasis in original). In this case, the debtor's attorney affirmatively represented that he could not recommend the reaffirmation agreement. Therefore, the agreement does not meet the requirements of 11 U.S.C. § 524(c) and is not enforceable.

1. [19-11430](#)-A-7     **IN RE: VINCENT/CAROL HERNANDEZ**  
[JES-2](#)

MOTION FOR COMPENSATION FOR JAMES E. SALVEN, ACCOUNTANT(S)  
11-10-2021    [\[37\]](#)

JAMES SALVEN/MV  
GABRIEL WADDELL/ATTY. FOR DBT.

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

DISPOSITION:     Granted.

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

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

James E. Salven ("Movant"), accountant for chapter 7 trustee James E. Salven ("Trustee"), requests allowance of final compensation and reimbursement for expenses for services rendered from October 15, 2021 through November 8, 2021. Doc. #37. Movant provided accounting services valued at \$1,708.00, and requests compensation for that amount. Doc. #37. Movant requests reimbursement for expenses in the amount of \$515.10. Doc. #37. This is Movant's first and final fee application. Trustee has no objection. Doc. #41.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a "professional person." 11 U.S.C. § 330(a)(1). In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Movant's services included, without limitation: (1) analyzing and processing tax information; (2) processing tax returns for the debtors; (3) obtaining tax clearance letters for the debtors; and (4) preparing and filing the employment and fee application. Decl. of James E. Salven CPA, Doc. #39; Ex. A, Doc. #40. The court finds the compensation and reimbursement sought are reasonable, actual, and necessary.

This motion is GRANTED on a final basis. The court allows final compensation in the amount of \$1,708.00 and reimbursement for expenses in the amount of

\$515.10. Trustee is authorized to make a combined payment of \$2,223.10, representing compensation and reimbursement, to Movant. Trustee is authorized to pay the amount allowed by this order from available funds only if the estate is administratively solvent and such payment is consistent with the priorities of the Bankruptcy Code.

2. [21-11034](#)-A-7     **IN RE: ESPERANZA GONZALEZ**  
[DMG-2](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT AGREEMENT WITH  
ESPERANZA HANSEN GONZALEZ  
11-10-2021    [\[73\]](#)

JAMES SALVEN/MV  
JUSTIN HARRIS/ATTY. FOR DBT.  
D. GARDNER/ATTY. FOR MV.

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

DISPOSITION:     Granted.

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

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

James E. Salven ("Trustee"), the chapter 7 trustee of the bankruptcy estate of Esperanza Hansen Gonzalez ("Debtor"), moves the court for an order pursuant to Federal Rule of Bankruptcy Procedure 9019, approving the compromise of all claims and disputes between Debtor and Trustee relating to Trustee's avoidance power and the potential sale of Debtor's real property located at 15046 Avenue 224, Tulare, CA (the "Property"). Doc. #73.

Among the assets of the estate is Debtor's interest in the Property. Debtor and Trustee agree that the value of the Property at the time of filing the bankruptcy petition was \$590,000. Decl. of Trustee, Doc. #75. The Property is encumbered by a first deed of trust in the amount of \$317,277 and a tax lien in the amount of \$20,430 in favor of the Internal Revenue Service. Id. Trustee believes that the Bankruptcy Code will enable Trustee to avoid in excess of \$16,000 of tax claims, step into the shoes of the lien creditor, and thereby give the estate a favored position for sale of the Property after paying off priority liens and encumbrances. Id. Rather than pursue this action, Debtor has offered, and Trustee has accepted, the sum of \$20,000 to compromise the claims of the estate in the Property. Id. Debtor has tendered a \$5,000 deposit and the

balance will be paid at or before the date of hearing, pending court approval. Id.

On a motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Fed. R. Bankr. P. 9019. Approval of a compromise must be based upon considerations of fairness and equity. Martin v. Kane (In re A & C Props.), 784 F.2d 1377, 1381 (9th Cir. 1986). The court must consider and balance four factors: (1) the probability of success in the litigation; (2) the difficulties, if any, to be encountered in the matter of collection; (3) the complexity of the litigation involved, and the expense, inconvenience, and delay necessarily attending it; and (4) the paramount interest of the creditors with a proper deference to their reasonable views. Woodson v. Fireman's Fund Ins. Co. (In re Woodson), 839 F.2d 610, 620 (9th Cir. 1988).

It appears from the moving papers that Trustee has considered the standards of A & C Properties and Woodson. Doc. #73. Based on Trustee's experience litigating similar disputes, Trustee believes the probability of success is uncertain. Doc. #75. If Trustee were to prevail in litigation, the Property would need to be listed and sold on the real estate market which would have an unknown impact on the ultimate recovery. Id. Trustee would bear the burden of proof in litigation, and Trustee believes litigation costs to the estate would exceed the amount of the proposed settlement. Id. Based on Trustee's experience with similar disputes, Trustee believes that the settlement is fair, reasonable, and obtains an economically advantageous result for the estate. Doc. #75. The court concludes that the Woodson factors balance in favor of approving the compromise, and the compromise is in the best interests of the creditors and the estate.

Accordingly, it appears that the compromise pursuant to Federal Rule of Bankruptcy Procedure 9019 is a reasonable exercise of Trustee's business judgment. The court may give weight to the opinions of the trustee, the parties, and their attorneys. In re Blair, 538 F.2d 849, 851 (9th Cir. 1976). No opposition has been filed. Furthermore, the law favors compromise and not litigation for its own sake. Id.

Accordingly, the motion is GRANTED, and the settlement between Trustee and Debtor is approved.

This ruling is not authorizing the payment of any fees or costs associated with the litigation.



MOTION FOR COMPENSATION BY THE LAW OFFICE OF COLEMAN & HOROWITT, LLP  
FOR RUSSELL W. RENOLDS, TRUSTEES ATTORNEY(S)  
11-9-2021    [\[95\]](#)

PETER BUNTING/ATTY. FOR DBT.  
RUSSELL REYNOLDS/ATTY. FOR MV.

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

DISPOSITION:     Granted.

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

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Russell W. Reynolds ("Movant"), general counsel for chapter 7 trustee James E. Salven ("Trustee"), requests allowance of final compensation and reimbursement for expenses for services rendered from March 23, 2020 through December 15, 2021. Doc. #95. Movant provided legal services valued at \$9,730, and requests compensation for that amount. Doc. #95. Movant requests reimbursement for expenses in the amount of \$497.18. Doc. #95. This is Movant's first and final fee application. Trustee has no objection. Doc. #97.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a "professional person." 11 U.S.C. § 330(a)(1). In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Movant's services included, without limitation: (1) analyzing property of the estate and recovering estate property; (2) preparing and prosecuting employment of real estate broker and sale of real property; (3) consulting with Trustee; and (4) preparing and filing employment and fee applications. Decl. of Russell W. Reynolds, Doc. #98; Exs. A & B, Doc. #99. The court finds the compensation and reimbursement sought are reasonable, actual, and necessary.

This motion is GRANTED on a final basis. The court allows final compensation in the amount of \$9,730 and reimbursement for expenses in the amount of \$497.18. Trustee is authorized to make a combined payment of \$10,227.18, representing compensation and reimbursement, to Movant. Trustee is authorized to pay the

amount allowed by this order from available funds only if the estate is administratively solvent and such payment is consistent with the priorities of the Bankruptcy Code.

4. [21-11937](#)-A-7      **IN RE: CHARLES TEMPLE**  
[MB-1](#)

MOTION TO AVOID LIEN OF COLLINS JUDGMENT RECOVERY SERVICES  
11-15-2021    [\[22\]](#)

CHARLES TEMPLE/MV  
HAGOP BEDOYAN/ATTY. FOR DBT.

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

DISPOSITION:      Granted.

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

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Charles E. Temple III ("Debtor"), the debtor in this chapter 7 case, moves pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014 to avoid the judicial lien of Collins Judgment Recovery Services ("Creditor") on his residential real property commonly referred to as 1066 E. Manhattan Avenue, Fresno, CA 93720 (the "Property"). Doc. #22; Am. Schedule C, Doc. #16.

In order to avoid a lien under 11 U.S.C. § 522(f)(1), the movant must establish four elements: (1) there must be an exemption to which the debtor would be entitled under § 522(b); (2) the property must be listed on the debtors' schedules as exempt; (3) the lien must impair the exemption; and (4) the lien must be either a judicial lien or a non-possessory, non-purchase money security interest in personal property listed in § 522(f)(1)(B). 11 U.S.C. § 522(f)(1); Goswami v. MTC Distrib. (In re Goswami), 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003) (quoting In re Mohring, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992)).

Debtor filed the bankruptcy petition on August 4, 2021. A judgment was entered against Charles E. Temple III in the amount of \$99,055.11 in favor of Jeff Ringleman and Lisa Ringleman on June 8, 2003. Decl. of Debtor, Doc. #24. The judgment was assigned to Creditor on June 16, 2021. Id.; Ex. E, Doc. #25. On June 21, 2021, Creditor recorded an abstract of judgment in Fresno County. Ex. F, Doc. #25. The lien attached to Debtor's interest in the Property located

in Fresno County. Doc. #24. As of the petition date, the amount owed to Creditor on the judgment was \$358,175.42. Doc. #24; Schedule D, Doc. #1. The Property also is encumbered by a lien in favor of United Wholesale Mortgage in the amount \$299,670.20. Schedule D, Doc. #1. Debtor claimed an exemption of \$300,000.00 in the Property under California Code of Civil Procedure § 704.730. Am. Schedule C, Doc. #16. Debtor asserts a market value for the Property as of the petition date at \$366,000.00. Am. Schedule A/B, Doc. #16.

Applying the statutory formula:

Amount of Creditor's judicial lien		\$358,175.42
Total amount of all other liens on the Property (excluding junior judicial liens)	+	229,670.20
Amount of Debtor's claim of exemption in the Property	+	300,000.00
		\$887,845.62
Value of Debtor's interest in the Property absent liens	-	366,000.00
Amount Creditor's lien impairs Debtor's exemption		\$521,845.62

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

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

5. [21-10848](#)-A-7 **IN RE: DONALD RUSSELL JES-2**

MOTION FOR COMPENSATION FOR JAMES E. SALVEN, ACCOUNTANT(S)  
11-10-2021 [\[56\]](#)

JAMES SALVEN/MV  
DAVID JENKINS/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

James E. Salven ("Movant"), accountant for chapter 7 trustee James E. Salven ("Trustee"), requests allowance of final compensation and reimbursement for expenses for services from rendered September 12, 2021 through November 8, 2021. Doc. #56. Movant provided accounting services valued at \$775, and requests compensation for that amount. Doc. #56. Movant requests reimbursement for expenses in the amount of \$254. Doc. #56. This is Movant's first and final fee application. Trustee has no objection. Doc. #60.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a "professional person." 11 U.S.C. § 330(a)(1). In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Movant's services included, without limitation: (1) analyzing and processing tax information; (2) processing tax returns for the debtor; (3) obtaining tax clearance letters for the debtor; and (4) preparing and filing the fee application. Decl. of James E. Salven CPA, Doc. #58; Ex. A, Doc. #59. The court finds the compensation and reimbursement sought are reasonable, actual, and necessary.

This motion is GRANTED on a final basis. The court allows final compensation in the amount of \$775 and reimbursement for expenses in the amount of \$254. Trustee is authorized to make a combined payment of \$1,029, representing compensation and reimbursement, to Movant. Trustee is authorized to pay the amount allowed by this order from available funds only if the estate is administratively solvent and such payment is consistent with the priorities of the Bankruptcy Code.

6. [20-13750-A-7](#) **IN RE: JAN NGO**  
[SL-3](#)

MOTION TO AVOID LIEN OF PORTFOLIO RECOVERY ASSOCIATES, LLC  
10-22-2021 [[43](#)]

JAN NGO/MV  
SCOTT LYONS/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion will be deemed to have been filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2). Although the motion and notice of hearing were filed and served in October 2021, the Notice of Hearing cites to both LBR 9014-1(f)(1) and (f)(2) and includes contradictory statements that opposition must be in writing and that no written opposition must be filed. To ensure fair notice and opportunity to all parties in interest, this matter will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether

further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Jan Ngo ("Debtor"), the debtor in this chapter 7 case, moves pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014 to avoid the judicial lien of Portfolio Recovery Associates LLC ("Creditor") on her residential real property commonly referred to as 3608 E. Center Court, Visalia, CA 93292 (the "Property"). Doc. #43; Schedule C, Doc. #1.

In order to avoid a lien under 11 U.S.C. § 522(f)(1), the movant must establish four elements: (1) there must be an exemption to which the debtor would be entitled under § 522(b); (2) the property must be listed on the debtors' schedules as exempt; (3) the lien must impair the exemption; and (4) the lien must be either a judicial lien or a non-possessory, non-purchase money security interest in personal property listed in § 522(f)(1)(B). 11 U.S.C. § 522(f)(1); Goswami v. MTC Distrib. (In re Goswami), 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003) (quoting In re Mohring, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992)).

Debtor filed the bankruptcy petition on November 30, 2020. A judgment was entered against Jan Ngo in the amount of \$3,352.65 in favor of Creditor on March 16, 2018. Ex. D, Doc. #46. An abstract of judgment was recorded in Tulare County on April 17, 2018. Ex. D, Doc. #46. The lien attached to Debtor's interest in the Property located in Tulare County. Doc. #45. The Property also is encumbered by a first deed of trust in favor of Chase Mortgage in the amount \$115,231 and a second deed of trust in favor of Union Bank in the amount of \$58,371. Am. Schedule D, Doc. #48. Debtor claimed an exemption of \$75,000.00 in the Property under California Code of Civil Procedure § 704.730. Schedule C, Doc. #1. Debtor asserts a market value for the Property as of the petition date at \$210,705.00. Am. Schedule A/B, Doc. #48.

Applying the statutory formula:

Amount of Creditor's judicial lien		\$3,352.65
Total amount of all other liens on the Property (excluding junior judicial liens)	+	173,602.00
Amount of Debtor's claim of exemption in the Property	+	75,000.00
		\$251,954.65
Value of Debtor's interest in the Property absent liens	-	210,705.00
Amount Creditor's lien impairs Debtor's exemption		\$41,249.65

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

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

7. [21-12154](#)-A-7      **IN RE: MARIA CASTILLO-GONZALES**  
[PFT-1](#)

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO  
APPEAR AT SEC. 341(A) MEETING OF CREDITORS  
11-8-2021    [\[17\]](#)

ELENA STEERS/ATTY. FOR DBT.

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

DISPOSITION:      Conditionally denied.

ORDER:              The court will issue the order.

The chapter 7 trustee's motion to dismiss is CONDITIONALLY DENIED.

The debtor shall attend the meeting of creditors rescheduled for December 20, 2021 at 3:00 p.m. If the debtor fails to do so, the chapter 7 trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

The time prescribed in Federal Rules of Bankruptcy Procedure 1017(e)(1) and 4004(a) for the chapter 7 trustee and the U.S. Trustee to object to the debtor's discharge or file motions for abuse, other than presumed abuse, under § 707, is extended to 60 days after the conclusion of the meeting of creditors.

8. [21-12568](#)-A-7      **IN RE: PHYLLIS BRADHURST**  
[SAH-1](#)

MOTION FOR EXEMPTION FROM FINANCIAL MANAGEMENT COURSE  
11-4-2021    [\[6\]](#)

PHYLLIS BRADHURST/MV  
SUSAN HEMB/ATTY. FOR DBT.

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

DISPOSITION:      Granted.

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

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987).

Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Donna Karle ("Movant"), power of attorney of chapter 7 debtor Phyllis Bradhurst ("Debtor"), requests the court waive the personal financial management course requirements under 11 U.S.C. § 727(a)(11). Doc. #6.

Upon the death or incompetency of a debtor in chapter 7, Federal Rule of Bankruptcy Procedure 1016 provides that the case shall proceed and be concluded in the same manner, so far as possible, as though the death or incompetency had not occurred. Debtor is a 70-year-old individual currently residing in a nursing facility following a prolonged hospitalization due to severe burns sustained in June 2021. Decl. of Movant, Doc. #8. Debtor's doctor determined that her pain level and medications make it difficult for Debtor to think clearly and stay attentive. *Id.* No objections have been filed in response to this motion. The court finds that Debtor is unable to complete the instructional requirements pursuant to 11 U.S.C. § 109(h)(1).

Accordingly, Movant's application is GRANTED. The personal financial management requirements of § 727(a)(11) are waived.

9. [21-12369](#)-A-7     **IN RE: JEANNETTE MAGDALENO**  
[PFT-1](#)

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO  
APPEAR AT SEC. 341(A) MEETING OF CREDITORS  
11-8-2021     [\[17\]](#)

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

DISPOSITION:     Conditionally denied.

ORDER:     The court will issue the order.

The chapter 7 trustee's motion to dismiss is CONDITIONALLY DENIED.

The debtor shall attend the meeting of creditors rescheduled for December 20, 2021 at 3:00 p.m. If the debtor fails to do so, the chapter 7 trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

The time prescribed in Federal Rules of Bankruptcy Procedure 1017(e)(1) and 4004(a) for the chapter 7 trustee and the U.S. Trustee to object to the debtor's discharge or file motions for abuse, other than presumed abuse, under § 707, is extended to 60 days after the conclusion of the meeting of creditors.



MOTION FOR COMPENSATION FOR RATZLAFF TAMBERI & WONG, ACCOUNTANT(S)  
11-15-2021    [\[67\]](#)

RATZLAFF TAMBERI & WONG/MV  
LE'ROY ROBERSON/ATTY. FOR DBT.

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

DISPOSITION:     Granted.

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

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Ratzlaff Tamberi & Wong, an Accountancy Corporation ("Movant"), accountant for chapter 7 trustee James E. Salven ("Trustee"), requests allowance of final compensation and reimbursement for expenses for services from rendered May 22, 2021 through October 27, 2021. Doc. #67. Movant provided accounting services valued at \$1,282.50, and requests compensation for that amount. Doc. #67. Movant requests reimbursement for expenses in the amount of \$14.31. Doc. #67. This is Movant's first and final fee application. Trustee has no objection. Doc. #70.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a "professional person." 11 U.S.C. § 330(a)(1). In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Movant's services included, without limitation: (1) reviewing and analyzing information relating to tax matters of the estate; (2) reviewing information related to sale of estate property and Trustee's final accounting; (3) preparing federal and state fiduciary income tax returns and underlying workpapers; and (4) preparing the fee application. Decl. of Christopher A. Ratzlaff, Doc. #69; Ex. A, Doc. #71. The court finds the compensation and reimbursement sought are reasonable, actual, and necessary.

This motion is GRANTED on a final basis. The court allows final compensation in the amount of \$1,282.50 and reimbursement for expenses in the amount of \$14.31. Trustee is authorized to make a combined payment of \$1,296.81, representing



compensation and reimbursement, to Movant. Trustee is authorized to pay the amount allowed by this order from available funds only if the estate is administratively solvent and such payment is consistent with the priorities of the Bankruptcy Code.