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<u>NOT FOR PUBLICATION</u> UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA – LOS ANGELES DIVISION	
In re: Maria Laura Guerra Debtor(s).	CASE NO.: 2:13-bk-38545-RK CHAPTER: 7 ORDER ☐ GRANTING ☒ DENYING MOTION TO AVOID LIEN UNDER 11 U.S.C. § 522(f) (REAL PROPERTY) ☒ No hearing held ☐ Hearing held Date: Time: Courtroom: Place:
Creditor Holding Lien to be Avoided (name): HSBC Bank Nevada, N.A.	

The Motion was: ☐ Opposed ☒ Unopposed ☐ Settled by stipulation

Pursuant to 11 U.S.C. § 522(f), Debtor moved to avoid a judicial lien on real property claimed to be exempt. The court finds and orders as follows:

1. ☐ Notice of this Motion complied with LBR 9013-1(d).
2. ☒ Notice of this Motion complied with LBR 9013-1(o).
 - a. ☒ There was no opposition and request for hearing.
 - b. ☐ Hearing requested and held as indicated in the caption.

3. The real property to which this order applies is as follows:

a. Street address (*specify*):

22363 Paraguay Dr. Santa Clarita (Saugus), CA 91350-2343

b. Legal description (*specify*):

☐ See attached page

LOT 41 OF TRACT NO. 27994, IN THE AREA OF SAUGUS, CITY OF SANTA CLARITA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 722, PAGE(S) 87 TO 90 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

4. Recording information regarding lien to be avoided:

a. Date of recordation of lien (*specify*): 09/06/2011.

b. Recorder's instrument number or map/book/page number (*specify*): 20111204501

5. ☐ Motion granted:

a. ☐ The judicial lien sought to be avoided impairs an exemption to which Debtor would otherwise be entitled under 11 U.S.C. § 522(d)

b. ☐ The judicial lien is void and unenforceable:

(1) ☐ In its entirety

(2) ☐ In the following amount *only*: \$ _____. The balance of \$ _____ remains a valid and enforceable lien against the property.

6. ☒ Motion denied on the following grounds: ☐ with prejudice ☒ without prejudice

a. ☐ Insufficient notice

b. ☐ Insufficient evidence of the exempt status of the property in question

c. ☐ Failure to comply with FRBP 7004(b)(3) or FRBP 7004(h).

d. ☐ Insufficient evidence of fair market value.

e. ☐ Motion is incomplete.

a. ☒ Other (*specify*): **Movant has failed to submit admissible evidence regarding the value of the unavowed first lien in favor of Wells Fargo Home Mortgage or World Savings Bank, FSB, as of the petition date on December 2, 2013. *In re Salanoa*, 263 B.R. 120, 122 (Bankr. S.D. Cal. 2001) (petition date is operative date for valuing liens for purposes of a debtor's motion to avoid judicial lien on debtor's residence under 11 U.S.C. § 522(f)). Movant submitted a mortgage account statement showing an account balance of July 10, 2016, which is too remote from the petition date almost three years earlier, and must submit competent evidence establishing the account balance remaining on the first lien in favor of Wells Fargo Home Mortgage or World Savings Bank, FSB as of the petition date.**

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7. ☒ The court further orders as follows (*specify*): **The court grants leave to Movant to file an amended motion which corrects the above-mentioned deficiency within 60 days of entry of this order.**
- ☐ See attached page

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Date: December 5, 2016



Robert Kwan
United States Bankruptcy Judge