

<p>Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address</p> <p>Amanda G. Billyard (256838) Financial Relief Law Center 1200 Main Street, Suite G Irvine, CA 92614 Phone: (714) 442-3349 Facsimile: (714) 361-5392 Email: abillyard@lawcenter.com</p> <p><input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> Attorney for:</p>	<p>FOR COURT USE ONLY</p> <div data-bbox="1047 262 1432 535"><p>FILED & ENTERED</p><p>SEP 27 2016</p><p>CLERK U.S. BANKRUPTCY COURT Central District of California BY bakchell DEPUTY CLERK</p></div> <p>CHANGES MADE BY COURT</p>
<p>UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION</p>	
<p>In re:</p> <p>David Chapman and Donna Kaye Chapman</p> <p>Debtor(s).</p>	<p>CASE NO.: 2:16-bk-20052-RK CHAPTER: 7</p> <p>ORDER <input type="checkbox"/> GRANTING <input checked="" type="checkbox"/> DENYING MOTION TO AVOID LIEN UNDER 11 U.S.C. § 522(f) (REAL PROPERTY)</p> <p><input checked="" type="checkbox"/> No hearing held <input type="checkbox"/> Hearing held Date: Time: Courtroom: Place:</p>
<p>Creditor Holding Lien to be Avoided (name): CACH, LLC</p>	

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).

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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*): 4023 N. Virginia Road, Long Beach, CA 90807

b. Legal description (*specify*):

☐ See attached page

THAT PORTION OF LOW 3, BLOCK 19 OF TRACT 1225, IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 20 PAGE(S) 174 AND 175 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERLY CORNER OF SAID LOT 3: THENCE, NORTH 21 DEGREES 07 MINUTES WEST ALONG THE EASTERLY LINE OF SAID LOT, 93 FEET: THENCE SOUTH 70 DEGREES 30 MINUTES 20 SECONDS WEST 48.61 FEET; THENCE SOUTH 82 DEGREES 32 MINUTES 33 SECONDS WEST 129.68 FEET, MORE OR LESS, TO A POINT IN THE WESTERLY LINE OF SAID LOT 3, DISTANT NORTHWESTERLY 60.11 FEET FROM THE SOUTHWESTERLY CORNER OF SAID LOT; THENCE SOUTHERLY AND EASTERLY ALONG THE WESTERLY AND SOUTHERLY LINE OF SAID LOT 3 TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM; ALL OIL, OIL RIGHTS, NATURAL GAS RIGHTS, MINERAL RIGHTS, ALL OTHER HYDROCARBON SUBSTANCES BY WHATSOEVER NAME KNOWN, AND ALL WATER, CLAIMS OR RIGHTS TO WATER, TOGETHER WITH APPURTENANT RIGHTS THERETO, WITHOUT HOWEVER, ANY RIGHT TO ENTER UPON THE SURFACE OF SAID LAND NOR ANY PORTION OF THE SUBSURFACE LYING ABOVE A DEPTH OF 100 FEET, AS EXCEPTED OR RESERVED BY DEED RECORDED AUGUST 18, 1958 IN BOOK D189 PAGE 37, OFFICIAL RECORDS.

A.P.N. 7139-017-007

4. Recording information regarding lien to be avoided:

a. Date of recordation of lien (*specify*) 5/20/2011

b. Recorder's instrument number or map/book/page number (*specify*): 20110714092

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 (**see Failure to comply with FRBP 7004(b)(3) and FRBP 7004(h) below**)

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). **Movants failed to properly serve the lienholder CACH, LLC, whose lien the Movants seeks to avoid through the motion, with the motion, notice and supporting documents as required by Local Bankruptcy Rule 9013-1(o) and 4003-2(c)(1), and Federal Rule of Bankruptcy Procedure 7004(b)(3). Movants only served the lienholder at the lienholder's address listed on the abstract of judgment, which was issued on March 22, 2011, and**

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does not match the address currently listed on the California Secretary of State Website, which lists the address for the entity and agent for service of process as 12127 Berg River Cir., Fountain Valley, CA 92708.

- d. ☒ Insufficient evidence of fair market value. **A Zillow.com opinion by unknown parties with unknown qualifications is neither admissible nor credible evidence of valuation of the subject property, and neither is the opinion of the lay owners unless there is a detailed explanation of how they arrived at the valuation based on scientifically accepted principles (i.e., sales comparable analysis). Fed. R. Evid. 701; *In re Meeks*, 349 B.R. 19, 22 (Bankr. E.D. Cal. 2006); 2 Russell, Bankruptcy Evidence Manual, Section 701.2 at 845 (2015-2016). This court generally requires an appraisal by a certified appraiser or a licensed real estate broker or agent in a declaration under penalty of perjury based on an appropriate sales comparable analysis to support a lien avoidance motion under 11 U.S.C. 522(f).**
- e. ☐ Motion is incomplete.
- f. ☒ Other (*specify*): **Movants failed to tab copies of their exhibits attached to the Judge's copy of the motion and declaration that no party requested a hearing on motion as required by Local Bankruptcy Rule 5005-2(d)(1).**
7. ☒ The court further orders as follows (*specify*): **The court grants leave to Debtors to file an amended motion which corrects these deficiencies within 60 days of entry of this order.**
- ☐ See attached page

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Date: September 27, 2016



Robert Kwan
United States Bankruptcy Judge