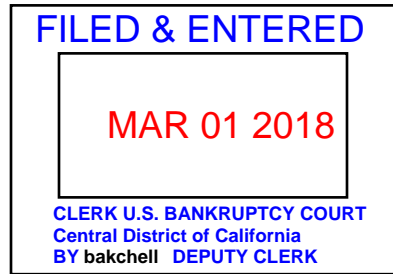


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8 Counsel for Debtor



9 **UNITED STATES BANKRUPTCY COURT** **CHANGES MADE BY COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
11 **LOS ANGELES DIVISION**

12 In re) Case No. 2:12-bk-10612-RK
13)
14 GEORGE KONTOGEORGIS) Chapter 7
15 SANDRA CAROLINA SANCHEZ,)
16)
17 Debtor(s))

18 GEORGE KONTOGEORGIS
19 SANDRA CAROLINA SANCHEZ,

20 Movant(s),

21 vs.

22 THRIFTY OIL CO.

23 Respondent(s).

24) **STATEMENT OF**
25) **UNCONTROVERTED FACTS AND**
26) **CONCLUSIONS OF LAW RE MOTION**
27) **OF DEBTORS FOR SUMMARY**
28) **JUDGMENT ON MOTION TO AVOID**
29) **LIEN OR, IN THE ALTERNATIVE,**
30) **FOR AN ORDER ADJUDICATING**
31) **FACTS EXISTING WITHOUT**
32) **SUBSTANTIAL CONTROVERSY**

33) Date: February 28, 2018
34) Time: 1:30 p.m.
35) Ctrm: 1675
36) 255 E. Temple St.
37) Los Angeles, CA 90012

38 Regarding the **MOTION OF DEBTORS DEBTORS GEORGE KONTOGEORGIS**
SANDRA CAROLINA SANCHEZ ("Movants"), FOR SUMMARY JUDGMENT ON

1 **MOTION TO AVOID LIEN OR, IN THE ALTERNATIVE, FOR AN ORDER**
2 **ADJUDICATING FACTS EXISTING WITHOUT SUBSTANTIAL CONTROVERSY,**

3 the court hereby issues the following statement of uncontroverted facts and conclusions of law:
4

5 **A. UNCONTROVERTED FACTS**

6 1. Debtors George Kontogeorgis, (hereinafter “Kontogeorgis” or “Debtors”) filed
7 Chapter 7 Bankruptcy on January 6, 2012.¹

8 2. The Debtors received their Chapter 7 Discharge in or about April 16, 2012².

9 3. The court closed this Chapter 7 case in or about April 25, 2012³.

10 4. The Debtors filed a motion to re-open their case at this time for the limited
11 purpose of filing a motion to remove a judicial lien from real property used as their residence⁴.

12 5. By order of the United States Bankruptcy Court entered on August 2, 2017, the
13 Chapter 7 Case was reopened⁵.

14 6. Debtor filed a Motion with this court to avoid this judicial lien, which Motion was
15 continued on 12/6/2017. The Court’s tentative ruling was that the motion would be treated as a
16 contested matter under FRBP 9014 and that the opposing papers filed by Thrifty Oil raised
17 material issues as to whether the Debtors were entitled to claim a \$175,000.00 and the valuation
18 of the subject Property. The Court noted that if either party believes there are no material issues
19 of fact and it is entitled to judgment as a matter of law that it may seek summary judgment upon
20 proper motion⁶.

21 7. The Debtors’ initial Chapter 7 petition claimed a homestead exemption in real
22 property commonly known as 705 E. Ivy, Glendora, California 91740, as a single family
23 residence (Property) with a value of the Residence at \$347,000.⁷
24

25 ¹ Evidence, Exhibit 4, page 2, docket entry # 1, Chapter 7 Case No. 2:12-bk-10612 RK

26 ² Evidence, Exhibit 4, page 3, docket entry #13, Chapter 7 Case No. 2:12-bk-10612 RK

27 ³ Evidence, Exhibit 4, page 3, docket entry # 15 Chapter 7 Case No. 2:12-bk-10612 RK

28 ⁴ Evidence, Exhibit 4, docket, page 3, docket entry # 16, Chapter 7 Case No. 2:12-bk-10612 RK

⁵ Evidence, Exhibit 4, docket, page 4, docket entry # 19, Chapter 7 Case No. 2:12-bk-10612 RK.

⁶ Evidence, Exhibit 4, page 8, docket entry dated 12/6/2017, Case no. 2:12-bk-10612 RK

⁷ Evidence, Exhibit 1, Notice of Motion and Motion to Avoid Lien of Thrifty Oil Co., page 78

1 8. Subsequently and by Interspousal Transfer Deed Recorded in the Los Angeles
2 County Recorder's Office as document number 89-47470, on January 10, 1989, Jeri L
3 Kontogeorgis transferred her interest in the Property to George Kontogeorgis⁸.

4 9. Subsequently, by grant deed dated May 9, 1995, and recorded with the Los
5 Angeles County Recorder's Office bearing case number 95-802822, the Debtor caused to be
6 recorded a grant deed showing title in the Debtor alone as an unmarried man⁹.

7 10. Also, in 1995, the Debtor executed an Open End Deed of Trust (Securing Future
8 Advances) to a maximum of \$226,000.00 with World Savings Bank, which Deed of Trust was
9 recorded with the Los Angeles County Recorder's Office on September 1, 2005 bearing
10 document number 05-2107177¹⁰.

11 11. In 1998 the Debtor refinanced the Property with World Savings & Loan, and
12 executed a Note and Deed of Trust dated February 9, 1998. The note was for the sum of
13 \$158,400.00 and was secured by a first deed of trust against the property. The maximum
14 aggregate principal balance secured by the deed of trust is \$198,000.00¹¹.

15 12. In connection with the bankruptcy filing, The Debtors claimed an exemption in
16 the Property pursuant to C.C.P. § 704.730, and were entitled to a \$175,000.00 exemption as they
17 resided (and currently reside) there¹².

18 13. As of the filing date of Debtor's petition, the fair market value of the property was
19 \$295,000.00 as set forth in the appraisal attached to the declaration of Lee Christopherson, a
20 California Licensed Residential Real Estate Appraiser¹³.

21 14. The following is a list of all encumbrances on the Residence on the date of the
22 filing:

23 ⁸ Evidence, Exhibit 1, Notice of Motion and Motion to Avoid Lien of Thrifty Oil Co., page 25

24 ⁹ Evidence, Exhibit 1, Notice of Motion and Motion to Avoid Lien of Thrifty Oil Co., page 31

25 ¹⁰ Evidence, Exhibit 1, Notice of Motion and Motion to Avoid Lien of Thrifty Oil Co., pages 34-
52

26 ¹¹ Evidence, Exhibit 1, Notice of Motion and Motion to Avoid Lien of Thrifty Oil Co., pages 54-
75.

27 ¹² Evidence, Exhibit 1, Notice of Motion and Motion to Avoid Lien of Thrifty Oil Co., page 78

28 ¹³ Evidence, Exhibit 2, Declaration of Lee Christophersen, page 2, ¶5 and appraisal attached
thereto

- 1 1. World Savings Wachovia deed of trust securing a loan with a principal
- 2 balance of \$94,744.50, as of 11/10/11, only one month before the
- 3 2. Wachovia Equity Line of Credit with a principal balance of \$82,063.95 as
- 4 of 11/5/11, only one month before the bankruptcy petition was filed);
- 5 3. Thrifty Oil Co, with a recorded abstract of judgment in the amount of
- 6 \$31,230.52, recorded on 4/14/11¹⁴.

7 15. The total of encumbrances on the Property as of the date of the Debtors' petition
8 totaled \$219,784.97¹⁵.

9 16. Thrifty Oil Co., recorded an abstract of judgment in the amount of \$31,230.52
10 recorded on 4/14/11 judgment from the Superior Court of California of Los Angeles in Case No.
11 KC059535, in Los Angeles County Recorder's Office on April 14, 2011, as document number
12 20110545617¹⁶.

13 17. Mr. Kontogeorgis was born on February 12, 1956 and was therefore 55 years or
14 older at the time of the filing his Chapter 7 case¹⁷.

15 18. The Debtors filed tax returns for the calendar year 2012, the calendar year in
16 which the petition was filed, and the Account Transcript obtained by the Debtor from the I.R.S.,
17 establish that the Debtors' gross income for the year 2012 was \$18, 280.00 with an adjusted
18 gross income of negative \$49,292.00¹⁸.

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23 ¹⁴ Evidence, Exhibit 8, Declaration of George Kontogeorgis, page 3, thereto, ¶15.

24 ¹⁵ Evidence, Exhibit 8, Declaration of George Kontogeorgis, page 4, thereto, lines 3-5.

25 ¹⁶ Evidence, Exhibit 8, Declaration of George Kontogeorgis, page 4, thereto, ¶16 Exhibit 1,
pages 84 -85

26 ¹⁷ Evidence, Exhibit 8, Declaration of George Kontogeorgis in Support of Motion for Summary
Judgment, page 5, ¶20, lines 7-10; Evidence, Exhibit 5 (California Drivers' License).

27 ¹⁸ Evidence, Exhibit 8, Declaration of George Kontogeorgis in Support of Motion for Summary
28 Judgment, page 4, ¶18, lines 24-28 and page 5. Lines 1-6; Evidence, Exhibits 6, Federal Income Tax
Summary and Exhibit 7 (Internal Revenue Service Account Transcript for Debtors for tax year 2012.)

1 <\$56,808.45> (Negative indicates no equity to which judgment liens can
2 attach)

3 7. There is no equity in the property for any portion of the Thrifty Oil Co., judgment
4 lien to attach, and said lien if not avoided would impair the Debtors' homestead exemption.

5 8. There is no just reason for delay in entering summary judgment against Thrifty
6 Oil Co., with respect to the issue of the avoidability of the judgment lien of Thrifty Oil Co., in
7 the entire amount thereof.
8

9 IT IS SO ORDERED.

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25 Date: March 1, 2018



26 _____
27 Robert Kwan
28 United States Bankruptcy Judge