



NOT FOR PUBLICATION

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION**

In re:

OWEN JAMES THORNTON,

Debtor.

No. 2:12-bk-29526-RK

Chapter 7

**SEPARATE STATEMENT OF DECISION ON
DEBTOR'S MOTION TO AVOID LIEN OF
JUDGMENT CREDITOR NAVI MADDY**

Date: December 10, 2019

Time: 11:00 a.m.

Courtroom: 1675

By separate order being filed and entered concurrently herewith, the court grants the motion of debtor Owen James Thornton to avoid the judgment lien of judgment creditor Navi Maddy pursuant to 11 U.S.C. § 522(f). Having considered the moving, opposing, reply and sur-reply papers of the parties and the oral arguments of the parties at the hearings on October 15, 2019, November 12, 2019 and December 10, 2019, the court determines that the circumstances described in creditor's opposition for denial of the motion only shows that the prejudice alleged by the creditor is from the delay of debtor in filing the lien avoidance motion, i.e., seven years after the bankruptcy case was filed, and delay by itself as described in the opposition does not constitute prejudice

1 to creditor to warrant denial of the motion. *In re Chabot*, 992 F.2d 891, 893 and n. 1 (9th
2 Cir. 1993).

3 The undisputed evidence in the papers relating to the motion establishes that the
4 creditor's judgment lien impairs debtor's exemption in the subject property. Based on
5 the valuation of the subject property by creditor's appraiser, Glenn W. Lee, of \$828,000
6 as of the petition date in June 2012, this leaves equity of \$94,334.27 for debtor and his
7 co-owner, now spouse, who acquired the property before marriage as joint tenants after
8 subtracting the undisputed value of the unavowed liens of \$733,665.73 from the first
9 and second trust deeds securing liens on the property. Debtor's 50% share of the
10 equity is \$47,167.14 protected by his claimed \$50,000 homestead exemption under
11 California Code of Civil Procedure § 704.730. Assertion of the creditor's judgment lien
12 of \$69,193.00 would impair the debtor's homestead exemption in his \$47,167.14 equity,
13 and thus, the lien is avoidable in its entirety under 11 U.S.C. § 522(f). 11 U.S.C. §
14 522(f)(2); *In re Meyer*, 373 B.R. 84, 89-92 (9th Cir. BAP 2007). (The court also notes
15 that using the valuation of the subject property at \$765,000 by debtor's appraiser,
16 Michael Rorwick, yields the same result that the lien impairs debtor's exemption.)

17 For the reasons stated herein and in the moving and reply papers, the court will
18 grant debtor's motion.

19 IT IS SO ORDERED. ###

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25 Date: December 17, 2019



Robert Kwan
United States Bankruptcy Judge