

5. 04-92955-D-7 EVA TOPETE HEARING - ORDER
TO SHOW CAUSE RE DISMISSAL
OF CASE OR IMPOSITION OF
SANCTIONS
9-10-04 [14]

Tentative Ruling: None.

6. 04-93360-D-11 PATRICK MCGRATH HEARING - ORDER
TO SHOW CAUSE RE DISMISSAL,
CONVERSION OR IMPOSITION OF
SANCTIONS
9-14-04 [13]

Tentative Ruling: None.

7. 04-92878-D-7 DONALD/MARLENE HICKMAN HEARING - ORDER
TO SHOW CAUSE RE DISMISSAL,
CONVERSION OR IMPOSITION OF
SANCTIONS
9-13-04 [8]

Tentative Ruling: None.

8. 04-93292-D-7 EVETTE/CALLIN GRESHAM HEARING - ORDER
TO SHOW CAUSE RE DISMISSAL
OF CASE OR IMPOSITION OF
SANCTIONS
9-9-04 [9]

Tentative Ruling: None.

9. 04-93133-D-7 ELEANOR SANTIAGO HEARING - ORDER
TO SHOW CAUSE RE DISMISSAL
OF CASE OR IMPOSITION OF
SANCTIONS
9-23-04 [9]

Disposition Without Oral Argument: The Order to Show Cause is discharged as moot. The case was dismissed on October 5, 2004.

The court will issue a minute order.

10. 04-93580-D-11 COLIMA, INC. HEARING - ORDER TO
SHOW CAUSE WHY THIS CASE
SHOULD NOT BE DISMISSED
9-23-04 [4]

Tentative Ruling: None.

11. 04-92692-D-7 LATANYA R. WRIGHT CONT. HEARING - ORDER TO
SHOW CAUSE RE DISMISSAL,
CONVERSION OR IMPOSITION OF
SANCTIONS FOR FAILURE OF
DEBTOR AND/OR DEBTOR'S
ATTORNEY TO ATTEND THE
SECTION 341 MEETING ON
AUGUST 19, 2004
9-2-04 [7]

CONT. FROM 9-28-04

Tentative Ruling: None.

12. 03-91700-D-7 ROMANO/CHRISTINE ROCCUCCI HEARING - APPLICATION
SSA #4 FOR APPROVAL OF COMPROMISE
9-14-04 [50]

DISCHARGED 8-7-03

Disposition Without Oral Argument: This matter continued to October 26,
2004 pursuant to application approved October 5, 2004. It is removed
from this calendar.

13. 03-91700-D-7 ROMANO/CHRISTINE ROCCUCCI HEARING - APPLICATION
SSA #5 OF TRUSTEE FOR PAYMENT OF
FINAL COMPENSATION AND
REIMBURSEMENT OF EXPENSES TO
SPECIAL COUNSEL (\$28,000.00
FEES; \$168.00 EXPENSES)
9-14-04 [57]

DISCHARGED 8-7-03

Disposition Without Oral Argument: This matter continued to October 26,
2004 pursuant to application approved October 5, 2004. It is removed
from this calendar.

14. 04-00902-D-11 OWENS CORNING HEARING - MOTION
04-9138 OHS #1 TO TRANSFER PROCEEDING TO
SHERRY MCILHARGIE, ET AL., VS. DISTRICT OF DELAWARE
9-3-04 [7]

MOLDED FIBER GLASS
COMPANIES, ET AL.

Disposition Without Oral Argument: This matter is continued by the court to November 9, 2004 at 9:30 a.m. The continued hearing will take place in Sacramento at the United States Courthouse, 501 I Street, sixth floor, courtroom 34.

The court will issue a minute order.

15. 04-92608-D-7 GERALD/KIM DE BELLEFEUILLE HEARING - MOTION
SF #4 FOR AUTHORIZATION TO SELL
EQUITY IN REALTY TO DEBTORS
9-7-04 [24]

Disposition Without Oral Argument: The failure of any party in interest to file timely written opposition as required by this local rule may be considered consent to the granting of the motion. See Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995); LBR 9014-1(f)(1). Therefore, this matter is resolved without oral argument.

The estate owns real property located at 1092 Schadeck Street, Manteca California ("the Property"). The chapter 7 trustee seek to sell the estate's interest in the Property to debtors for \$25,000 cash. Pursuant to 11 U.S.C. §363(b)(1), the motion is granted and the trustee is authorized to sell the Property to debtors. The proceeds of sale shall be administered as set forth in the motion.

Counsel for the trustee shall submit an order that conforms to the court's ruling.

16. 02-92918-D-7 JENNIFER GONZALEZ HEARING - APPLICATION
03-9037 CWC #3 FOR EXAMINATION OF THIRD
MICHAEL MCGRANAHAN, VS. PARTY IN POSSESSION OR
CONTROL OF PROPERTY OF
GREGORY TROXELL THE JUDGMENT DEBTOR
(CHARLES L. HASTINGS, ESQ.)
9-3-04 [22]

Tentative Ruling: Charles L. Hastings, Esq. shall present himself to the court clerk immediately prior to the scheduled hearing to be placed under oath so that his examination may proceed.

17. 02-92918-D-7 JENNIFER GONZALEZ HEARING - APPLICATION
03-9037 CWC #4 FOR EXAMINATION OF JUDGMENT
MICHAEL MCGRANAHAN, VS. DEBTOR (GREGORY TROXELL)
9-3-04 [24]

GREGORY TROXELL

Tentative Ruling: Judgment debtor Gregory Troxell shall present himself to the court clerk immediately prior to the scheduled hearing to be placed under oath so that his examination may proceed.

18. 02-92918-D-7 JENNIFER GONZALEZ HEARING - APPLICATION
03-9037 CWC #5 FOR EXAMINATION OF THIRD
MICHAEL MCGRANAHAN, VS. PARTY IN POSSESSION OR
CONTROL OF PROPERTY OF
GREGORY TROXELL THE JUDGMENT DEBTOR
(MICHAEL B. LYON)
9-3-04 [25]

Tentative Ruling: Michael B. Lyon shall present himself to the court clerk immediately prior to the scheduled hearing to be placed under oath so that his examination may proceed.

19. 03-91428-D-11 TETON FLY REELS, INC. HEARING - UNITED
UST #2 STATES TRUSTEE'S MOTION
TO CONVERT OR DISMISS
CHAPTER 11 CASE
8-31-04 [248]

Disposition Without Oral Argument: This matter is continued by the court to November 16, 2004 at 2:30 p.m to be heard concurrently with the hearing on approval of debtor's disclosure statement.

Counsel for the U.S. trustee shall provide notice of the continued hearing.

20. 03-91428-D-11 TETON FLY REELS, INC. HEARING - SECOND
GY #3 APPLICATION FOR INTERIM
COMPENSATION AND REIMBURSEMENT
OF EXPENSES (\$11,051.50 FEES;
\$383.31 EXPENSES)
9-15-04 [263]

Tentative Ruling: The failure of any party in interest to file written opposition as required by this local rule may be considered consent to the granting of the motion. See Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995); LBR 9014-1(f)(1). In this instance, however, the court will issue a tentative ruling.

The application is granted in part, denied without prejudice in part with the remainder of the motion continued for further briefing. The court

finds three relevant periods of time present in this application. (1) April 7, 2003 to April 30, 2003: Fees and costs totaling \$1,185.04 (fees of \$1,135.50 and costs of \$49.54) incurred between the filing date and the date the order authorizing employment was entered. (2) August 16, 2003 to September 9, 2003: Fees and costs totaling \$2,960.11 (fees of \$2,812.00 and costs of \$148.11) incurred after the ending date of the first fee application through the date the chapter 11 trustee was appointed. (3) September 10, 2003 to August 25, 2004: Fees and costs totaling \$7,289.66 (fees of \$7,104.00 and costs of \$185.66) incurred after appointment of the chapter 11 trustee. The court will address each time period separately.

This court authorized the employment of counsel for the debtor on April 30, 2004. The order does not indicate that the employment was effective as of an earlier date and has not been amended. This fee application presents no evidence of extraordinary circumstances to warrant compensation prior to the court's authorization. Therefore, compensation for services prior to April 30, 2004 (fees of \$1,135.50 and costs of \$49.54) is denied without prejudice for a second time. In re Shirley, 134 B.R. 940 (9th Cir. BAP 1992).

Compensation for the period August 16, 2003 to September 9, 2003 is granted. Fees of \$2,812.00 and costs of \$148.11 (\$2,960.11 total) are approved as reasonable compensation for actual, necessary and beneficial services to the estate.

The hearing as to the fees and costs incurred in the third time period after appointment of the chapter 11 trustee (fees of \$7,104.00 and costs of \$185.66) is continued to November 9, 2004 at 2:00 p.m. On or before October 26, 2004, applicant shall file and serve a supplemental brief addressing the effect of the United States Supreme Court's recent decision in Lamie v. United States Trustee, 540 U.S. 526, 124 S.Ct. 1023, 157 L.Ed.2d 1024 (2004). Specifically, applicant shall address whether the Ninth Circuit decisions In re Smith, 317 F.3d 918 (9th Cir. 2002) and United States Trustee v. Garvey, Schubert & Barer (In re Century Cleaning Services, Inc.), 195 F.3d 1053 (9th Cir.1999) are good law after Lamie.

The applicant shall submit an interim order that conforms to the court's ruling.

21. 04-93332-D-7 LAYNE/LILLIAN IMADA HEARING - APPLICATION
SF #3 OF CHAPTER 7 TRUSTEE FOR
APPOINTMENT OF REAL
ESTATE BROKER
9-7-04 [8]

Disposition Without Oral Argument: The failure of any party in interest to file timely written opposition as required by this local rule may be considered consent to the granting of the motion. See Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995); LBR 9014-1(f)(1). Therefore, this matter is resolved without oral argument.

The application is approved pursuant to 11 U.S.C. § 327(a) and the trustee is authorized to employ Sheri Midgley as a real estate broker to provide valuation, marketing and/or sale services to the trustee. As set forth in the motion, compensation will be either by hourly fees approved

through an application for compensation under 11 U.S.C. § 330, or as part of a court-approved sale.

Counsel for the trustee shall submit an order that conforms to the court's ruling.

22. 04-92235-D-7 LENA BETTENCOURT CONT. HEARING - OBJECTION
SF #1 OF CHAPTER 7 TRUSTEE TO
DEBTOR'S EXEMPTION CLAIM
IN REAL PROPERTY AND IN
VEHICLE
8-3-04 [11]

DISCHARGED 9-9-04
CONT. FROM 9-14-04

Disposition Without Oral Argument: This matter continued from September 14, 2004, so that trustee could correct service on the debtor. The trustee did so timely. The failure of any party in interest to file timely written opposition as required by this local rule may be considered consent to the granting of the motion. See Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995); LBR 9014-1(f)(1). Therefore, this matter is resolved without oral argument.

The trustee's objections are sustained. As to the homestead exemption, the trustee objects to debtor's exemption of the one-half interest in the property she transferred to her father pre-petition. The trustee alleges without dispute that the transfer was voluntary and therefore debtor cannot exempt the transferred portion pursuant to 11 U.S.C. § 522(g)(1)(A). The trustee is correct and the debtor's homestead exemption is disallowed for the transferred interest should the trustee avoid and recover it for the benefit of creditors. Nothing herein affects debtor's exemption of the one-half interest retained by her.

As to the vehicle exemption, the trustee objects because the debtor has exceeded the statutory maximum for the claimed exemption. California Code of Civil Procedure Section 704.010 permits debtor to exempt a total of \$2,300 in vehicles that debtor owns. Debtor listed the exemption for her 2002 Chevy Malibu at \$6,000.00, the entire value of the vehicle. Therefore, the objection is sustained and the vehicle exemption is disallowed in any amount over \$2,300.00.

Counsel for the trustee shall submit an order that conforms to the court's ruling.

23. 04-93042-D-11 WILLIAM TOSO HEARING - MOTION
CWC #4 TO ASSUME UNEXPIRED LEASES
9-13-04 [29]

Tentative Ruling: This matter is continued by the court to November 9, 2004 at 9:30 a.m. The continued hearing will take place in Sacramento at the United States Courthouse, 501 I Street, sixth floor, courtroom 34. On or before October 26, 2004, debtor-in-possession shall file and serve a supplement to the motion providing the information requested below.

Any responses to the DIP's supplement shall be filed and served on or before November 2, 2004. No written reply will be permitted.

The "business judgment" standard applies in assessing a debtor's proposed assumption or rejection of an ordinary executory contract. N.L.R.B. v. Bildisco & Bildisco, 465 U.S. 513, 523, 104 S.Ct. 1188, 1194-1195, 79 L.Ed.2d 482 (1984) ("...the Board contends that the standard by which the Bankruptcy Court must judge the request of a debtor-in-possession to reject a collective-bargaining contract must be stricter than the traditional "business judgment" standard applied by the courts to authorize rejection of the ordinary executory contract."); Group of Institutional Investors v. Chicago, Milwaukee, St. Paul & Pacific R. Co., 318 U.S. 523, 550, 63 S.Ct. 727, 87 L.Ed. 959, 999 (1943) ("Thus, the question whether a lease should be rejected and if not on what terms it should be assumed is one of business judgment."); In re Minges, 602 F.2d 38, 43-44 (2nd Cir. 1979) ("We believe that such a flexible test for determining when an executory contract may be rejected, however termed (and 'business judgment' is as good a label as any), is most appropriate." In applying the business judgment standard, the court should assess whether "a sound basis exists for a finding that there is a reasonable likelihood that general creditors will derive substantial or significant benefit from the proposed lease rejection."); In re Chi-Feng Huang, 23 B.R. 798, 800 (9th Cir. BAP 1982) ("We believe the "business judgment" rule is the standard which controls the court's right to disapprove the trustee's decision to reject an executory contract.").

The motion at issue here is vague on the debtor-in-possession's rationale for assuming these six leases let alone on how that rationale meets the business judgment standard. The declaration of debtor speaks in generalities regarding the benefit to the estate. It does not address whether creditors "will derive substantial or significant benefit" from the assumption. Minges, supra. The debtor-in-possession must address this issue in his supplement.

The court will issue a minute order.

24. 04-92548-D-7 GARY/BARBARA CAMMACK
MHK #4

HEARING - TRUSTEE'S
VERIFIED MOTION FOR
AUTHORIZATION TO SELL
ESTATE'S EQUITY IN
RESIDENCE TO DEBTORS
9-9-04 [21]

Disposition Without Oral Argument: The failure of any party in interest to file timely written opposition as required by this local rule may be considered consent to the granting of the motion. See Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995); LBR 9014-1(f)(1). Therefore, this matter is resolved without oral argument.

The estate owns real property located at 3244 Joshua Tree Circle, Stockton California ("the Property"). The chapter 7 trustee seek to sell the estate's interest in the Property to debtors for \$30,000 cash. Pursuant to 11 U.S.C. §363(b)(1), the motion is granted and the trustee is authorized to sell the Property to debtors. The proceeds of sale

shall be administered as set forth in the motion.

Counsel for the trustee shall submit an order that conforms to the court's ruling.

25. 01-91256-D-7 EUGENE CONTI, SR. CONT. HEARING - MOTION OF
HM #2 JOSEPHINE M. CONTI, L.P. AND
CONTI MATERIALS SERVICE FOR
ALLOWANCE OF ADMINISTRATIVE
CLAIM
8-9-04 [122]

DISCHARGED 9-6-01

Tentative Ruling: This matter involves disputed facts that cannot be resolved on declarations. Pursuant to Bankruptcy Rule 9014(c), all of the rules of Part VII shall apply. The clerk shall assign an adversary proceeding number, and docket control number HM-2 shall no longer be used in reference to this matter. On or before October 19, 2004, Josephine Conti, L.P. and Conti Materials Service, Inc., as co-plaintiffs, shall pay the adversary proceeding filing fee and file and serve a summons and an amended complaint that complies with Bankruptcy Rule 7008 and all other applicable rules. Defendants shall include the trustee and the debtor. The adversary proceeding will next appear on the status conference calendar date set in the summons.

The court will issue a minute order.

26. 01-91256-D-7 EUGENE CONTI, SR. HEARING - TRUSTEE'S
MDM #3 OBJECTION TO ALLOWANCE OF
CLAIM NO. 5 OF PROSPECT
VEHICLE LEASING, INC.
8-23-04 [128]

DISCHARGED 9-6-01

Disposition Without Oral Argument: No written opposition to this matter was filed, so it is therefore suitable for disposition without hearing. See Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995); LBR 3007-1(d)(1).

The objection to claim No. 5 on ECF, filed by Prospect Vehicle Leasing, Inc., ("Claim") is sustained. The trustee questions the validity and nature of this claim, and challenges the priority status of this claim. A properly completed and filed proof of claim is prima facie evidence of the validity and amount of a claim [B.R. 3001(f)]; however, when an objection is made and that objection is supported by evidence sufficient to rebut the prima facie evidence of the proof of claim, then the burden is on the creditor to prove the claim. The claim is not properly completed where it asserts no basis for priority status. It therefore does not constitute prima facie evidence of the nature of the claim. By failing to respond to the objection, the creditor has failed to carry the burden of proving the claim. The objection is therefore sustained, and the Claim is disallowed as a priority claim and allowed as a general unsecured claim, except to the extent already paid as a priority claim by

the trustee in excess of the dividend to unsecured claims.

The trustee shall submit an order that conforms to the court's ruling.

27. 01-91256-D-7 EUGENE CONTI, SR. HEARING - TRUSTEE'S
MDM #4 OBJECTION TO ALLOWANCE OF
CLAIM NO. 10 OF PANELLA
DRAYAGE COMPANY
8-23-04 [132]

DISCHARGED 9-6-01

Disposition Without Oral Argument: No written opposition to this matter was filed, so it is therefore suitable for disposition without hearing. See Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995); LBR 3007-1(d)(1).

The objection to claim No. 10 on ECF, filed by Panella Drayage Company, ("Claim") is sustained. The trustee questions the validity and nature of this claim, and challenges the priority status of this claim. A properly completed and filed proof of claim is prima facie evidence of the validity and amount of a claim [B.R. 3001(f)]; however, when an objection is made and that objection is supported by evidence sufficient to rebut the prima facie evidence of the proof of claim, then the burden is on the creditor to prove the claim. The claim is not properly completed where it asserts no basis for priority status. It therefore does not constitute prima facie evidence of the nature of the claim. By failing to respond to the objection, the creditor has failed to carry the burden of proving the claim. The objection is therefore sustained, and the Claim is disallowed as a priority claim and allowed as a general unsecured claim, except to the extent already paid as a priority claim by the trustee in excess of the dividend to unsecured claims.

The trustee shall submit an order that conforms to the court's ruling.

28. 01-91256-D-7 EUGENE CONTI, SR. HEARING - TRUSTEE'S
MDM #5 OBJECTION TO ALLOWANCE OF
CLAIM NO. 11 OF FRANCISCO
J. GORDIANO
8-23-04 [136]

DISCHARGED 9-6-01

Disposition Without Oral Argument: No written opposition to this matter was filed, so it is therefore suitable for disposition without hearing. See Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995); LBR 3007-1(d)(1).

The objection to claim No. 11 on ECF, filed by Francisco J. Gordiano, ("Claim") is sustained. The trustee questions the validity and nature of the Claim, and challenges the priority status of the Claim. A properly completed and filed proof of claim is prima facie evidence of the validity and amount of a claim [B.R. 3001(f)]; however, when an objection is made and that objection is supported by evidence sufficient to rebut

the prima facie evidence of the proof of claim, then the burden is on the creditor to prove the claim. The Claim is not properly completed where it contains contradictory information. It therefore does not constitute prima facie evidence of the validity or amount of the claim. The Claim appears to seek \$523 for dental services rendered to the claimant on January 23, 2001, and an unstated amount for unpaid vacation earned between March 3, 2000 and January 10, 2001. It claims priority under 11 U.S.C. § 507(a)(6), which relates to consumer deposits. By failing to respond to the objection, the creditor has failed to carry the burden of proving the claim. The objection is therefore sustained, and the Claim is disallowed as a priority claim and allowed, per the trustee's request, as a general unsecured claim in the amount of \$523.00, except to the extent already paid as a priority claim by the trustee in excess of the dividend to unsecured claims.

The trustee shall submit an order that conforms to the court's ruling.

29. 01-91256-D-7 EUGENE CONTI, SR. HEARING - TRUSTEE'S
MDM #6 OBJECTION TO ALLOWANCE
OF CLAIM NO. 66 OF
CASTAIC GARAGE
8-23-04 [140]

DISCHARGED 9-6-01

Disposition Without Oral Argument: No written opposition to this matter was filed, so it is therefore suitable for disposition without hearing. See Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995); LBR 3007-1(d)(1).

The objection to claim No. 66 on ECF, filed by Castaic Garage, ("Claim") is sustained. The trustee questions the validity and nature of this claim, and challenges the priority status of this claim. A properly completed and filed proof of claim is prima facie evidence of the validity and amount of a claim [B.R. 3001(f)]; however, when an objection is made and that objection is supported by evidence sufficient to rebut the prima facie evidence of the proof of claim, then the burden is on the creditor to prove the claim. The trustee has made a sufficient showing that the Claim is a duplicate of claim No. 16, thus rebutting the prima facie effect of the Claim. By failing to respond to the objection, the creditor has failed to carry the burden of proving the claim. The objection is therefore sustained, and the Claim is disallowed as a duplicate claim of No. 16 on ECF.

The trustee shall submit an order that conforms to the court's ruling.

30. 01-91256-D-7 EUGENE CONTI, SR.
MDM #7

HEARING - TRUSTEE'S
OBJECTION TO ALLOWANCE OF
CLAIM NO. 17 OF AMERICAN
HOME ASSURANCE LERNER &
WEISS
8-23-04 [144]

DISCHARGED 9-6-01

Disposition Without Oral Argument: No written opposition to this matter was filed, so it is therefore suitable for disposition without hearing. See Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995); LBR 3007-1(d)(1).

The objection to claim No. 17 on ECF, filed by American Home Assurance, ("Claim") is sustained. The trustee questions the validity and nature of this claim, and challenges the priority status of this claim. A properly completed and filed proof of claim is prima facie evidence of the validity and amount of a claim [B.R. 3001(f)]; however, when an objection is made and that objection is supported by evidence sufficient to rebut the prima facie evidence of the proof of claim, then the burden is on the creditor to prove the claim. The trustee has made a sufficient showing that the Claim is superceded by claim No. 50, thus rebutting the prima facie effect of the Claim. By failing to respond to the objection, the creditor has failed to carry the burden of proving the claim. The objection is therefore sustained, and the Claim is disallowed as superceded by claim No. 50 on ECF.

The trustee shall submit an order that conforms to the court's ruling.

31. 01-91256-D-7 EUGENE CONTI, SR.
MDM #8

HEARING - TRUSTEE'S
OBJECTION TO ALLOWANCE OF
CLAIM NO. 20 OF KEVIN KIKER
PROPERTY MANAGEMENT
8-23-04 [148]

DISCHARGED 9-6-01

Disposition Without Oral Argument: No written opposition to this matter was filed, so it is therefore suitable for disposition without hearing. See Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995); LBR 3007-1(d)(1).

The objection to claim No. 20 on ECF, filed by Kevin Kiker Property Management, ("Claim") is sustained. The trustee questions the validity and nature of this claim, and challenges the priority status of this claim. A properly completed and filed proof of claim is prima facie evidence of the validity and amount of a claim [B.R. 3001(f)]; however, when an objection is made and that objection is supported by evidence sufficient to rebut the prima facie evidence of the proof of claim, then the burden is on the creditor to prove the claim. The trustee has made a sufficient showing that the Claim is superceded by claim No. 74, thus rebutting the prima facie effect of the Claim. By failing to respond to the objection, the creditor has failed to carry the burden of proving the claim. The objection is therefore sustained, and the Claim is disallowed

as superceded by claim No. 74 on ECF.

The trustee shall submit an order that conforms to the court's ruling.

32. 01-91256-D-7 EUGENE CONTI, SR. HEARING - TRUSTEE'S
MDM #9 OBJECTION TO ALLOWANCE OF
CLAIM NO. 23 OF STOCKTON
AUTO GLASS
8-23-04 [152]

DISCHARGED 9-6-01

Disposition Without Oral Argument: No written opposition to this matter was filed, so it is therefore suitable for disposition without hearing. See Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995); LBR 3007-1(d)(1).

The objection to claim No. 23 on ECF, filed by Stockton Auto Glass, ("Claim") is sustained. The trustee questions the validity and nature of this claim, and challenges the priority status of this claim. A properly completed and filed proof of claim is prima facie evidence of the validity and amount of a claim [B.R. 3001(f)]; however, when an objection is made and that objection is supported by evidence sufficient to rebut the prima facie evidence of the proof of claim, then the burden is on the creditor to prove the claim. The trustee has made a sufficient showing that the Claim is superceded by claim No. 72, thus rebutting the prima facie effect of the Claim. By failing to respond to the objection, the creditor has failed to carry the burden of proving the claim. The objection is therefore sustained, and the Claim is disallowed as superceded by claim No. 72 on ECF.

The trustee shall submit an order that conforms to the court's ruling.

33. 01-91256-D-7 EUGENE CONTI, SR. HEARING - TRUSTEE'S
MDM #10 OBJECTION TO ALLOWANCE OF
CLAIM NO. 25 OF VAN BEURDEN
INSURANCE SERVICE
8-23-04 [156]

DISCHARGED 9-6-01

Disposition Without Oral Argument: No written opposition to this matter was filed, so it is therefore suitable for disposition without hearing. See Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995); LBR 3007-1(d)(1).

The objection to claim No. 25 on ECF, filed by Van Beurden Insurance Service, ("Claim") is sustained. The trustee questions the validity and nature of this claim, and challenges the priority status of this claim. A properly completed and filed proof of claim is prima facie evidence of the validity and amount of a claim [B.R. 3001(f)]; however, when an objection is made and that objection is supported by evidence sufficient to rebut the prima facie evidence of the proof of claim, then the burden is on the creditor to prove the claim. The claim is not properly completed where it asserts no basis for priority status. It therefore does not constitute prima facie evidence of the nature of the claim. By failing to respond to the objection, the creditor has failed to carry the

burden of proving the claim. The objection is therefore sustained, and the Claim is disallowed as a priority claim and allowed as a general unsecured claim, except to the extent already paid as a priority claim by the trustee in excess of the dividend to unsecured claims.

The trustee shall submit an order that conforms to the court's ruling.

34. 01-91256-D-7 EUGENE CONTI, SR. HEARING - TRUSTEE'S
MDM #11 OBJECTION TO ALLOWANCE
OF CLAIM NO. 24 OF
SEDWICK OF PA, INC.
8-23-04 [160]

DISCHARGED 9-6-01

Disposition Without Oral Argument: No written opposition to this matter was filed, so it is therefore suitable for disposition without hearing. See Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995); LBR 3007-1(d)(1).

The objection to claim No. 24 on ECF, filed by Sedgwick of PA Inc., ("Claim") is sustained. The trustee questions the validity and nature of this claim, and challenges the priority status of this claim. A properly completed and filed proof of claim is prima facie evidence of the validity and amount of a claim [B.R. 3001(f)]; however, when an objection is made and that objection is supported by evidence sufficient to rebut the prima facie evidence of the proof of claim, then the burden is on the creditor to prove the claim. The claim is not properly completed where it is not signed and does not claim a specific amount. It therefore does not constitute prima facie evidence of the nature of the claim. By failing to respond to the objection, the creditor has failed to carry the burden of proving the claim. The objection is therefore sustained, and the Claim is disallowed in its entirety.

The trustee shall submit an order that conforms to the court's ruling.

35. 01-91256-D-7 EUGENE CONTI, SR. HEARING - TRUSTEE'S
MDM #12 OBJECTION TO ALLOWANCE OF
CLAIM NO. 27 OF VILLAGE
FUEL STOP, INC.
8-23-04 [164]

DISCHARGED 9-6-01

Disposition Without Oral Argument: No written opposition to this matter was filed, so it is therefore suitable for disposition without hearing. See Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995); LBR 3007-1(d)(1).

The objection to claim No. 27 on ECF, filed by Village Fuel Stop Inc., ("Claim") is sustained. The trustee questions the validity and nature of this claim, and challenges the priority status of this claim. A properly completed and filed proof of claim is prima facie evidence of the validity and amount of a claim [B.R. 3001(f)]; however, when an objection is made and that objection is supported by evidence sufficient to rebut

the prima facie evidence of the proof of claim, then the burden is on the creditor to prove the claim. The claim is not properly completed where it is not signed and does not claim a specific amount. It therefore does not constitute prima facie evidence of the nature of the claim. By failing to respond to the objection, the creditor has failed to carry the burden of proving the claim. The objection is therefore sustained, and the Claim is disallowed in its entirety.

The trustee shall submit an order that conforms to the court's ruling.

36. 01-91256-D-7 EUGENE CONTI, SR. HEARING - TRUSTEE'S
MDM #13 OBJECTION TO ALLOWANCE OF
CLAIM NO. 70 OF LAWSON
PRODUCTS, INC., NEVADA
8-23-04 [168]

DISCHARGED 9-6-01

Disposition Without Oral Argument: No written opposition to this matter was filed, so it is therefore suitable for disposition without hearing. See Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995); LBR 3007-1(d)(1).

The objection to claim No. 70 on ECF, filed by Lawson Products Inc., Nevada, ("Claim") is sustained. The trustee questions the validity and nature of this claim, and challenges the priority status of this claim. A properly completed and filed proof of claim is prima facie evidence of the validity and amount of a claim [B.R. 3001(f)]; however, when an objection is made and that objection is supported by evidence sufficient to rebut the prima facie evidence of the proof of claim, then the burden is on the creditor to prove the claim. The trustee has made a sufficient showing that the Claim is a duplicate of claim No. 32, thus rebutting the prima facie effect of the Claim. By failing to respond to the objection, the creditor has failed to carry the burden of proving the claim. The objection is therefore sustained, and the Claim is disallowed as a duplicate claim of No. 32 on ECF.

The trustee shall submit an order that conforms to the court's ruling.

37. 01-91256-D-7 EUGENE CONTI, SR. HEARING - TRUSTEE'S
MDM #14 OBJECTION TO ALLOWANCE OF
CLAIM NO. 71 OF DON'S
DIESEL SERVICE
8-23-04 [172]

DISCHARGED 9-6-01

Disposition Without Oral Argument: No written opposition to this matter was filed, so it is therefore suitable for disposition without hearing. See Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995); LBR 3007-1(d)(1).

The objection to claim No. 71 on ECF, filed by Don's Diesel Service, ("Claim") is sustained. The trustee questions the validity and nature of this claim, and challenges the priority status of this claim. A properly completed and filed proof of claim is prima facie evidence of the

validity and amount of a claim [B.R. 3001(f)]; however, when an objection is made and that objection is supported by evidence sufficient to rebut the prima facie evidence of the proof of claim, then the burden is on the creditor to prove the claim. The trustee has made a sufficient showing that the Claim is a duplicate of claim No. 34, thus rebutting the prima facie effect of the Claim. By failing to respond to the objection, the creditor has failed to carry the burden of proving the claim. The objection is therefore sustained, and the Claim is disallowed as a duplicate claim of No. 34 on ECF.

The trustee shall submit an order that conforms to the court's ruling.

38. 01-91256-D-7 EUGENE CONTI, SR. HEARING - TRUSTEE'S
MDM #15 OBJECTION TO ALLOWANCE OF
CLAIM NO. 36 OF FAMILY
SUPPORT DIVISION
8-23-04 [176]

DISCHARGED 9-6-01

Disposition Without Oral Argument: No written opposition to this matter was filed, so it is therefore suitable for disposition without hearing. See Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995); LBR 3007-1(d)(1).

The objection to claim No. 36 on ECF, filed by El Dorado Co. District Attorney, Family Support Division, ("Claim") is sustained. The trustee questions the validity and nature of this claim, and challenges the priority status of this claim. A properly completed and filed proof of claim is prima facie evidence of the validity and amount of a claim [B.R. 3001(f)]; however, when an objection is made and that objection is supported by evidence sufficient to rebut the prima facie evidence of the proof of claim, then the burden is on the creditor to prove the claim. The claim is not properly completed where it is not signed and does not claim a specific amount. It therefore does not constitute prima facie evidence of the nature of the claim. By failing to respond to the objection, the creditor has failed to carry the burden of proving the claim. The objection is therefore sustained, and the Claim is disallowed in its entirety.

The trustee shall submit an order that conforms to the court's ruling.

39. 01-91256-D-7 EUGENE CONTI, SR. HEARING - TRUSTEE'S
MDM #16 OBJECTION TO ALLOWANCE
OF CLAIM NO. 42 OF
T.L.C. TRUCKING
8-23-04 [180]

DISCHARGED 9-6-01

Disposition Without Oral Argument: No written opposition to this matter was filed, so it is therefore suitable for disposition without hearing. See Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995); LBR 3007-1(d)(1).

The objection to claim No. 42 on ECF, filed by TLC Trucking ("Claim") is

sustained. The trustee questions the validity and nature of this claim, and challenges the priority status of this claim. A properly completed and filed proof of claim is prima facie evidence of the validity and amount of a claim [B.R. 3001(f)]; however, when an objection is made and that objection is supported by evidence sufficient to rebut the prima facie evidence of the proof of claim, then the burden is on the creditor to prove the claim. The claim is not properly completed where it asserts no basis for priority status. It therefore does not constitute prima facie evidence of the nature of the claim. By failing to respond to the objection, the creditor has failed to carry the burden of proving the claim. The objection is therefore sustained, and the Claim is disallowed as a priority claim and allowed as a general unsecured claim, except to the extent already paid as a priority claim by the trustee in excess of the dividend to unsecured claims.

The trustee shall submit an order that conforms to the court's ruling.

40. 01-91256-D-7 EUGENE CONTI, SR.
MDM #17

HEARING - TRUSTEE'S
OBJECTION TO ALLOWANCE
OF CLAIM NO. 43 OF
KELLEEN GOERTZEN
8-23-04 [184]

DISCHARGED 9-6-01

Disposition Without Oral Argument: No written opposition to this matter was filed, so it is therefore suitable for disposition without hearing. See Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995); LBR 3007-1(d)(1).

The objection to claim No. 43 on ECF, filed by Kelleen Goertzen, ("Claim") is sustained. The trustee questions the validity and nature of this claim, and challenges the priority status of this claim. A properly completed and filed proof of claim is prima facie evidence of the validity and amount of a claim [B.R. 3001(f)]; however, when an objection is made and that objection is supported by evidence sufficient to rebut the prima facie evidence of the proof of claim, then the burden is on the creditor to prove the claim. The claim is not properly completed where it fails to specify the date(s) the claimed wage benefit was earned. It therefore does not constitute prima facie evidence of the nature of the claim. By failing to respond to the objection, the creditor has failed to carry the burden of proving the claim. The court notes that the dental services at issue (assuming they constitute wages at all) were rendered in "December, 2000" and that the bankruptcy was filed March 27, 2001, 87 days after December 31, 2000 (the claimed priority under 11 U.S.C. § 523(a)(3) applies only to wages earned within 90 days before the bankruptcy filing). The objection is therefore sustained, and the Claim is disallowed as a priority claim and allowed as a general unsecured claim in the amount of \$563.25, except to the extent already paid as a priority claim by the trustee in excess of the dividend to unsecured claims.

The trustee shall submit an order that conforms to the court's ruling.

41. 01-91256-D-7 EUGENE CONTI, SR.
MDM #18

HEARING - TRUSTEE'S
OBJECTION TO ALLOWANCE
OF CLAIM NO. 47 OF CB
MERCHANT SERVICES
8-23-04 [188]

DISCHARGED 9-6-01

Disposition Without Oral Argument: No written opposition to this matter was filed, so it is therefore suitable for disposition without hearing. See Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995); LBR 3007-1(d)(1).

The objection to claim No. 47 on ECF, filed by CB Merchant Services, ("Claim") is sustained. The trustee questions the validity and nature of this claim, and challenges the priority status of this claim. A properly completed and filed proof of claim is prima facie evidence of the validity and amount of a claim [B.R. 3001(f)]; however, when an objection is made and that objection is supported by evidence sufficient to rebut the prima facie evidence of the proof of claim, then the burden is on the creditor to prove the claim. The trustee has made a sufficient showing that the Claim is superceded by claim No. 72, thus rebutting the prima facie effect of the Claim. By failing to respond to the objection, the creditor has failed to carry the burden of proving the claim. The objection is therefore sustained, and the Claim is disallowed as superceded by claim No. 72 on ECF.

The trustee shall submit an order that conforms to the court's ruling.

42. 01-91256-D-7 EUGENE CONTI, SR.
MDM #19

HEARING - TRUSTEE'S
OBJECTION TO ALLOWANCE
OF CLAIM NO. 53 OF
OLYMPIAN OIL CO.
8-23-04 [192]

DISCHARGED 9-6-01

Disposition Without Oral Argument: No written opposition to this matter was filed, so it is therefore suitable for disposition without hearing. See Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995); LBR 3007-1(d)(1).

The objection to claim No. 53 on ECF, filed by Olympian Oil Company, ("Claim") is sustained. The trustee questions the validity and nature of this claim, and challenges the priority status of this claim. A properly completed and filed proof of claim is prima facie evidence of the validity and amount of a claim [B.R. 3001(f)]; however, when an objection is made and that objection is supported by evidence sufficient to rebut the prima facie evidence of the proof of claim, then the burden is on the creditor to prove the claim. The trustee has made a sufficient showing that the Claim is superceded by claim No. 69, thus rebutting the prima facie effect of the Claim. By failing to respond to the objection, the creditor has failed to carry the burden of proving the claim. The objection is therefore sustained, and the Claim is disallowed as superceded by claim No. 69 on ECF.

The trustee shall submit an order that conforms to the court's ruling.

43. 01-91256-D-7 EUGENE CONTI, SR. HEARING - TRUSTEE'S
MDM #20 OBJECTION TO ALLOWANCE OF
CLAIM NO. 59 OF STATE OF
CALIFORNIA, DEPARTMENT OF
TRANSPORTATION
8-23-04 [196]

DISCHARGED 9-6-01

Disposition Without Oral Argument: No written opposition to this matter was filed, so it is therefore suitable for disposition without hearing. See Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995); LBR 3007-1(d)(1).

The objection to claim No. 59 on ECF, filed by State of California, Department of Transportation, Legal Division, ("Claim") is sustained. The trustee questions the validity and nature of this claim, and challenges the priority status of this claim. A properly completed and filed proof of claim is prima facie evidence of the validity and amount of a claim [B.R. 3001(f)]; however, when an objection is made and that objection is supported by evidence sufficient to rebut the prima facie evidence of the proof of claim, then the burden is on the creditor to prove the claim. The trustee has made a sufficient showing that the Claim is a duplicate of claim No. 58, thus rebutting the prima facie effect of the Claim. By failing to respond to the objection, the creditor has failed to carry the burden of proving the claim. The objection is therefore sustained, and the Claim is disallowed as a duplicate claim of No. 58 on ECF.

The trustee shall submit an order that conforms to the court's ruling.

44. 01-91256-D-7 EUGENE CONTI, SR. HEARING - TRUSTEE'S
MDM #21 OBJECTION TO ALLOWANCE
OF CLAIM NO. 62 OF PDM
STEEL SERVICE CENTERS
8-23-04 [200]

DISCHARGED 9-6-01

Disposition Without Oral Argument: No written opposition to this matter was filed, so it is therefore suitable for disposition without hearing. See Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995); LBR 3007-1(d)(1).

The objection to claim No. 62 on ECF, filed by PDM Steel Service Centers, ("Claim") is sustained. The trustee questions the validity and nature of this claim, and challenges the priority status of this claim. A properly completed and filed proof of claim is prima facie evidence of the validity and amount of a claim [B.R. 3001(f)]; however, when an objection is made and that objection is supported by evidence sufficient to rebut the prima facie evidence of the proof of claim, then the burden is on the creditor to prove the claim. The trustee has made a sufficient showing that the Claim is a duplicate of claim No. 14, thus rebutting the prima facie effect of the Claim. By failing to respond to the objection, the creditor has failed to carry the burden of proving the claim. The

objection is therefore sustained, and the Claim is disallowed as a duplicate claim of No. 14 on ECF.

The trustee shall submit an order that conforms to the court's ruling.

45. 01-91256-D-7 EUGENE CONTI, SR. HEARING - TRUSTEE'S
MDM #22 OBJECTION TO ALLOWANCE OF
CLAIM NO. 63 OF PACIFIC
STORAGE COMPANY
8-23-04 [204]

DISCHARGED 9-6-01

Disposition Without Oral Argument: No written opposition to this matter was filed, so it is therefore suitable for disposition without hearing. See Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995); LBR 3007-1(d)(1).

The objection to claim No. 63 on ECF, filed by Pacific Storage Company, ("Claim") is sustained. The trustee questions the validity and nature of this claim, and challenges the priority status of this claim. A properly completed and filed proof of claim is prima facie evidence of the validity and amount of a claim [B.R. 3001(f)]; however, when an objection is made and that objection is supported by evidence sufficient to rebut the prima facie evidence of the proof of claim, then the burden is on the creditor to prove the claim. The trustee has made a sufficient showing that the Claim is a duplicate of claim No. 6, thus rebutting the prima facie effect of the Claim. By failing to respond to the objection, the creditor has failed to carry the burden of proving the claim. The objection is therefore sustained, and the Claim is disallowed as a duplicate claim of No. 6 on ECF.

The trustee shall submit an order that conforms to the court's ruling.

46. 01-91256-D-7 EUGENE CONTI, SR. HEARING - TRUSTEE'S
MDM #23 OBJECTION TO ALLOWANCE OF
CLAIM NO. 64 OF VALLEY
DIVISION SAN FERNANDO
BRANCH COURT
8-23-04 [208]

DISCHARGED 9-6-01

Disposition Without Oral Argument: No written opposition to this matter was filed, so it is therefore suitable for disposition without hearing. See Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995); LBR 3007-1(d)(1).

The objection to claim No. 64 on ECF, filed by Valley Division San Fernando Branch Cour[t], ("Claim") is sustained. The trustee questions the validity and nature of this claim, and challenges the priority status of this claim. A properly completed and filed proof of claim is prima facie evidence of the validity and amount of a claim [B.R. 3001(f)]; however, when an objection is made and that objection is supported by evidence sufficient to rebut the prima facie evidence of the proof of claim, then the burden is on the creditor to prove the claim. The claim is not properly completed where it is not signed and does not claim a

49. 04-92772-D-7 ERIKA NAGY HEARING - MOTION
SF #4 FOR AUTHORIZATION TO SELL
EQUITY IN REALTY TO DEBTOR
9-3-04 [22]

Disposition Without Oral Argument: No written opposition to this matter was filed, so it is therefore suitable for disposition without hearing.

The estate owns an interest in real property located at 2565 Michaelangelo Drive in Stockton, California ("the Property"). The chapter 7 trustee seek to sell the estate's interest in the Property to the debtor for \$30,000. Pursuant to 11 U.S.C. § 363(b)(1), the motion is granted and the trustee is authorized to sell the estate's interest in the Property to the debtor for \$30,000, on the terms set forth in the motion.

The 10-day stay of Fed. R. Bankr. P. 6004(g) is waived.

Counsel for the trustee shall submit an order that conforms to the court's ruling.

50. 03-91700-D-7 ROMANO & CHRISTINE CONT. HEARING - TRUSTEE'S
SSA #2 ROCCUCCI OBJECTION TO DEBTORS'
CLAIM OF EXEMPTIONS
6-21-04 [28]

DISCHARGED 8-7-03
CONT. FROM 9-28-04

Disposition Without Oral Argument: This matter is continued to October 26, 2004, at 9:30 a.m., to be heard with a related motion to compromise.

The court will issue a minute order.

51. 04-92709-D-11 L.L.-G.L. ENTERPRISES, INC. CONT. HEARING - DEBTOR'S SECOND
FWP #5 MOTION (1) FOR AUTHORITY TO
USE CASH COLLATERAL, (2) FOR
AUTHORITY TO PAY DOWN
FLOORING LINE FROM
COLLATERAL, PROCEEDS AND
(3) FOR MISCELLANEOUS
RELIEF INCLUDING POTENTIAL
APPROVAL OF A MANAGEMENT
AGREEMENT 9/13/04 [132]

CONT. FROM 9-28-04

Tentative Ruling: No tentative is being posted for this matter. This matter is trailed to the specially-set 11:00 a.m. calendar.

52. 00-92835-D-11 RODNEY CATALANO HEARING - MOTION
LAJ #43 TO SELL REAL PROPERTY FREE
AND CLEAR OF LIENS WITH
WAIVER OF STAY OF RULE
9-20-04 [478]

Tentative Ruling: This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

53. 00-92835-D-11 RODNEY CATALANO HEARING - MOTION
LAJ #44 TO SELL REAL PROPERTY (LOT 39)
FREE AND CLEAR OF LIENS WITH
WAIVER OF STAY OF RULE
9-20-04 [484]

Tentative Ruling: This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

54. 00-92835-D-11 RODNEY CATALANO HEARING - MOTION
LAJ #45 TO SELL REAL PROPERTY (LOT 22)
FREE AND CLEAR OF LIENS WITH
WAIVER OF STAY OF RULE
9-20-04 [490]

Tentative Ruling: This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

55. 02-93549-D-11 DAVID/MARGIE ROBINETTE HEARING - MOTION TO
MDG #29 SELL PARCEL #2 OF PHASE TWO
OF REAL PROPERTY OF ESTATE
FREE AND CLEAR OF LIENS
9-27-04 [431]

Tentative Ruling: This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

56. 04-92709-D-11 L.L.-G.L. ENTERPRISES, INC. CONT. HEARING - MOTION FOR
SW #1 RELIEF FROM AUTOMATIC STAY
FORD MOTOR CREDIT COMPANY VS. 7-27-04 [30]

CONT. FROM 9-28-04

Tentative Ruling: No tentative is being posted for this matter. This matter is trailed to the specially-set 11:00 a.m. calendar.