

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

Honorable Robert S. Bardwil  
Bankruptcy Judge  
Sacramento, California

**February 15, 2017 at 10:00 a.m.**

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**INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS**

**1. Matters resolved without oral argument:**

Unless otherwise stated, the court will prepare a civil minute order on each matter listed. If the moving party wants a more specific order, it should submit a proposed amended order to the court. In the event a party wishes to submit such an Order it needs to be titled 'Amended Civil Minute Order.'

If the moving party has received a response or is aware of any reason, such as a settlement, that a response may not have been filed, the moving party must contact Nancy Williams, the Courtroom Deputy, at (916) 930-4580 at least one hour prior to the scheduled hearing.

**2. The court will not continue any short cause evidentiary hearings scheduled below.**

**3. If a matter is denied or overruled without prejudice, the moving party may file a new motion or objection to claim with a new docket control number. The moving party may not simply re-notice the original motion.**

**4. If no disposition is set forth below, the matter will be heard as scheduled.**

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1.	16-28407-D-7	JOSE LOPEZ	MOTION FOR RELIEF FROM
	JHW-1		AUTOMATIC STAY
	TD AUTO FINANCE, LLC VS.		1-19-17 [15]

**Final ruling:**

Moving party filed an amended notice of hearing continuing this motion to March 1, 2017 at 10:00 a.m. No appearance is necessary on February 15, 2017.

2. 16-26408-D-7 BENJAMIN/TIFFANY BROWN MOTION TO COMPEL ABANDONMENT  
SLH-1 1-5-17 [15]

**Final ruling:**

The matter is resolved without oral argument. There is no timely opposition to the debtors' motion to compel the trustee to abandon property and the debtors have demonstrated the property to be abandoned is of inconsequential value to the estate. Accordingly, the motion will be granted and the property that is the subject of the motion will be deemed abandoned. Moving party is to submit an appropriate order. No appearance is necessary.

3. 15-23511-D-7 SCOTT COURTNEY MOTION FOR RELIEF FROM  
HLC-1 AUTOMATIC STAY  
RABOBANK, N.A. VS. 1-18-17 [63]

4. 16-28018-D-7 TERRENCE/NANCIE HOFMANN MOTION FOR RELIEF FROM  
JSM ENTERPRISES, INC. VS. AUTOMATIC STAY  
1-3-17 [21]

**Final ruling:**

The motion is denied for the following reasons: (1) moving party failed to include an appropriate docket control number as required by LBR 9014-1(c); (2) the notice of hearing failed to state the address of where the hearing will be held as required by LBR 9014-1(d)(3); (3) the notice of hearing also failed to give the deadline for parties to file opposition to the motion as required by LBR 9014-1(d)(4); and (4) moving party failed to serve the debtors. As a result of these procedural and service defects, the court will deny the motion by minute order. No appearance is necessary.

5. 14-25820-D-11 INTERNATIONAL OBJECTION TO CLAIM OF ARGO  
FWP-39 MANUFACTURING GROUP, INC. PARTNERS, CLAIM NUMBER 38  
12-29-16 [1045]

**Final ruling:**

The matter is resolved without oral argument. The court's record indicates that no timely opposition/response to the objection has been filed and the objection is supported by the record. Accordingly, the court will sustain the debtor's objection and claim no. 38 of Argo Partners will be disallowed as a priority. Moving party is to submit an appropriate order. No appearance is necessary.

6. 14-25820-D-11 INTERNATIONAL OBJECTION TO CLAIM OF KOLLEEN  
FWP-40 MANUFACTURING GROUP, INC. MCNAMEE, CLAIM NUMBER 22  
12-29-16 [1050]

**Final ruling:**

The matter is resolved without oral argument. The court's record indicates that no timely opposition/response to the objection has been filed and the objection is supported by the record. Accordingly, the court will sustain the debtor's objection and claim no. 22 of Kolleen McNamee will be disallowed as a priority. Moving party is to submit an appropriate order. No appearance is necessary.

7. 14-25820-D-11 INTERNATIONAL OBJECTION TO CLAIM OF ARGO  
FWP-41 MANUFACTURING GROUP, INC. PARTNERS, CLAIM NUMBER 31  
12-29-16 [1055]

**Final ruling:**

The matter is resolved without oral argument. The court's record indicates that no timely opposition/response to the objection has been filed and the objection is supported by the record. Accordingly, the court will sustain the debtor's objection and claim no. 31 of Argo Partners will be disallowed as a priority. Moving party is to submit an appropriate order. No appearance is necessary.

8. 14-25820-D-11 INTERNATIONAL OBJECTION TO CLAIM OF STEPHEN  
FWP-42 MANUFACTURING GROUP, INC. F. QUIST, CLAIM NUMBER 28  
12-29-16 [1060]

**Tentative ruling:**

The court intends to use this hearing as a status conference.

9. 14-25820-D-11 INTERNATIONAL MOTION FOR COMPENSATION BY THE  
FWP-44 MANUFACTURING GROUP, LAW OFFICE OF FELDERSTEIN  
INC. FITZGERALD WILLOUGHBY &  
PASCUZZI, LLP FOR THOMAS A.  
WILLOUGHBY, TRUSTEE'S  
ATTORNEY(S)  
1-18-17 [1095]

10. 14-25820-D-11 INTERNATIONAL MOTION FOR COMPENSATION FOR  
FWP-45 MANUFACTURING GROUP, BEVERLY N. MCFARLAND, CHAPTER  
INC. 11 TRUSTEE  
1-18-17 [1078]

11. 14-25820-D-11 INTERNATIONAL MOTION FOR COMPENSATION BY THE  
FWP-46 MANUFACTURING GROUP, LAW OFFICE OF BAKER & MCKENZIE,  
LLP FOR JAMES P. BAKER, SPECIAL  
COUNSEL(S)  
1-18-17 [1083]

**Final ruling:**

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed. The record establishes, and the court finds, that the fees and costs requested are reasonable compensation for actual, necessary, and beneficial services under Bankruptcy Code § 330(a). As such, the court will grant the motion. Moving party is to submit an appropriate order. No appearance is necessary.

12. 14-25820-D-11 INTERNATIONAL MOTION FOR COMPENSATION FOR  
GC-2 MANUFACTURING GROUP, GABRIELSON & COMPANY,  
INC. ACCOUNTANT(S)  
1-18-17 [1089]

13. 14-22526-D-7 DAVID JONES MOTION FOR COMPENSATION FOR  
JB-2 GABRIELSON & COMPANY,  
ACCOUNTANT(S)  
12-29-16 [208]

**Final ruling:**

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed. The record establishes, and the court finds, that the fees and costs requested are reasonable compensation for actual, necessary, and beneficial services under Bankruptcy Code § 330(a). As such, the court will grant the motion by minute order. No appearance is necessary.

14. 16-22230-D-7 NORMAN/CHERI RYAN OBJECTION TO HOMESTEAD  
MPD-3 EXEMPTION  
12-22-16 [50]

**Final ruling:**

Pursuant to the parties' request the hearing on this objection is continued to April 26, 2017 at 10:00 a.m. No appearance is necessary on February 15, 2017.

15. 15-24433-D-7 WILLIAM INDREBOE MOTION FOR COMPENSATION BY THE  
GJH-1 HUGHES LAW CORPORATION FOR  
CHRISTOPHER D. HUGHES,  
TRUSTEE'S ATTORNEY(S)  
1-11-17 [32]

**Final ruling:**

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed. The record establishes, and the court finds, that the fees and costs requested are reasonable compensation for actual, necessary, and beneficial services under Bankruptcy Code § 330(a). As such, the court will grant the motion. Moving party is to submit an appropriate order. No appearance is necessary.

16. 17-20038-D-12 LANE FAMILY LIMITED STATUS CONFERENCE RE: VOLUNTARY  
PARTNERSHIP NO. ONE PETITION  
1-4-17 [1]

**Tentative ruling:**

This is the initial status conference in this chapter 12 case. The court will hear the matter but would point out to the debtor's counsel there appear to be a couple of service issues. Pursuant to the Order to (1) File Status Report; and (2) Attend Status Conference, the debtor was required to serve, among others, all secured creditors and all general and limited partners. However, there is no evidence the following were served: (a) Echeverria Cattle Company, listed on the debtor's Schedule G, and (b) Timothy L. Wilbur and Tomme Jo Wilber Dale, listed in the debtor's statement of affairs as limited partners. The court will hear the matter.

17. 14-25148-D-11 HENRY TOSTA CONTINUED MOTION TO ENFORCE  
MF-39 JOINT PLAN OF REORGANIZATION  
12-7-16 [650]

18. 16-22556-D-7 MGBEOJULIKWE OFFIAH AND MOTION FOR RELIEF FROM  
WINIFRED OKEEM AUTOMATIC STAY  
ALAN NAKATSUKA VS. 1-12-17 [70]

**Final ruling:**

The hearing on this motion is continued to March 1, 2017 at 10:00 a.m. No appearance is necessary on February 15, 2017.

19. 16-26662-D-7 EMILIO QUIROGA MOTION FOR RELIEF FROM  
AP-1 AUTOMATIC STAY  
WELLS FARGO BANK, N.A. VS. 1-6-17 [32]

**Final ruling:**

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion is supported by the record. The debtor received his discharge on January 17, 2017 and, as a result, the stay is no longer in effect as to the debtor (see 11 U.S.C. § 362(c)(3)). Accordingly, the motion will be denied as to the debtor as moot. The court will grant relief from stay as to the trustee and the estate, and will waive FRBP 4001(a)(3). This relief will be granted by minute order. There will be no further relief afforded. No appearance is necessary.

20. 13-33966-D-7 HOWARD HOLZER MOTION TO AVOID LIEN OF CAPITOL  
DE-1 ONE BANK, N.A.  
11-3-16 [32]

**Final ruling:**

On November 3, 2016, the debtor filed a motion to avoid a judicial lien held by Capitol One Bank N.A. (the "Bank"), which the debtor set for hearing on December 14, 2016. By final ruling issued as part of the court's pre-hearing dispositions for December 14, 2016, the court stated its intention to deny the motion because of a service defect, and by minute order filed December 15, 2016, the court denied the motion. Two weeks later, on December 29, 2016, the debtor filed an amended notice of motion, purporting to set the same motion for hearing on February 15, 2017. The debtor used the same docket control number that was used on his motion filed November 3, 2016, DC No. DE-1. He did not file a new motion.

The motion having been denied by order filed December 15, 2016, there was no longer a pending motion of which the debtor could amend the notice. As a result, this matter will be removed from calendar. No appearance is necessary. If the debtor wishes to try again to avoid the Bank's lien, he must do so by way of a new motion, with a new notice of hearing and new supporting documents, all including a new docket control number.

21. 13-33966-D-7      HOWARD HOLZER  
DE-2

AMENDED MOTION TO AVOID LIEN OF  
CAPITOL ONE BANK, N.A.  
11-4-16 [36]

**Final ruling:**

On November 3, 2016, the debtor filed a motion to avoid a judicial lien held by Capitol One Bank N.A. (the "Bank"), which the debtor set for hearing on December 14, 2016. By final ruling issued as part of the court's pre-hearing dispositions for December 14, 2016, the court stated its intention to deny the motion because of a service defect, and by minute order filed December 15, 2016, the court denied the motion. Two weeks later, on December 29, 2016, the debtor filed an amended notice of motion, purporting to set the same motion for hearing on February 15, 2017. The debtor used the same docket control number that was used on his motion filed November 3, 2016, DC No. DE-2. He did not file a new motion.

The motion having been denied by order filed December 15, 2016, there was no longer a pending motion of which the debtor could amend the notice. As a result, this matter will be removed from calendar. No appearance is necessary. If the debtor wishes to try again to avoid the Bank's lien, he must do so by way of a new motion, with a new notice of hearing and new supporting documents, all including a new docket control number.

22. 17-20168-D-7      JEREMY DEVINE

MOTION FOR WAIVER OF THE  
CHAPTER 7 FILING FEE OR OTHER  
FEE  
1-11-17 [5]

**Final ruling:**

This case was dismissed on January 23, 2017. As a result the motion will be denied by minute order as moot. No appearance is necessary.

23. 10-24778-D-7      SASKIA DE VRIES  
GEL-2

MOTION TO AVOID LIEN OF UNIFUND  
CCR PARTNERS  
1-16-17 [31]

**Final ruling:**

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion is supported by the record. The court finds the judicial lien described in the motion impairs an exemption to which the debtor is entitled. As a result, the court will grant the debtor's motion to avoid the lien. Moving party is to submit an appropriate order. No appearance is necessary.

24. 15-29890-D-7      GRAIL SEMICONDUCTOR                      MOTION TO COMPEL  
16-2088                      DNL-5    1-12-17 [175]  
CARELLO V. STERN ET AL

**Tentative ruling:**

This is the motion of the plaintiff, who is also the trustee in the chapter 7 case in which this adversary proceeding is pending (the "trustee"), to compel defendants Donald Stern ("Stern"); Billion Hope International, Ltd. ("BHI"); and MOM OS, LLC ("MOM") to provide answers to interrogatories served earlier. The defendants have not filed opposition. However, the trustee has failed to submit evidence sufficient to demonstrate the nature and extent of her efforts to meet and confer under the standards enunciated by this court in Sanchez v. Wash. Mutual Bank (In re Sanchez), 2008 Bankr. LEXIS 4239, \*2-5 (Bankr. E.D. Cal. 2008) and the cases cited therein.

The only evidence the trustee has submitted are (1) copies of the interrogatories and proofs of service of them; and (2) the trustee's counsel's declaration stating, "I have in good faith conferred with counsel for Stern, BHI, and MOM to obtain the responses without court action." Cunningham Decl., DN 177, ¶ 7. Counsel is referred to the Sanchez decision as to the type of evidence the court requires. Accordingly, the motion will be denied.

The court will hear the matter.

25. 15-29890-D-7      GRAIL SEMICONDUCTOR                      MOTION FOR CONTEMPT  
16-2088                      DNL-6    1-18-17 [180]  
CARELLO V. STERN ET AL

**Tentative ruling:**

This is the motion of the plaintiff, who is also the trustee in the chapter 7 case in which this adversary proceeding is pending (the "trustee"), for an order (1) holding defendants Donald Stern ("Stern") and Billion Hope International, Ltd. ("BHI") in contempt of court for violating this court's January 4, 2017 order in this adversary proceeding; and (2) notifying Stern and BHI that compulsory sanctions will be imposed if they do not comply, including entering their default in the adversary proceeding, imposing daily sanctions in a stated dollar amount until they comply, or both. The defendants have not filed opposition.

On January 4, 2017, this court issued a preliminary injunction enjoining Stern and BHI from disposing of any of the \$2.75 million that is the subject of this adversary proceeding (the "Subject Funds") and directing Stern and BHI to turn over the Subject Funds to the trustee within five days after service of the order, to be held by the trustee pending further court order. The trustee's counsel now testifies that on January 5, 2017, he caused the order to be served on Stern and BHI by mail in care of Iain Macdonald (their attorney of record in this proceeding), and filed a proof of service. The trustee's counsel then made email requests to Mr. Macdonald on ten different days in January 2017 requesting the status of his clients' efforts to comply with the preliminary injunction. The trustee's counsel



states, "MacDonald's responses have been limited to confirming that his clients have been advised of the Order and indicating that he has been waiting to hear back from the clients." Cunningham Decl., DN 182, ¶ 9. The trustee testifies she "[is] not aware of any steps taken by Stern and BHI to comply with the Order" and she "[has] not received the Subject Funds." Carello Decl., DN 183, ¶ 9.

The court finds that the trustee has shown by clear and convincing evidence that by failing to turn over the Subject Funds, Stern and BHI have violated a specific and definite order of this court; namely, the January 4, 2017 order, of which they had actual notice. As such, they are in contempt of court. As a result of this finding of contempt, the court will order that Stern and BHI will have until 5:00 p.m. on the 3<sup>rd</sup> business day following electronic service of the contempt order, to turn the Subject Funds over to the trustee. The hearing on this motion will be continued to March 1, 2017, at 10:00 a.m., at which time, if Stern and BHI have failed to comply, they will be sanctioned in the amount of \$500 per day until they comply. Stern and BHI will be jointly and severally liable for this sanction. The court will also consider at that time whether to strike Stern's and BHI's answers to the trustee's complaint.

The court will hear the matter.

26. 16-24321-D-12 PAUL SCHMIDT  
JPJ-1

MOTION TO DISMISS CASE  
1-23-17 [66]

27. 10-50339-D-7 ELEFTHERIOS/PATRICIA  
HSM-14 EFSTRATIS

MOTION FOR COMPENSATION FOR  
MELINDA JANE STEUER, SPECIAL  
COUNSEL  
1-23-17 [418]

28. 13-34659-D-7 GERARDO CHAVEZ  
SSA-3

MOTION FOR COMPENSATION FOR  
STEVEN S. ALTMAN, TRUSTEE'S  
ATTORNEY  
1-20-17 [51]

29. 16-25460-D-7 GABRIEL/CHRISTINA PAULL  
SSA-2

MOTION TO EMPLOY BRIAN YAMADA  
AS SPECIAL COUNSEL  
1-20-17 [21]

**Tentative ruling:**

This is the trustee's application to employ special counsel. The application and notice of hearing state the application is brought pursuant to LBR 9014-1(f)(2) and the moving party gave only 26 days' notice. However, the notice of hearing goes on to state that opposition, if any, must be filed at least 14 days before the hearing date and to advise of the consequences of failing to file written opposition. Because 26 days represented insufficient notice, the court will entertain opposition, at the hearing.

Further, the declaration of proposed special counsel Brian Yamada is insufficient. He testifies that he began representing debtor Gabriel Paull on April 4, 2016 in connection with the matter on which he is to be employed to represent the trustee and that the debtors then filed this chapter 7 case on August 18, 2016. As far as his connections with relevant parties are concerned, he states only that "[b]ased upon the conflict check which my firm has conducted, Counsel's office represents party plaintiffs unrelated to Debtors designated in Debtors' petition in In re Sanchez v. Sears, case no. BC581645 in Burbank, California, and In re Williams v. Amazon Fulfillment Service, case no. BC628812 in Inglewood, California." Yamada Decl., DN 23, ¶ 6. This language is confusing. If the party plaintiffs the firm represents are "unrelated to Debtors," why are they "designated in Debtors' petition"? The applicant must disclose the identities of the parties he or his firm represents, how they are connected with the debtors, or why they are otherwise listed in the debtors' bankruptcy schedules or statements. In addition, Mr. Yamada "shall, after disclosure of any actual connections, close with the statement: 'Except as set forth above, I have no connection with the debtor, creditors, or any party-in-interest, their respective attorneys, accountants, or the U.S. Trustee, or any employee of the U.S. Trustee.'" LBR 2014-1.

The court will hear the matter.

30. 16-27672-D-11 DAVID LIND MOTION TO APPOINT TRUSTEE  
MHK-1 2-1-17 [66]
31. 16-27672-D-11 DAVID LIND CONTINUED STATUS CONFERENCE RE:  
CHAPTER 12 VOLUNTARY PETITION  
11-18-16 [1]
32. 15-28774-D-7 OTASHE GOLDEN MOTION TO EMPLOY DAVID M.  
SSA-5 JAMIESON AS SPECIAL COUNSEL  
AND/OR MOTION TO EMPLOY STEWART  
TABAK AS SPECIAL COUNSEL  
1-20-17 [65]
33. 16-28084-D-7 MICHAEL NUNN MOTION FOR RELIEF FROM  
ADR-1 AUTOMATIC STAY  
MARIO HELGUERA VS. 2-1-17 [13]