

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable René Lastreto II  
Hearing Date: Tuesday, June 9, 2020  
Place: Department B - Courtroom #13  
Fresno, California

**ALL APPEARANCES MUST BE TELEPHONIC**  
**(Please see the court's website for instructions.)**

*Pursuant to District Court General Order 618, no persons are permitted to appear in court unless authorized by order of the court until further notice. All appearances of parties and attorneys shall be telephonic through CourtCall. The contact information for CourtCall to arrange for a phone appearance is: (866) 582-6878.*

**INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS**

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

**No Ruling:** All parties will need to appear at the hearing unless otherwise ordered.

**Tentative Ruling:** If a matter has been designated as a tentative ruling it will be called. The court may continue the hearing on the matter, set a briefing schedule or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

**Final Ruling:** Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

**Orders:** Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within 14 days of the final hearing on the matter.

**THE COURT ENDEAVORS TO PUBLISH ITS RULINGS AS SOON AS POSSIBLE. HOWEVER, CALENDAR PREPARATION IS ONGOING AND THESE RULINGS MAY BE REVISED OR UPDATED AT ANY TIME PRIOR TO 4:00 P.M. THE DAY BEFORE THE SCHEDULED HEARINGS. PLEASE CHECK AT THAT TIME FOR POSSIBLE UPDATES.**

**9:30 AM**

1. [20-10809](#)-B-11 **IN RE: STEPHEN SLOAN**  
[FW-2](#)

CONTINUED MOTION TO USE CASH COLLATERAL  
4-21-2020 [[100](#)]

STEPHEN SLOAN/MV  
PETER FEAR/ATTY. FOR DBT.  
RESPONSIVE PLEADING

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Resolved by stipulation of the parties.

2. [20-10809](#)-B-11 **IN RE: STEPHEN SLOAN**  
[MSK-1](#)

MOTION TO PROHIBIT DEBTOR'S CONTINUED USE OF CASH COLLATERAL  
AND/OR MOTION FOR ADEQUATE PROTECTION  
5-8-2020 [[131](#)]

MECHANICS BANK/MV  
PETER FEAR/ATTY. FOR DBT.  
MATTHEW KENNEDY/ATTY. FOR MV.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

This motion is DENIED WITHOUT PREJUDICE for failure to comply with the Local Rules of Practice ("LBR").

LBR 9014-1(f)(1)(B) states that Motions filed on at least 28 days' notice require the movant to notify the respondent or respondents that any opposition to motions filed on at least 28 days' notice must be in writing and must be filed with the court at least fourteen (14) days preceding the date or continued date of the hearing.

This motion was filed and served on May 8, 2020 and set for hearing on June 9, 2020. Doc. #132, 134. June 9, 2020 is more than 28 days after May 8, 2020, and therefore this hearing was set on at least 28 days' notice under LBR 9014-1(f)(1). The notice stated that opposition must be presented at the hearing date. That is incorrect. Because the hearing was set on at least 28 days' notice, the notice should have stated that opposition, if any, must be written and filed and served not later than 14 days before the hearing date. Because this motion was filed, served, and noticed on at least 28 days' notice, the language of LBR 9014-1(f)(1)(B) needed to have been included in the notice.

3. [20-10809](#)-B-11     **IN RE: STEPHEN SLOAN**  
[SMK-1](#)

MOTION FOR ADMINISTRATIVE EXPENSES  
4-10-2020    [\[78\]](#)

HELENA AGRI-ENTERPRISES, LLC/MV  
PETER FEAR/ATTY. FOR DBT.  
STEVEN KOCH/ATTY. FOR MV.

NO RULING.

The court must first address movant's procedural errors.

First, the debtor's attorney was not served. Fed. R. Bankr. P. 7004(g) requires service on the debtor's attorney. The court did not see that Mr. Peter Fear, debtor's attorney, was served. See doc. #82.

Second, the notice did not contain the language required under Local Rule of Practice ("LBR") 9014-1(d)(3)(B)(iii). LBR 9014-1(d)(3)(B), which is about noticing requirements, requires movants to notify respondents that they can determine whether the matter has been resolved without oral argument or if the court has issued a tentative ruling by checking the Court's website at [www.caeb.uscourts.gov](http://www.caeb.uscourts.gov) after 4:00 p.m. the day before the hearing.

The motion itself also has substantive problems.

First, the motion asks for a provision in an order granting this motion that the expense can be paid from crop proceeds from 2020 crops after post-petition farm maintenance costs are paid. No authority is provided supporting that type of order. The request assumes that no creditor has a lien on the proceeds. But Mechanics Bank (formerly Rabobank) claims to have such a lien. The court notes that Mechanics Bank was not served, but Mechanics Bank also did not file a request for notice until after the motion was filed. Movant served Rabobank, but service was not sufficient under the Federal Rules of Bankruptcy Procedure. See Fed. R. Bankr. P. 70004(b)(3).

Second, there is an issue as to Sloan Enterprises and Stephen Sloan. The invoices included in the exhibits show that it is "Sloan

Enterprises" being billed, not Stephen Sloan. Is the estate liable, or the non-debtor entity?

Third, movant cites Fifth Circuit authority in the motion. Because The Eastern District of California Bankruptcy Court is located in the Ninth Circuit, Ninth Circuit authority is binding. The leading authority on administrative expense claims in the Ninth Circuit is Microsoft Corp. v. DAK Indus. (In re DAK Indus.), 66 F.3d 1091 (9th Cir. 1995). The Ninth Circuit stated that the claimant must show that the debt asserted to be an administrative expense "(1) arose from a transaction with the debtor-in-possession as opposed to the preceding entity (or, alternatively, that the claimant gave consideration to the debtor-in-possession); and (2) directly and substantially benefitted the estate." Id. (citing In re White Motor Corp., 831 F.2d 106, 110 (6th Cir. 1987)). The bankruptcy court also has broad discretion whether to grant such a claim, and only "the actual, necessary costs and expenses of preserving the estate" shall be approved. Id. (citations omitted).

As mentioned above, on the current record it is not clear the delivered product benefitted the estate, or any portion did. Notably the debtor has not opposed this motion. But the court must make an independent judgment on estate benefit before allowing such a claim.

Also, the allowance of the claim means no plan can be confirmed in this case without payment of the claim. 11 U.S.C. § 1129(a)(9)(A). There is no authority cited by movant authorizing immediate payment.

4. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[WJH-13](#)

CONTINUED OMNIBUS OBJECTION TO CLAIMS  
11-22-2019 [[1718](#)]

TULARE LOCAL HEALTHCARE DISTRICT/MV  
RILEY WALTER/ATTY. FOR DBT.  
CONTINUED TO 7/14/20 PER ECF ORDER #2192

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Continued to July 14, 2020 at 9:30 a.m.

NO ORDER REQUIRED: The court already issued an order. Doc. #2192.

The parties are advised that the Judicial Law Clerk for this Department, Garrett Leatham, has accepted a post-clerkship position at Wanger, Jones, Helsley ("WJH"). As long as Mr. Leatham remains employed by the court, he will be screened from any matters where WJH is counsel of record. Mr. Leatham was screened from this matter. Nevertheless, the court advises the parties to discuss with their clients whether they wish to ask the court to recuse itself on this or future matters.

Pursuant to the parties' stipulation and this court's order, this matter is continued to July 14, 2020 at 9:30 a.m. due to ongoing discussions between counsel for the District and LocumTenens.com, LLC ("Locum"). Doc. #2192. Opposition, if any, is due from Locum not later than June 30, 2020 and a reply by the District is due July 7, 2020.

5. [17-13797](#)-B-9     **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[WJH-18](#)

CONTINUED OBJECTION TO CLAIM OF TULARE HOSPITALIST GROUP, CLAIM NUMBER 231

1-8-2020    [[1784](#)]

TULARE LOCAL HEALTHCARE DISTRICT/MV  
RILEY WALTER/ATTY. FOR DBT.

CONTINUED TO 7/14/20 PER ECF STIPULATION AND ORDER #2186

FINAL RULING:                    There will be no hearing on this matter.

DISPOSITION:                   Continued to July 14, 2020 at 9:30 a.m.

NO ORDER REQUIRED:            The court already issued an order. Doc. #2186.

The parties are advised that the Judicial Law Clerk for this Department, Garrett Leatham, has accepted a post-clerkship position at Wanger, Jones, Helsley ("WJH"). As long as Mr. Leatham remains employed by the court, he will be screened from any matters where WJH is counsel of record. Mr. Leatham was screened from this matter. Nevertheless, the court advises the parties to discuss with their clients whether they wish to ask the court to recuse itself on this or future matters.

Pursuant to the parties' stipulation and this court's order, this matter is continued to July 14, 2020 at 9:30 a.m. due to ongoing discussions between counsel for the District and Tulare Hospitalist Group ("THG"). Doc. #2186. Opposition, if any, is due from THG not later than June 30, 2020.

6. [17-13797](#)-B-9     **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[WJH-25](#)

CONTINUED OBJECTION TO CLAIM OF INPATIENT HOSPITAL GROUP, INC.,  
CLAIM NUMBER 230  
1-10-2020    [[1834](#)]

TULARE LOCAL HEALTHCARE DISTRICT/MV  
RILEY WALTER/ATTY. FOR DBT.  
CONTINUED TO 7/14/20 PER ECF STIPULATION AND ORDER #2187

FINAL RULING:                    There will be no hearing on this matter.

DISPOSITION:                   Continued to July 14, 2020 at 9:30 a.m.

NO ORDER REQUIRED:            The court already issued an order. Doc. #2187.

The parties are advised that the Judicial Law Clerk for this Department, Garrett Leatham, has accepted a post-clerkship position at Wanger, Jones, Helsley ("WJH"). As long as Mr. Leatham remains employed by the court, he will be screened from any matters where WJH is counsel of record. Mr. Leatham was screened from this matter. Nevertheless, the court advises the parties to discuss with their clients whether they wish to ask the court to recuse itself on this or future matters.

Pursuant to the parties' stipulation and this court's order, this matter is continued to July 14, 2020 at 9:30 a.m. due to ongoing discussions between counsel for the District and Inpatient Hospital Group, Inc. ("Inpatient"). Doc. #2187. Opposition, if any, is due from Inpatient not later than June 30, 2020.

7. [17-13797](#)-B-9     **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[WJH-33](#)

CONTINUED OBJECTION TO CLAIM OF MED ONE CAPITAL FUNDING, LLC,  
CLAIM NUMBER 203  
1-13-2020    [[1886](#)]

TULARE LOCAL HEALTHCARE DISTRICT/MV  
RILEY WALTER/ATTY. FOR DBT.  
CONTINUED TO 7/14 PER ECF STIPULATION AND ORDER #2191

FINAL RULING:                    There will be no hearing on this matter.

DISPOSITION:                   Continued to July 14, 2020 at 9:30 a.m.

NO ORDER REQUIRED:            The court already issued an order. Doc. #2191.

The parties are advised that the Judicial Law Clerk for this Department, Garrett Leatham, has accepted a post-clerkship position at Wanger, Jones, Helsley ("WJH"). As long as Mr. Leatham remains employed by the court, he will be screened from any matters where WJH is counsel of record. Mr. Leatham was screened from this matter. Nevertheless, the court advises the parties to discuss with their

clients whether they wish to ask the court to recuse itself on this or future matters.

Pursuant to the parties' stipulation and this court's order, this matter is continued to July 14, 2020 at 9:30 a.m. due to ongoing discussions between counsel for the District and Med One Capital Funding, LLC ("Med One"). Doc. #2191. Opposition, if any, is due from Med One not later than June 30, 2020.

1:30 PM

1. [20-10802](#)-B-7     **IN RE: ANGELES LEON-ARAGON**  
[RLM-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
5-12-2020   [\[14\]](#)

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY/MV  
IRMA EDMONDS/ATTY. FOR DBT.  
RICHARD MAHFOUZ/ATTY. FOR MV.

FINAL RULING:       There will be no hearing on this matter.

DISPOSITION:        Granted.

ORDER:               The Moving Party shall submit a proposed order in  
conformance with the ruling below.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014- 1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The movant, State Farm Mutual Automobile Insurance Company ("Movant"), seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) to proceed against the debtor's auto insurance policy ("Policy") in relation to a vehicle accident that occurred on June 4, 2019 due to the negligence of the debtor involving a driver insured by State Farm Mutual Automobile Insurance Company. Doc. #14.

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

After review of the included evidence, the court finds that "cause" exists to lift the stay. Debtor's vehicle accident has caused injury to Movant. There is an insurance policy in place to protect the policy holders for just such occasions. No other creditors will be



prejudiced by Movant collecting only on the insurance proceeds. Doc. #16, 17. Debtor has not opposed this motion.

Accordingly, the motion will be granted pursuant to 11 U.S.C. §§ 362(d)(1) to permit the movant to proceed against the Policy ONLY. No other relief is awarded.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because Movant will continue to be harmed as a result of debtor's alleged negligence.

2. [11-11304](#)-B-7     **IN RE: VANESSA VALDEZ-PANTOJA AND ALVARO PANTOJA**  
[BSH-5](#)

MOTION TO AVOID LIEN OF CAPITAL ONE BANK (USA), N.A.  
5-7-2020    [\[45\]](#)

VANESSA VALDEZ-PANTOJA/MV  
BRIAN HADDIX/ATTY. FOR DBT.

FINAL RULING:     There will be no hearing on this matter.

DISPOSITION:     Granted.

ORDER:            The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014- 1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. In order to avoid a lien under 11 U.S.C. § 522(f)(1) the movant must establish four elements: (1) there must be an exemption to which the debtor would be entitled under § 522(b); (2) the property must be listed on the debtor's schedules as exempt; (3) the lien must impair the exemption; and (4) the lien must be either a judicial lien or a non-possessory, non-purchase money security interest in personal property listed in § 522(f)(1)(B). § 522(f)(1); Goswami v. MTC Distrib. (In re Goswami), 304 B.R. 386, 390-91 (9th Cir. BAP 2003), quoting In re

Mohring, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992), aff'd 24 F.3d 247 (9th Cir. 1994).

A judgment was entered against the debtor in favor of Capital One Bank (USA), N.A. in the sum of \$7,418.95 on August 6, 2010. Doc. #47. The abstract of judgment was recorded with Merced County on January 25, 2011. Id. That lien attached to the debtor's interest in a residential real property in Los Banos, CA. The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of \$180,000.00 as of the petition date. Doc. #1. The unavoidable liens totaled \$272,040.90 on that same date, consisting of a first deed of trust in favor of Bank of America. Doc. #1. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(2) in the amount of \$1.00. Doc. #27.

Movant has established the four elements necessary to avoid a lien under § 522(f)(1). After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtor's exemption of the real property and its fixing will be avoided subject to 11 U.S.C. § 349(b)(1)(B).

3. [20-11109](#)-B-7     **IN RE: AHARON/GRANUSH GASPARIAN**  
[KMM-2](#)

AMENDED MOTION TO COMPEL ABANDONMENT  
5-18-2020    [35]

AHARON GASPARIAN/MV  
KARNEY MEKHITARIAN/ATTY. FOR DBT.

FINAL RULING:     There will be no hearing on this matter.

DISPOSITION:     Denied without prejudice.

ORDER:            The minutes of the hearing will be the court's findings and conclusions. The court will issue the order.

This motion is DENIED WITHOUT PREJUDICE. Constitutional due process requires that the movant make a *prima facie* showing that they are entitled to the relief sought. Here, the moving papers do not present "sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" In re Tracht Gut, LLC, 503 B.R. 804, 811 (9th Cir. BAP, 2014), citing Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009), and Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007).

The motion does not comply with Federal Rule of Bankruptcy Procedure 6007(b), which states that a motion to compel abandonment filed and served by a party in interest "shall serve the motion and any notice of the motion on the trustee . . . the United States trustee, all creditors . . ." The certificate of service shows that only the chapter 7 trustee and the United States trustee were served. Therefore the motion is DENIED WITHOUT PREJUDICE.

4. [20-10710](#)-B-7    **IN RE: JAMES ALFORD**  
[PFT-1](#)

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO APPEAR  
AT SEC. 341(A) MEETING OF CREDITORS  
4-27-2020    [[11](#)]

BRUNO FLORES/ATTY. FOR DBT.

FINAL RULING:        There will be no hearing on this matter.

DISPOSITION:        Conditionally granted.

ORDER:                The court will issue the order.

The chapter 7 trustee's motion to dismiss is CONDITIONALLY GRANTED.

The debtors shall attend the meeting of creditors rescheduled for June 29, 2020 at 11:00 a.m. If the debtor fails to do so, the chapter 7 trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

The time prescribed in Rules 1017(e)(1) and 4004(a) for the chapter 7 trustee and the U.S. Trustee to object to the debtors' discharge or file motions for abuse, other than presumed abuse, under § 707, is extended to 60 days after the conclusion of the meeting of creditors.

5. [19-14015](#)-B-7    **IN RE: MAXIMUS III COMPANY**  
[MHK-1](#)

CONTINUED OPPOSITION/OBJECTION TO CHAPTER 7 TRUSTEE'S REPORT  
OF NO DISTRIBUTION, MOTION FOR RELIEF FROM AUTOMATIC STAY  
3-17-2020    [[17](#)]

COASTAL STAR PARTNERS, LLC/MV  
D. GARDNER/ATTY. FOR DBT.  
DAVID MEEGAN/ATTY. FOR MV.

NO RULING.

6. [20-10320](#)-B-7     **IN RE: MARGARITA ESPINOZA**  
[SSW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
4-30-2020    [[26](#)]

VCFS AUTO LEASING CO./MV  
MARK ZIMMERMAN/ATTY. FOR DBT.  
SCOTT WELTMAN/ATTY. FOR MV.  
RESPONSIVE PLEADING

FINAL RULING:        There will be no hearing on this matter.

DISPOSITION:         Denied as moot.

ORDER:                The Moving Party shall submit a proposed order in  
conformance with the ruling below.

This motion relates to an executory contract or lease of personal property. The case was filed on January 30, 2020 and the lease was not assumed by the chapter 7 trustee within the time prescribed in 11 U.S.C. § 365(d) (1). Pursuant to § 365 (p) (1), the leased property is no longer property of the estate and the automatic stay under § 362(a) has already terminated by operation of law.

Movant may submit an order denying the motion and confirming that the automatic stay has already terminated on the grounds set forth above. No other relief is granted.

7. [20-11322](#)-B-7     **IN RE: RAYMOND NAVARRO CRUZ**  
[JHW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
5-4-2020    [[18](#)]

FORD MOTOR CREDIT COMPANY LLC/MV  
SCOTT LYONS/ATTY. FOR DBT.  
JENNIFER WANG/ATTY. FOR MV.

FINAL RULING:        There will be no hearing on this matter.

DISPOSITION:         Granted.

ORDER:                The Moving Party shall submit a proposed order in  
conformance with the ruling below.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f) (1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014- 1(f) (1) (B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo),

468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The movant, Ford Motor Credit Company LLC ("Movant"), seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to a 2016 Ford Fusion ("Vehicle"). Doc. #24.

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtor does not have an equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, the court finds that "cause" exists to lift the stay because debtor has failed to make at least four complete post-petition payments. The movant has produced evidence that debtor is delinquent at least \$1,271.03. Doc. #20.

The court also finds that the debtors do not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because debtors are in chapter 7. Doc. #23. The Vehicle is valued at \$14,050.00 and debtor owes \$14,873.79. Doc. #24.

Accordingly, the motion will be granted pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2) to permit the movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded. According to the debtor's statement of Intention, the Vehicle will be surrendered.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because debtor has failed to make at least four pre- and post-petition payments to Movant and the Vehicle is a depreciating asset.

8. [18-13824](#)-B-7     **IN RE: JEFFREY/ALYSHA GRAHAM**  
[RWR-2](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF COLEMAN & HOROWITT,  
LLP FOR RUSSELL W. REYNOLDS, TRUSTEES ATTORNEY(S)  
5-6-2020    [\[49\]](#)

JERRY LOWE/ATTY. FOR DBT.

FINAL RULING:        There will be no hearing on this matter.

DISPOSITION:         Granted.

ORDER:                The Moving Party shall submit a proposed order in  
conformance with the ruling below.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The motion will be GRANTED. Trustee's counsel, Russell W. Reynolds, requests fees of \$3,319.00 and costs of \$58.15 for a total of \$3,377.15 for services rendered from March 7, 2019 through March 30, 2020. Doc. #49.

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." Movant's services included, without limitation: (1) Reviewing and analyzing potential claims, (2) Reviewing and analyzing preliminary title reports, deeds, and other documents, and (3) Preparing and filing employment and fee applications. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded \$3,319.00 in fees and \$58.15 in costs.

9. [20-11125](#)-B-7    **IN RE: PEDRO BOTELHO**  
[PFT-1](#)

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO APPEAR  
AT SEC. 341(A) MEETING OF CREDITORS  
4-28-2020    [[18](#)]

MARK ZIMMERMAN/ATTY. FOR DBT.

FINAL RULING:        There will be no hearing on this matter.

DISPOSITION:        Conditionally granted.

ORDER:                The court will issue the order.

The chapter 7 trustee's motion to dismiss is CONDITIONALLY GRANTED.

The debtors shall attend the meeting of creditors rescheduled for June 29, 2020 at 1:00 p.m. If the debtor fails to do so, the chapter 7 trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

The time prescribed in Rules 1017(e)(1) and 4004(a) for the chapter 7 trustee and the U.S. Trustee to object to the debtors' discharge or file motions for abuse, other than presumed abuse, under § 707, is extended to 60 days after the conclusion of the meeting of creditors.

10. [20-11533](#)-B-7    **IN RE: ROSA SANCHEZ**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
5-13-2020    [[13](#)]

ROSALINA NUNEZ/ATTY. FOR DBT.  
\$335.00 FILING FEE PAID 5/19/20

FINAL RULING:        There will be no hearing on this matter.

DISPOSITION:        The OSC will be vacated.

ORDER:                The court will issue an order.

The record shows that the filing fee was paid in full on May 19, 2020.

11. [20-10242](#)-B-7    **IN RE: RAMON LOPEZ**  
[RAS-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
5-7-2020    [[18](#)]

WILMINGTON TRUST COMPANY/MV  
SEAN FERRY/ATTY. FOR MV.

FINAL RULING:        There will be no hearing on this matter.

DISPOSITION:        Denied as moot.

ORDER:                The court will issue an order.

This motion is DENIED AS MOOT. The case was dismissed on June 5, 2020 and therefore the automatic stay is no longer in effect.

12. [20-11043](#)-B-7    **IN RE: LOUIS/ESPERANZA CRUZ**  
[AYV-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
5-13-2020    [[22](#)]

PARTNERS FEDERAL CREDIT UNION/MV  
NEIL SCHWARTZ/ATTY. FOR DBT.  
YURI VORONIN/ATTY. FOR MV.

TENTATIVE RULING:        This matter will proceed as scheduled.

DISPOSITION:        Granted.

ORDER:                The minutes of the hearing will be the court's findings and conclusions. The Moving Party will submit a proposed order after hearing.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

The court must first note an inconsistency in the motion. The motion refers to a Memorandum of Points and Authorities (doc. #22, p.2, ¶ 4) but no memorandum of points and authorities was filed with this motion.

The movant, Partners Federal Credit Union ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(2) with respect to a 2017 Hyundai Elantra ("Vehicle").



11 U.S.C. § 362(d) (2) allows the court to grant relief from the stay if the debtor does not have an equity in such property and such property is not necessary to an effective reorganization.

After review of the evidence, the court finds that the debtors do not have any equity in the property and the property is not necessary to an effective reorganization. Movant has valued the Vehicle at \$14,550.00. The amount owed to Movant is \$19,952.12. Doc. #25. Debtors are in chapter 7 and therefore the property is not necessary to an effective reorganization.

Accordingly, unless opposition is presented at the hearing, the motion will be granted pursuant to 11 U.S.C. § 362(d) (2) to permit the movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim.

The 14-day stay of Fed. R. Bankr. P. 4001(a) (3) will be ordered waived because the Vehicle is depreciating and the entire amount owed to Movant is delinquent. **No other relief is awarded.**

13. [15-11146](#)-B-7 **IN RE: LUIS/GRACIELA CARRILLO**  
[MJH-2](#)

MOTION TO AVOID LIEN OF PORTFOLIO RECOVERY ASSOCIATES, LLC.  
4-30-2020 [[24](#)]

LUIS CARRILLO/MV  
MARK HANNON/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f) (1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014- 1(f) (1) (B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. In order to avoid a lien under 11 U.S.C. § 522(f)(1) the movant must establish four elements: (1) there must be an exemption to which the debtor would be entitled under § 522(b); (2) the property must be listed on the debtor's schedules as exempt; (3) the lien must impair the exemption; and (4) the lien must be either a judicial lien or a non-possessory, non-purchase money security interest in personal property listed in § 522(f)(1)(B). § 522(f)(1); Goswami v. MTC Distrib. (In re Goswami), 304 B.R. 386, 390-91 (9th Cir. BAP 2003), quoting In re Mohring, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992), aff'd 24 F.3d 247 (9th Cir. 1994).

A judgment was entered against the debtor in favor of Portfolio Recovery Associates, LLC in the sum of \$1,682.63 on February 21, 2012. Doc. #27. The abstract of judgment was recorded with Kern County on March 21, 2012. Id. That lien attached to the debtor's interest in a residential real property in Bakersfield, CA. The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of \$149,135.00 as of the petition date. Doc. #1. The unavoidable liens totaled \$194,146.00 on that same date, consisting of a first deed of trust in favor of Central Mortgage Company. Id. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of \$16,815.00. Doc. #37.

Movant has established the four elements necessary to avoid a lien under § 522(f)(1). After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtor's exemption of the real property and its fixing will be avoided subject to 11 U.S.C. § 349(b)(1)(B).

14. [15-11146](#)-B-7     **IN RE: LUIS/GRACIELA CARRILLO**  
[MJH-3](#)

MOTION TO AVOID LIEN OF WELLS FARGO BANK, N.A.  
4-30-2020    [\[30\]](#)

LUIS CARRILLO/MV  
MARK HANNON/ATTY. FOR DBT.

FINAL RULING:     There will be no hearing on this matter.

DISPOSITION:     Granted.

ORDER:             The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014- 1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court

will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. In order to avoid a lien under 11 U.S.C. § 522(f)(1) the movant must establish four elements: (1) there must be an exemption to which the debtor would be entitled under § 522(b); (2) the property must be listed on the debtor's schedules as exempt; (3) the lien must impair the exemption; and (4) the lien must be either a judicial lien or a non-possessory, non-purchase money security interest in personal property listed in § 522(f)(1)(B). § 522(f)(1); Goswami v. MTC Distrib. (In re Goswami), 304 B.R. 386, 390-91 (9th Cir. BAP 2003), quoting In re Mohring, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992), aff'd 24 F.3d 247 (9th Cir. 1994).

A judgment was entered against the debtor in favor of Wells Fargo Bank, N.A. in the sum of \$15,132.17 on April 16, 2010. Doc. #32. The abstract of judgment was recorded with Kern County on August 11, 2010. Id. That lien attached to the debtor's interest in a residential real property in Bakersfield, CA. The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of \$149,135.00 as of the petition date. Doc. #1. The unavoidable liens totaled \$194,146.00 on that same date, consisting of a first deed of trust in favor of Central Mortgage Company. Id. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of \$16,815.00. Doc. #37.

Movant has established the four elements necessary to avoid a lien under § 522(f)(1). After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtor's exemption of the real property and its fixing will be avoided subject to 11 U.S.C. § 349(b)(1)(B).

15. [20-11666](#)-B-7    **IN RE: VANESSA TALAVERA**  
[MSM-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
5-26-2020    [\[15\]](#)

FREEWAY FUNDING, INC./MV  
MICHAEL MYERS/ATTY. FOR MV.

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                    Granted.

ORDER:                            The minutes of the hearing will be the court's findings and conclusions. The Moving Party shall submit a proposed order after hearing.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

The movant, Freeway Funding, Inc. ("Movant"), seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to a 2014 Ford Fusion ("Vehicle").

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtor does not have an equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, the court finds that "cause" exists to lift the stay because debtor is 7 payments past due in the amount of \$2,883.13. Doc. #18.

The court also finds that the debtor does not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because debtor is in chapter 7. Movant values the Vehicle at \$6,907.00 and the amount owed to Movant is \$13,082.86. Doc. #17.

Accordingly, the motion will be granted pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2) to permit the movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the Vehicle is a depreciating asset and there is lack

of insurance.

16. [20-11295](#)-B-7     **IN RE: MAURIN CONSTRUCTION CORP**  
[JHW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
4-29-2020    [\[23\]](#)

FORD MOTOR CREDIT COMPANY LLC/MV  
PETER FEAR/ATTY. FOR DBT.  
JENNIFER WANG/ATTY. FOR MV.

FINAL RULING:     There will be no hearing on this matter.

DISPOSITION:     Granted.

ORDER:             The Moving Party shall submit a proposed order in  
conformance with the ruling below.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014- 1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The movant, Ford Motor Credit Company LLC ("Movant"), seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to a 2019 Ford F250 ("Vehicle"). Doc. #29.

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtor does not have an equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, the court finds that "cause" exists to lift the stay because debtor has failed to make at least five complete pre- and post-petition payments. The movant has

produced evidence that debtor is delinquent at least \$4,915.75. Doc. #26.

The court also finds that the debtor does not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because debtor is in chapter 7. Doc. #25. The Vehicle is valued at \$31,175.00 and debtor owes \$44,712.05. Doc. #29.

Accordingly, the motion will be granted pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2) to permit the movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because debtor has failed to make at least five pre- and post-petition payments to Movant and the Vehicle is a depreciating asset.