UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable Jennifer E. Niemann
Hearing Date: Thursday, July 8, 2021
Place: Department A – 510 19th Street
Bakersfield, 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, and all parties will need to appear at the hearing unless otherwise ordered. 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.

9:00 AM

1. 21-10928-A-13 **IN RE: ALICE CAMERON**
JCW-1

OBJECTION TO CONFIRMATION OF PLAN BY U.S. BANK NATIONAL ASSOCIATION
5-27-2021 [15]

U.S. BANK NATIONAL ASSOCIATION/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
JENNIFER WONG/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Sustained.

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

This objection was filed and served pursuant to Local Rule of Practice ("LBR") 3015-1(c)(4) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and sustain the objection. 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 debtor filed their chapter 13 plan ("Plan") on April 14, 2021. Doc. #4. U.S. Bank National Association, as Trustee for Structured Asset Investment Loan Trust Mortgage Pass-Through Certificates, Series 2006-4, its assignees and/or successors by and through its servicing agent Wells Fargo Bank, N.A. ("Creditor") objects to confirmation of the Plan on the grounds that: (1) the Plan does not provide for the curing of the $76,003.04 default on Creditor's claim; and (2) the Plan improperly classifies Creditor's claim. Doc. #15.

Federal Rule of Bankruptcy Procedure 3001(f) provides that "[a] proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim." 11 U.S.C. § 502(a) states that a claim or interest, evidenced by a proof of claim filed under § 501, is deemed allowed unless a party in interest objects. Creditor filed its proof of claim on April 27, 2021. Claim 2.

Section 3.02 of the Plan provides that the proof of claim determines the amount and classification of a claim. Doc. #4. The Plan fails to account for the arrearage asserted in Creditor's claim. Claim 2; Doc. #4. Also, Creditor is the holder of a claim secured by the debtor's principal residence, and the underlying note is set to mature on February 1, 2026, during the 60-month term of the Plan. Claim 2. Debtor classifies Creditor's claim in Class 1. However, because Creditor's loan matures during the 60-month term of the plan, the Plan must provide for Creditor's claim in Class 2A and pay Creditor's claim in full during the term of the Plan. 11 U.S.C. §§ 1322(b)(2), 1322(b)(5), 1325(a)(5)(B).

Accordingly, pending any opposition at hearing, the objection will be SUSTAINED.

2. 17-14537-A-13 **IN RE: FREDDIE/EVELYN GARCIA**
RSW-4

MOTION TO MODIFY PLAN
5-12-2021 [73]

EVELYN GARCIA/MV
ROBERT WILLIAMS/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 at least 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(2). The failure of creditors, 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

3. 21-10838-A-13 **IN RE: STEPHEN/VALERIE COOKE**
KMM-1

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY WATERFALL VICTORIA GRANTOR TRUST II, SERIES G
5-18-2021 [14]

WATERFALL VICTORIA GRANTOR TRUST II, SERIES G/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
KIRSTEN MARTINEZ/ATTY. FOR MV.

NO RULING.

4. 18-15139-A-13 **IN RE: AARON/ANNIE LUCAS**
PK-3

MOTION FOR COMPENSATION FOR PATRICK KAVANAGH, DEBTORS ATTORNEY(S)
6-15-2021 [117]

PATRICK KAVANAGH/ATTY. FOR DBT.

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 the hearing.

This motion was filed and served on at least 21 days' notice prior to the hearing date pursuant to Federal Rule of Bankruptcy Procedure 2002 and 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.

Patrick Kavanagh ("Movant"), counsel for Aaron Anthony Lucas and Annie Rose Lucas ("Debtors"), the debtors in this chapter 13 case, requests allowance of interim compensation for services rendered from November 9, 2018 through June 11, 2021. Doc. #117, #119. Movant provided legal services valued at $7,500, but requests compensation for $5,510 in light of a pre-petition retainer of $1,990. Doc. #119. Movant waives any claim for expenses. Doc. #119.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a debtor's attorney in a chapter 13 case. 11 U.S.C. § 330(a)(1), (4)(B). The court may allow reasonable compensation to the chapter 13 debtor's attorney for representing interests of the debtor in connection with the bankruptcy case. 11 U.S.C. § 330(a)(4). In determining the amount of reasonable compensation, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Here, Movant's services in the relevant period included, without limitation: (1) pre-petition consultation and fact gathering; (2) preparing and filing the petition, schedules, and forms; (3) original plan and hearings; (4) modified plan; and (5) motions to dismiss. Doc. #119. The court finds that the compensation and reimbursement sought are reasonable, actual, and necessary, and the court will approve the motion on an interim basis.

This motion is GRANTED. The court allows interim compensation in the amount of $5,510 to be paid in a manner consistent with the terms of the confirmed plan.

5. 21-10453-A-13 **IN RE: ROY ABUEG**
MHM-2

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER
6-4-2021 [43]

PATRICK KAVANAGH/ATTY. FOR DBT.

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

DISPOSITION: Overruled as moot.

ORDER: The court will issue an order.

This objection is OVERRULED AS MOOT. The debtor filed a modified plan on June 18, 2021 (Doc. #56), with a motion to confirm the modified plan set for hearing on August 5, 2021, at 9:00 a.m. PK-3, Doc. ##58-64. The debtor also filed amended schedules and Forms 122C-1 and 122C-2. Doc ##54, 55, 57.

6. 19-12660-A-13 **IN RE: JORGE/MELISSA VELEZ**
RSW-3

MOTION TO MODIFY PLAN
5-11-2021 [82]

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 at least 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(2). The failure of creditors, 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed.

7. 20-12160-A-13 **IN RE: ALLAN/MELODY GILBERT**
DMG-2

MOTION FOR COMPENSATION FOR D. MAX GARDNER, DEBTORS ATTORNEY(S)
6-10-2021 [48]

D. GARDNER/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 at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtors, 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Max Gardner ("Movant"), counsel for Allan Eugene Gilbert and Melody Rena Gilbert ("Debtors"), the debtors in this chapter 13 case, requests allowance of interim compensation in the amount of $3,501.00 including unpaid pre-petition fees of $277.00 and reimbursement for expenses in the amount of $347.95 for services rendered from June 26, 2020 through June 9, 2021. Doc. #48, #50.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a debtor's attorney in a chapter 13 case. 11 U.S.C. § 330(a)(1), (4)(B). The court may allow reasonable compensation to the chapter 13 debtor's attorney for representing interests of the debtor in connection with the bankruptcy case. 11 U.S.C. § 330(a)(4). In determining the amount of reasonable compensation, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Here, Movant demonstrates services rendered relating to: (1) case administration; (2) fee and employment applications; (3) plan confirmation; and (4) meeting of creditors. Doc. #51. The court finds that the compensation and reimbursement sought are reasonable, actual, and necessary, and the court will approve the motion on an interim basis.

This motion is GRANTED. The court allows interim compensation in the amount of $3,501.00 and reimbursement for expenses in the amount of $347.95 to be paid in a manner consistent with the terms of the confirmed plan.

8. 18-13385-A-13 **IN RE: MARIDETTE SCHLOE**
PLG-3

MOTION FOR HARDSHIP DISCHARGE
6-4-2021 [77]

MARIDETTE SCHLOE/MV
STEVEN ALPERT/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 at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Maridette Taina Schloe ("Debtor"), the chapter 13 debtor, moves the court for a hardship discharge pursuant to 11 U.S.C. § 1328(b).

Debtor filed this chapter 13 case on August 20, 2018. Doc. #1. Pursuant to Debtor's confirmed second modified chapter 13 plan, Debtor had made a total of $4,365.59 in plan payments through October 25, 2020 and was to begin monthly plan payments of $228.38 commencing March 25, 2021. Doc. #67.

Debtor was furloughed in March 2020 at the start of the COVID-19 pandemic. Decl. of Debtor, Doc. #79. Debtor hoped that she would be brought back when the economy reopened. Id. On April 15, 2021, Debtor's employer sent her a letter notifying Debtor of her termination. Id. Debtor looked for work throughout the pandemic but has been unable to obtain a job. Id. Debtor is 66 years old and has applied for social security and has no significant retirement or pension assets. Id. Debtor has been unable to pay her mortgage and is currently in forbearance. Id. Debtor has no non-exempt assets. Id.

Bankruptcy Code § 1328(b) permits the court to grant a hardship discharge to a debtor who has not completed plan payments if certain requirements are met. The hardship discharge may be granted only if:

(1) the debtor's failure to complete such payments is due to circumstances for which the debtor should not justly be held accountable;

(2) the value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed

unsecured claim is not less than the amount that would have been paid on such claim if the estate of the debtor had been liquidated under chapter 7 of this title on such date; and

(3) modification of the plan under § 1329 of this title is not practicable.

11 U.S.C. § 1328(b)(1)-(3). The debtor bears the burden of proof on all elements of § 1328(b). Roberts v. Boyajian (In re Roberts), 279 F.3d 91, 93 (1st Cir. 2002). The grant or denial of a request for a hardship discharge is within the discretion of the bankruptcy court. Id.

The court finds Debtor has satisfied the first condition under § 1328(b). Debtor made plan payments up until the beginning of 2020 when Debtor was furloughed due to the COVID-19 pandemic, and Debtor's failure to complete the payments under the plan is due to circumstances beyond her control. See Doc. ##79, 80. Contrary to Debtor's hope, Debtor will not be brought back to full-time status with her prior employer and has had difficulty obtaining a job as a 66-year-old woman. Debtor's failure to complete plan payments is due to circumstances for which Debtor should not justly be held accountable.

The court finds the second condition under § 1328(b) also is met. Debtors made a total of $4,365.59 in plan payments through October 25, 2020. The value distributed under Debtor's plan is greater than the 0% unsecured creditors would have received from liquidation under Chapter 7 because Debtor had no nonexempt property that could have been liquidated. See Doc. #1, Schedules A/B and C.

Finally, the court finds the third condition under § 1328(b) also is satisfied. Debtor's most recent schedules filed on June 4, 2021 show Debtor has monthly income of $3,400 and monthly expenses of $3,980.68. Am. Schedules I and J, Doc. #82. Accordingly, it appears Debtor has a monthly deficit of $580.68 and is unable to afford payments under the current plan or any modified plan.

Because the court finds that Debtor has met her burden of proof on all elements of § 1328(b), this motion is GRANTED.

Pursuant to Federal Rule of Bankruptcy Procedure 4007(d), the last day to file a complaint under § 523(a)(6) of the Bankruptcy Code is September 20, 2021. Not later than July 22, 2021, Debtor's counsel shall give notice to all creditors and file a proof of service so indicating.

9. 21-10890-A-13 **IN RE: JOSE NECER**
MHM-1

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE MICHAEL H. MEYER
6-17-2021 [17]

ROBERT WILLIAMS/ATTY. FOR DBT.

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

DISPOSITION: Continued to August 5, 2021 at 9:00 a.m.

ORDER: The court will issue an order.

This objection was filed and served pursuant to Local Rule of Practice ("LBR") 3015-1(c)(4). The Chapter 13 trustee ("Trustee") filed an objection to confirmation of the debtor's chapter 13 plan. Tr.'s Obj., Doc. #17. Unless this case is voluntarily converted to Chapter 7, dismissed, or Trustee's opposition to confirmation is withdrawn, the debtor shall file and serve a written response no later than July 22, 2021. The response shall specifically address each issue raised in the objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the debtor's position. Trustee shall file and serve a reply, if any, by July 29, 2021.

If the debtor elects to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than July 29, 2021. If the debtor does not timely file a modified plan or a written response, this objection will be sustained on the grounds stated in Trustee's objection without a further hearing.

10:00 AM

1. 20-13800-A-7 **IN RE: FRANK AGUILERA AND ROSARIO ORNELAS**
JHW-2

MOTION FOR RELIEF FROM AUTOMATIC STAY
6-4-2021 [31]

TD AUTO FINANCE LLC/MV
D. GARDNER/ATTY. FOR DBT.
JENNIFER WANG/ATTY. FOR MV.
DISCHARGED 3/29/21

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

DISPOSITION: Granted in part and denied as moot in part.

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 creditors, the debtors, 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The motion will be GRANTED IN PART as to the trustee's interest and DENIED AS MOOT IN PART as to the debtors' interest pursuant to 11 U.S.C. § 362(c)(2)(C). The debtors' discharge was entered on March 29, 2021. Doc. #29. The motion will be GRANTED IN PART for cause shown as to the chapter 7 trustee.

The movant, TD Auto Finance LLC ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2012 Honda Civic ("Vehicle"). Doc. #31.

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 because the debtors have failed to make at least two complete post-petition payments. Movant has produced evidence that the debtors are delinquent by at least $441.10. Doc. #34.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) to permit 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 debtors have failed to make at least two post-petition payments to Movant and the Vehicle is a depreciating asset.

2. 10-16001-A-7 **IN RE: RANDY/VONDA PARKER**
LNH-4

MOTION FOR COMPENSATION FOR LISA HOLDER, TRUSTEES ATTORNEY(S)
6-10-2021 [47]

JAMES YORO/ATTY. FOR DBT.
LISA HOLDER/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 at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Lisa Noxon Holder, PC ("Movant"), general counsel for chapter 7 trustee Randell Parker ("Trustee"), requests an allowance of final compensation and reimbursement for expenses for services rendered from November 21, 2019 through May 26, 2021. Doc. #47. Movant provided legal services valued at $5,959.00, and requests compensation for that amount. Doc. #47. Movant requests reimbursement for expenses in the amount of $179.40. Doc. #47.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a "professional person." 11 U.S.C. § 330(a)(1). In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Movant's services included, without limitation: (1) resolving the debtors' personal injury claim regarding a medical procedure; (2) providing general case administration; (3) drafting Trustee's motion under Bankruptcy Rule 9019; and

(4) drafting employment and fee applications. Decl. of Lisa Holder, Doc. #49; Ex. A, Doc. #51. The court finds the compensation and reimbursement sought are reasonable, actual, and necessary.

This motion is GRANTED on a final basis. The court allows final compensation in the amount of $5,959.00 and reimbursement for expenses in the amount of $179.40. Trustee is authorized to make a combined payment of $6,138.40, representing compensation and reimbursement, to Movant. Trustee is authorized to pay the amount allowed by this order from available funds only if the estate is administratively solvent and such payment is consistent with the priorities of the Bankruptcy Code.

3. 21-11222-A-7 **IN RE: CARLOS/GLORIA TORRES**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
5-26-2021 [12]

WILLIAM EDWARDS/ATTY. FOR DBT.

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 in the amount of $338.00 was paid on July 6, 2020.

4. 21-11029-A-7 **IN RE: POLO FIGUEROA**
JHW-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
5-17-2021 [11]

TD AUTO FINANCE LLC/MV
NEIL SCHWARTZ/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 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The movant, TD Auto Finance LLC ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2014 Dodge Charger ("Vehicle"). Doc. #11.

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 any 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 the loan matured on January 25, 2021, and the account is in default for the entire balance of $27,662.26. The debtor has failed to make any payments since August 9, 2018. Doc. #13.

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 the debtor is in chapter 7. Id. The Vehicle is valued at $27,450.00 and the debtor owes $27,662.26. Doc. #14.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) to permit 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. Doc. #1.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the debtor has failed to make any payments since August 9, 2018, to Movant and the Vehicle is a depreciating asset.

5. 21-10530-A-7 **IN RE: CHRISTOPHER METAS**
JHW-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
5-17-2021 [22]

ACAR LEASING LTD/MV
LEONARD WELSH/ATTY. FOR DBT.
JENNIFER WANG/ATTY. FOR MV.

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

DISPOSITION: Granted in part and denied as moot in part.

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 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The motion will be GRANTED IN PART as to the trustee's interest and DENIED AS MOOT IN PART as to the debtor's interest pursuant to 11 U.S.C. § 362(c)(2)(C). The debtor's discharge was entered on July 6, 2021. Doc. #35. The motion will be GRANTED IN PART for cause shown as to the chapter 7 trustee.

The movant, ACAR Leasing LTD D/B/A GM Financial Leasing ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to a 2020 GMC Sierra 1500 ("Vehicle"). Doc. #22.

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 because the debtor has failed to make at least three complete pre- and post-petition payments. Movant has produced evidence that the debtor is delinquent by at least $2,829.21. Doc. #24. Moreover, the debtor's possession of the Vehicle stems from a lease agreement with Movant that matures on July 2, 2023, according to which the debtor does not own the Vehicle. Doc. #25.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) to permit Movant to gain immediate possession of the Vehicle pursuant to applicable law. No other relief is awarded.

6. 21-10835-A-7 **IN RE: NADIA SALAS MEZA**
JHW-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
5-24-2021 [12]

FORD MOTOR CREDIT COMPANY LLC/MV
ROBERT WILLIAMS/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 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant 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 2018 Ford Edge ("Vehicle"). Doc. #12.

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 any 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 the debtor has failed to make at least three complete pre- and post-petition payments. Movant has produced evidence that the debtor is delinquent by at least $1,792.67 which includes late fees in the amount of $29.39. Doc. #15.

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 the debtor is in chapter 7. Id. The Vehicle is valued at $26,300.00 and the debtor owes $27,065.82. Doc. ##12, 16.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) to permit 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. Doc. #1.

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

7. 21-11458-A-7 **IN RE: STACEY BROWN**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
6-22-2021 [13]

WILLIAM EDWARDS/ATTY. FOR DBT.

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 in the amount of $338.00 was paid on July 6, 2020.

8. 21-10666-A-7 **IN RE: PAUL/JILL FLOYD**
EAT-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
5-10-2021 [15]

KINECTA FEDERAL CREDIT UNION/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
MARK BLACKMAN/ATTY. FOR MV.

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

DISPOSITION: Granted in part and denied as moot in part.

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 creditors, the debtors, 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The motion will be GRANTED IN PART as to the trustee's interest and DENIED AS MOOT IN PART as to the debtors' interest pursuant to 11 U.S.C. § 362(c)(2)(C). The debtors' discharge was entered on July 7, 2021. Doc. #21. The motion will be GRANTED IN PART for cause shown as to the chapter 7 trustee.

The movant, Kinecta Federal Credit Union ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2018 Ford F150 ("Vehicle"). Doc. #15.

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 debtors do not have any 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 the debtors have failed to make at least two complete pre- and post-petition payments. Movant has produced evidence that the debtors are delinquent by at least $1,648.74 plus late charges in the amount of $41.22. Doc. #17.

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 the debtors are in chapter 7. Id. On Schedules A/B and D, the debtors value the Vehicle at $33,575.00 and the debtors owe $42,096.99. Doc. ##1, 19.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) to permit 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 debtors' Statement of Intention, the Vehicle will be surrendered. Doc. #1

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

10:30 AM

1. 20-10010-A-11 **IN RE: EDUARDO/AMALIA GARCIA**
GAG-1

OBJECTION TO CLAIM OF NINO GLOBAL, LLC, CLAIM NUMBER 13
5-24-2021 [593]

AMALIA GARCIA/MV
LEONARD WELSH/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Treat as scheduling conference and set discovery deadlines.

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

This objection to proof of claim was set for hearing on at least 44 days' notice as required by Local Rule of Practice ("LBR") 3007-1(b)(1) and will proceed as scheduled. Nino Global, LLC ("Claimant") filed written opposition on June 24, 2021. Doc. #600. Due to the disputed material factual issues raised by the parties, the court will treat the July 8 hearing as a scheduling conference.

As a procedural matter, Federal Rule of Bankruptcy Procedure ("Rule") 3007(a) governs the manner of service of an objection to a proof of claim. "The objection and notice shall be served on a claimant by first-class mail to the person most recently designated on the claimant's original or amended proof of claim as the person to receive notices, at the address so indicated[.]" Rule 3007(a)(2)(A). Service of the objection to claim has not been shown to satisfy Rule 3007(a)(2) because the proof of service does not indicate that the objection and related pleadings were served by first-class mail. Doc. #597. However, Claimant did not object to service in its opposition, and Claimant is deemed to have waived any objection to the manner of service. The court encourages special counsel for the debtors to review the local and federal rules of bankruptcy procedure to ensure compliance in future matters.

Eduardo Zavala Garcia and Amalia Perez Garcia ("Debtors"), the debtors and debtors in possession in this chapter 11 case, object to claim no. 13 ("Claim 13") filed by Claimant. Debtors' Obj., Doc. #593.

Claim 13 asserts a secured claim of $2,031,728.00 arising from a prospective business transaction and the formation of an entity, GIV Holdings, LLC, of which Debtors and Claimant each own a 50% interest and Claimant is the managing member. Doc. #595, Ex. A, attach. 9 to Claim #13. As part of the transaction, Debtors signed a grant deed transferring real property to a single member limited liability company, GIV Ranches, LLC, that was wholly owned by GIV Holdings, LLC. Id. Claimant seeks damages from Debtors relating to Debtors' refusal to record the grant deed. Id.

Debtors argue that Claim 13 should be disallowed in its entirety because (a) Claim 13 lacks the supporting documentation required by Federal Rule of Bankruptcy Procedure ("Rule") 3001, (b) the damages sought are undetermined and

speculative, and (c) Debtors never entered a business relationship with Claimant. Doc. #593. Debtors' objection is supported by the Declaration of Eduardo Zavala Garcia, Doc. #596.

Claimant's opposition to the objection reasserts the existence of a business transaction subjecting Debtors to personal liability for Claim 13. Doc. #660. Claimant's opposition was not filed with any supporting evidence but relies on Debtors' schedules and the documents filed with Claim 13 for factual support. Doc. #660.

"A proof of claim executed and filed in accordance with [the Federal Rules of Bankruptcy Procedure] shall constitute prima facie evidence of the validity and amount of the claim." Rule 3001(f). "The filing of an objection to a proof of claim 'creates a dispute which is a contested matter' within the meaning of Bankruptcy Rule 9014 and must be resolved after notice and opportunity for hearing upon a motion for relief." Lundell v. Anchor Constr. Specialists, Inc., 223 F.3d 1035, 1039 (9th Cir. 2000) (quoting Adv. Comm. Notes accompanying Rule 9014). If there is a disputed material factual issue, contested matters should generally be resolved "only after holding an evidentiary hearing at which the testimony of witnesses is taken in the same manner as it is in adversary proceedings." Reliance Steel & Aluminum Co. v. Locklin (In re Locklin), BAP No. CC-14-1446, 2015 Bankr. LEXIS 4116, at *14 (B.A.P. 9th Cir. Dec. 7, 2015). The Ninth Circuit "has held that the allegations set forth in a properly-filed proof of claim constitute prima facia evidence for purposes of ruling on a claim objection." Id. at *14 (citing Lundell, 223 F.3d at 1040).

A proof of claim that is properly executed is "strong enough to carry over a mere formal objection without more." Lundell, 223 F.3d at 1039 (quoting Wright v. Holm (In re Holm), 931 F.2d 620, 623 (9th Cir. 1991)). "To defeat the claim, the objector must come forward with sufficient evidence and 'show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves.'" Id. (quoting Holm, 931 F.2d at 623)). "If the objector produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts to the claimant to prove the validity of the claim by a preponderance of the evidence." Id. (quoting Ashford v. Consol. Pioneer Mortg. (In re Consol. Pioneer Mortg.), 178 B.R. 222, 226 (B.A.P. 9th Cir. 1995)). "The ultimate burden of persuasion remains at all times upon the claimant." Id.

As to Debtors' argument that Claim 13 should be disallowed in its entirety because it lacks the supporting documentation required by Rule 3001, the court disagrees. Under Rule 3001(c)(1), "when a claim, or an interest in property of the debtor securing the claim, is based on a writing, a copy of the writing shall be filed with the proof of claim." However, it does not appear that Claim 13 is based on a writing, and this requirement need not be met. The additional requirements in an individual debtor case set forth at Rule 3001(c)(2) are satisfied. Therefore, Claim 13 does not lack the supporting documentation required by Rule 3001.

The court also is unpersuaded by Debtors' argument that the damages sought are undetermined and speculative. Obj., Doc. #593. "Even where a claim may be defeated under nonbankruptcy law on the ground it is contingent or premature, a claim is not objectionable on that basis in bankruptcy." March, Ahart & Shapiro, CAL. PRAC. GUIDE: BANKRUPTCY ¶ 17:1372 (The Rutter Group 2019) (first citing 11 U.S.C. § 502(b)(1); and then Cool Fuel, Inc. v. Bd. of Equalization (In re Cool Fuel, Inc.), 210 F.3d 999, 1006-07 (9th Cir. 2000)).

Because Claim 13 asserts a set of facts entirely denied by Debtors, an evidentiary hearing is necessary to resolve disputed material factual issues regarding Debtors' objection to Claim 13.

This matter is deemed a contested matter and the July 8 hearing will proceed as a scheduling conference. Pursuant to Rule 9014(c), the federal rules of discovery apply to contested matters. The parties shall be prepared for the court to set necessary discovery deadlines prior to setting an evidentiary hearing.

In addition, it appears that claim nos. 13, 14, 15, 16 and 17 arise out of a common transaction. Federal Rule of Civil Procedure ("FRCP") 42, incorporated by Rule 7042, provides that in actions where there is a common question of law or fact, the court may "consolidate the actions." FRCP 42. The bankruptcy court may consolidate such actions through (1) Rule 7042 which allows the application of FRCP 42 in adversary proceedings; and (2) Rule 9014 which allows the application of Rule 7042 in contested matters. The court has broad discretion to order consolidation and may do so on its own motion to ensure convenient and efficient conduct of litigation. 10 COLLIER ON BANKRUPTCY ¶ 7042.02 (Richard Levin & Henry J. Sommer eds., 16th ed.). The parties should be prepared to address at the hearing whether Debtors' objection to Claim 13 should be consolidated with Debtors' objections to claim nos. 14, 15, 16 and/or 17 for discovery and/or evidentiary purposes pursuant to Rule 7042.

2. 20-10010-A-11 **IN RE: EDUARDO/AMALIA GARCIA**
GAG-2

OBJECTION TO CLAIM OF NINO GLOBAL, LLC, CLAIM NUMBER 14
5-24-2021 [599]

AMALIA GARCIA/MV
LEONARD WELSH/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Treat as scheduling conference and set discovery deadlines.

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

This objection to proof of claim was set for hearing on at least 44 days' notice as required by Local Rule of Practice ("LBR") 3007-1(b)(1) and will proceed as scheduled. Nino Global, LLC ("Claimant") filed written opposition on June 24, 2021. Doc. #661. Due to the disputed material factual issues raised by the parties, the court will treat the July 8 hearing as a scheduling conference.

As a procedural matter, Federal Rule of Bankruptcy Procedure ("Rule") 3007(a) governs the manner of service of an objection to a proof of claim. "The objection and notice shall be served on a claimant by first-class mail to the person most recently designated on the claimant's original or amended proof of claim as the person to receive notices, at the address so indicated[.]" Rule 3007(a)(2)(A). Service of the objection to claim has not been shown to satisfy Rule 3007(a)(2) because the proof of service does not indicate that the

objection and related pleadings were served by first-class mail. Doc. #603. However, Claimant did not object to service in its opposition, and Claimant is deemed to have waived any objection to the manner of service. The court encourages special counsel for the debtors to review the local and federal rules of bankruptcy procedure to ensure compliance in future matters.

Eduardo Zavala Garcia and Amalia Perez Garcia ("Debtors"), the debtors and debtors in possession in this chapter 11 case, object to claim no. 14 ("Claim 14") filed by Claimant. Debtors' Obj., Doc. #599.

Claim 14 asserts an unsecured claim of $50,000.00 based on Debtors' alter ego liability for debts owed by a corporation owed by Debtors ("4G") pursuant to a prospective business relationship between 4G and Claimant. Attachment 7/8, Claim #14. As part of the transaction, 4G and Claimant utilized the services of two different professional entities for which Claimant seeks indemnity from Debtors. Id.

Debtors argue that Claim 14 should be disallowed in its entirety because (a) Claim 14 lacks the supporting documentation required by Federal Rule of Bankruptcy Procedure ("Rule") 3001, (b) Debtors never entered a business relationship with Claimant, and (c) Debtors cannot be held personally liable for a debt owed by 4G. Doc. #599. Debtors' objection is supported by the Declaration of Eduardo Zavala Garcia, Doc. #602.

Claimant's opposition to the objection reasserts the existence of a business transaction subjecting Debtors to personal liability as 4G's alter ego. Doc. #661. Claimant's opposition was not filed with any supporting evidence but relies on Debtors' schedules and the documents filed with Claim 14 for factual support. Doc. #661.

"A proof of claim executed and filed in accordance with [the Federal Rules of Bankruptcy Procedure] shall constitute prima facie evidence of the validity and amount of the claim." Rule 3001(f). "The filing of an objection to a proof of claim 'creates a dispute which is a contested matter' within the meaning of Bankruptcy Rule 9014 and must be resolved after notice and opportunity for hearing upon a motion for relief." Lundell v. Anchor Constr. Specialists, Inc., 223 F.3d 1035, 1039 (9th Cir. 2000) (quoting Adv. Comm. Notes accompanying Rule 9014). If there is a disputed material factual issue, contested matters should generally be resolved "only after holding an evidentiary hearing at which the testimony of witnesses is taken in the same manner as it is in adversary proceedings." Reliance Steel & Aluminum Co. v. Locklin (In re Locklin), BAP No. CC-14-1446, 2015 Bankr. LEXIS 4116, at *14 (B.A.P. 9th Cir. Dec. 7, 2015). The Ninth Circuit "has held that the allegations set forth in a properly-filed proof of claim constitute prima facia evidence for purposes of ruling on a claim objection." Id. at *14 (citing Lundell, 223 F.3d at 1040).

A proof of claim that is properly executed is "strong enough to carry over a mere formal objection without more." Lundell, 223 F.3d at 1039 (quoting Wright v. Holm (In re Holm), 931 F.2d 620, 623 (9th Cir. 1991)). "To defeat the claim, the objector must come forward with sufficient evidence and 'show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves.'" Id. (quoting Holm, 931, F.2d at 623)). "If the objector produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts to the claimant to prove the validity of the claim by a preponderance of the evidence." Id. (quoting Ashford v. Consol. Pioneer Mortg. (In re Consol. Pioneer Mortg.), 178 B.R. 222, 226 (B.A.P. 9th Cir. 1995)). "The ultimate burden of persuasion remains at all times upon the claimant." Id.

As to Debtors' argument that Claim 14 should be disallowed in its entirety because it lacks the supporting documentation required by Rule 3001, the court disagrees. Under Rule 3001(c)(1), "when a claim, or an interest in property of the debtor securing the claim, is based on a writing, a copy of the writing shall be filed with the proof of claim." However, it does not appear that Claim 14 is based on a writing, and this requirement need not be met. The additional requirements in an individual debtor case set forth at Rule 3001(c)(2) are satisfied. Therefore, Claim 14 does not lack the supporting documentation required by Rule 3001.

However, because Claim 14 asserts a set of facts entirely denied by Debtors, an evidentiary hearing is necessary to resolve disputed material factual issues. See In re Locklin, 2015 Bankr. LEXIS 4116, at *18 (finding that the bankruptcy court committed reversible error when it disallowed the claimant's alter-ego claim without holding an evidentiary hearing).

This matter is deemed a contested matter and the July 8 hearing will proceed as a scheduling conference. Pursuant to Rule 9014(c), the federal rules of discovery apply to contested matters. The parties shall be prepared for the court to set necessary discovery deadlines prior to setting an evidentiary hearing.

In addition, it appears that claim nos. 13, 14, 15, 16 and 17 arise out of a common transaction. Federal Rule of Civil Procedure ("FRCP") 42, incorporated by Rule 7042, provides that in actions where there is a common question of law or fact, the court may "consolidate the actions." FRCP 42. The bankruptcy court may consolidate such actions through (1) Rule 7042 which allows the application of FRCP 42 in adversary proceedings; and (2) Rule 9014 which allows the application of Rule 7042 in contested matters. The court has broad discretion to order consolidation and may do so on its own motion to ensure convenient and efficient conduct of litigation. 10 COLLIER ON BANKRUPTCY ¶ 7042.02 (Richard Levin & Henry J. Sommer eds., 16th ed.). The parties should be prepared to address at the hearing whether Debtors' objection to Claim 14 should be consolidated with Debtors' objections to claim nos. 13, 15, 16 and/or 17 for discovery and/or evidentiary purposes pursuant to Rule 7042.

3. 20-10010-A-11 **IN RE: EDUARDO/AMALIA GARCIA**
GAG-3

OBJECTION TO CLAIM OF BLUE PHOENIX VENTURES, LLC, CLAIM NUMBER 15
5-24-2021 [605]

AMALIA GARCIA/MV
LEONARD WELSH/ATTY. FOR DBT.

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

DISPOSITION: Overruled without prejudice.

ORDER: The court will issue an order.

This objection is OVERRULED WITHOUT PREJUDICE for improper service.

"The filing of an objection to a proof of claim 'creates a dispute which is a contested matter' within the meaning of Bankruptcy Rule 9014 and must be resolved after notice and opportunity for hearing upon a motion for relief."

Lundell v. Anchor Constr. Specialists, Inc., 223 F.3d 1035, 1039 (9th Cir. 2000) (quoting Adv. Comm. Notes accompanying Fed. R. Bankr. P. 9014).

Federal Rule of Bankruptcy Procedure ("Rule") 3007(a) governs the manner of service of an objection to a proof of claim. "The objection and notice shall be served on a claimant by first-class mail to the person most recently designated on the claimant's original or amended proof of claim as the person to receive notices, at the address so indicated[.]" Rule 3007(a)(2)(A).

Service of this objection to claim does not satisfy Rule 3007(a)(2). The proof of service by mail does not state that service was made by first-class mail. Doc. #609. The address on the service list does not accurately reflect the address indicated on the proof of claim. Compare Claim #15 with Service List, Doc. #609. Additionally, in contested matters, service by first class mail upon a domestic or foreign corporation must be made to the attention of an officer, a managing or general agent, or any other authorized agent. Rule 7004(b)(3). Claim 15 did not list an officer or agent, but it was completed and signed by the claimant's managing member.

Because service of this objection was not made to the attention of an officer of the claimant, did not correctly list claimant's address, and was not clearly sent by first class mail, service of this objection does not satisfy Rule 3007(a)(2).

4. 20-10010-A-11 **IN RE: EDUARDO/AMALIA GARCIA**
GAG-4

OBJECTION TO CLAIM OF PLATINUM FARMS SERVICES, LLC, CLAIM NUMBER 16
5-24-2021 [611]

AMALIA GARCIA/MV
LEONARD WELSH/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Treat as scheduling conference and set discovery deadlines.

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

This objection to proof of claim was set for hearing on at least 44 days' notice as required by Local Rule of Practice ("LBR") 3007-1(b)(1) and will proceed as scheduled. Platinum Farm Services, LLC ("Claimant") filed written opposition on June 24, 2021. Doc. #662. Due to the disputed material factual issues raised by the parties, the court will treat the July 8 hearing as a scheduling conference.

As a procedural matter, Federal Rule of Bankruptcy Procedure ("Rule") 3007(a) governs the manner of service of an objection to a proof of claim. "The objection and notice shall be served on a claimant by first-class mail to the person most recently designated on the claimant's original or amended proof of claim as the person to receive notices, at the address so indicated[.]" Rule 3007(a)(2)(A). Service of the objection to claim has not been shown to satisfy Rule 3007(a)(2) because the proof of service does not indicate that the

objection and related pleadings were served by first-class mail. Doc. #615. However, Claimant did not object to service in its opposition, and Claimant is deemed to have waived any objection to the manner of service. The court encourages special counsel for the debtors to review the local and federal rules of bankruptcy procedure to ensure compliance in future matters.

Eduardo Zavala Garcia and Amalia Perez Garcia ("Debtors"), the debtors and debtors in possession in this chapter 11 case, object to claim no. 16 ("Claim 16") filed by Claimant. Debtors' Obj., Doc. #611.
Claim 16 asserts an unsecured claim of $1,510,600.00 based on Debtors' alter ego liability for debts owed by a corporation owned by Debtors ("4G") for agriculture related expenses incurred by 4G for which Claimant was jointly and severally liable and/or for which Claimant has a right to seek indemnity from 4G. Doc. #613, Ex. A, attach. 7/8 to Claim 16. Claimant also seeks payment from Debtors for 4G's use of Claimant's equipment and services. Id.

Debtors argue that Claim 16 should be disallowed in its entirety because (a) Claim 16 lacks the supporting documentation required by Federal Rule of Bankruptcy Procedure ("Rule") 3001, (b) Debtors never entered a business relationship with Claimant, and (c) Debtors cannot be held personally liable for a debt owed by 4G. Doc. #611. Debtors' objection is supported by the Declaration of Eduardo Zavala Garcia, Doc. #614.

Claimant's opposition to the objection reasserts the existence of a business transaction subjecting Debtors to personal liability individually and/or as 4G's alter ego. Doc. #662. Claimant's opposition was not filed with any supporting evidence but relies on Debtors' schedules and the documents filed with Claim 16 for factual support. Doc. #662.

"A proof of claim executed and filed in accordance with [the Federal Rules of Bankruptcy Procedure] shall constitute prima facie evidence of the validity and amount of the claim." Rule 3001(f). "The filing of an objection to a proof of claim 'creates a dispute which is a contested matter' within the meaning of Bankruptcy Rule 9014 and must be resolved after notice and opportunity for hearing upon a motion for relief." Lundell v. Anchor Constr. Specialists, Inc., 223 F.3d 1035, 1039 (9th Cir. 2000) (quoting Adv. Comm. Notes accompanying Rule 9014). If there is a disputed material factual issue, contested matters should generally be resolved "only after holding an evidentiary hearing at which the testimony of witnesses is taken in the same manner as it is in adversary proceedings." Reliance Steel & Aluminum Co. v. Locklin (In re Locklin), BAP No. CC-14-1446, 2015 Bankr. LEXIS 4116, at *14 (B.A.P. 9th Cir. Dec. 7, 2015). The Ninth Circuit "has held that the allegations set forth in a properly-filed proof of claim constitute prima facia evidence for purposes of ruling on a claim objection." Id. at *14 (citing Lundell, 223 F.3d at 1040).

A proof of claim that is properly executed is "strong enough to carry over a mere formal objection without more." Lundell, 223 F.3d at 1039 (quoting Wright v. Holm (In re Holm), 931 F.2d 620, 623 (9th Cir. 1991)). "To defeat the claim, the objector must come forward with sufficient evidence and 'show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves.'" Id. (quoting Holm, 931 F.2d at 623). "If the objector produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts to the claimant to prove the validity of the claim by a preponderance of the evidence." Id. (quoting Ashford v. Consol. Pioneer Mortg. (In re Consol. Pioneer Mortg.), 178 B.R. 222, 226 (B.A.P. 9th Cir. 1995)). "The ultimate burden of persuasion remains at all times upon the claimant." Id.

As to Debtors' argument that Claim 16 should be disallowed in its entirety because it lacks the supporting documentation required by Rule 3001, the court disagrees. Under Rule 3001(c)(1), "when a claim, or an interest in property of the debtor securing the claim, is based on a writing, a copy of the writing shall be filed with the proof of claim." However, it does not appear that Claim 16 is based on a writing, and this requirement need not be met. The additional requirements in an individual debtor case set forth at Rule 3001(c)(2) are satisfied. Therefore, Claim 16 does not lack the supporting documentation required by Rule 3001.

However, because Claim 16 asserts a set of facts entirely denied by Debtors, an evidentiary hearing is necessary to resolve disputed material factual issues. See In re Locklin, 2015 Bankr. LEXIS 4116, at *18 (finding that the bankruptcy court committed reversible error when it disallowed the claimant's alter-ego claim without holding an evidentiary hearing).

This matter is deemed a contested matter and the July 8 hearing will proceed as a scheduling conference. Pursuant to Rule 9014(c), the federal rules of discovery apply to contested matters. The parties shall be prepared for the court to set necessary discovery deadlines prior to setting an evidentiary hearing.

In addition, it appears that claim nos. 13, 14, 15, 16 and 17 arise out of a common transaction. Federal Rule of Civil Procedure ("FRCP") 42, incorporated by Rule 7042, provides that in actions where there is a common question of law or fact, the court may "consolidate the actions." FRCP 42. The bankruptcy court may consolidate such actions through (1) Rule 7042 which allows the application of FRCP 42 in adversary proceedings; and (2) Rule 9014 which allows the application of Rule 7042 in contested matters. The court has broad discretion to order consolidation and may do so on its own motion to ensure convenient and efficient conduct of litigation. 10 COLLIER ON BANKRUPTCY ¶ 7042.02 (Richard Levin & Henry J. Sommer eds., 16th ed.). The parties should be prepared to address at the hearing whether Debtors' objection to Claim 16 should be consolidated with Debtors' objections to claim nos. 13, 14, 15 and/or 17 for discovery and/or evidentiary purposes pursuant to Rule 7042.

5. 20-10010-A-11 **IN RE: EDUARDO/AMALIA GARCIA**
GAG-5

OBJECTION TO CLAIM OF NINO GLOBAL, LLC, CLAIM NUMBER 17
5-24-2021 [617]

AMALIA GARCIA/MV
LEONARD WELSH/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Treat as scheduling conference and set discovery deadlines.

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

This objection to proof of claim was set for hearing on at least 44 days' notice as required by Local Rule of Practice ("LBR") 3007-1(b)(1) and will

proceed as scheduled. Nino Global, LLC ("Claimant") filed written opposition on June 24, 2021. Doc. #663. Due to the disputed material factual issues raised by the parties, the court will treat the July 8 hearing as a scheduling conference.

As a procedural matter, Federal Rule of Bankruptcy Procedure ("Rule") 3007(a) governs the manner of service of an objection to a proof of claim. "The objection and notice shall be served on a claimant by first-class mail to the person most recently designated on the claimant's original or amended proof of claim as the person to receive notices, at the address so indicated[.]" Rule 3007(a)(2)(A). Service of the objection to claim has not been shown to satisfy Rule 3007(a)(2) because the proof of service does not indicate that the objection and related pleadings were served by first-class mail. Doc. #621. However, Claimant did not object to service in its opposition, and Claimant is deemed to have waived any objection to the manner of service. The court encourages special counsel for the debtors to review the local and federal rules of bankruptcy procedure to ensure compliance in future matters.

Eduardo Zavala Garcia and Amalia Perez Garcia ("Debtors"), the debtors and debtors in possession in this chapter 11 case, object to claim no. 17 ("Claim 17") filed by Claimant. Debtors' Obj., Doc. #617.

Claim 17 asserts an unsecured claim of $17,000,000.00 based on reliance and the breach of Debtors' fiduciary duties and implied covenant of good faith and fair dealing in forming a jointly held entity with Claimant. Doc. #619, Ex. A, attach. 8 to Claim 17.

Debtors argue that Claim 17 should be disallowed in its entirety because (a) Claim 17 lacks the supporting documentation required by Federal Rule of Bankruptcy Procedure ("Rule") 3001, (b) the damages sought are undetermined and speculative, and (c) Debtors never entered a business relationship with Claimant. Doc. #617. Debtors' objection is supported by the Declaration of Eduardo Zavala Garcia, Doc. #620.

Claimant's opposition to the objection reasserts the existence of a business transaction subjecting Debtors to personal liability for Claim 17 based on Debtors' breach of fiduciary duties and the implied covenant of good faith and fair dealing. Doc. #663. Claimant's opposition was not filed with any supporting evidence but relies on Debtors' schedules and the documents filed with Claim 17 for factual support. Doc. #663.

"A proof of claim executed and filed in accordance with [the Federal Rules of Bankruptcy Procedure] shall constitute prima facie evidence of the validity and amount of the claim." Rule 3001(f). "The filing of an objection to a proof of claim 'creates a dispute which is a contested matter' within the meaning of Bankruptcy Rule 9014 and must be resolved after notice and opportunity for hearing upon a motion for relief." Lundell v. Anchor Constr. Specialists, Inc., 223 F.3d 1035, 1039 (9th Cir. 2000) (quoting Adv. Comm. Notes accompanying Rule 9014). If there is a disputed material factual issue, contested matters should generally be resolved "only after holding an evidentiary hearing at which the testimony of witnesses is taken in the same manner as it is in adversary proceedings." Reliance Steel & Aluminum Co. v. Locklin (In re Locklin), BAP No. CC-14-1446, 2015 Bankr. LEXIS 4116, at *14 (B.A.P. 9th Cir. Dec. 7, 2015). The Ninth Circuit "has held that the allegations set forth in a properly-filed proof of claim constitute prima facia evidence for purposes of ruling on a claim objection." Id. at *14 (citing Lundell, 223 F.3d at 1040).

A proof of claim that is properly executed is "strong enough to carry over a mere formal objection without more." Lundell, 223 F.3d at 1039 (quoting

Wright v. Holm (In re Holm), 931 F.2d 620, 623 (9th Cir. 1991)). "To defeat the claim, the objector must come forward with sufficient evidence and 'show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves.'" Id. (quoting Holm, 931 F.2d at 623)). "If the objector produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts to the claimant to prove the validity of the claim by a preponderance of the evidence." Id. (quoting Ashford v. Consol. Pioneer Mortg. (In re Consol. Pioneer Mortg.), 178 B.R. 222, 226 (B.A.P. 9th Cir. 1995)). "The ultimate burden of persuasion remains at all times upon the claimant." Id.

As to Debtors' argument that Claim 17 should be disallowed in its entirety because it lacks the supporting documentation required by Rule 3001, the court disagrees. Under Rule 3001(c)(1), "when a claim, or an interest in property of the debtor securing the claim, is based on a writing, a copy of the writing shall be filed with the proof of claim." However, it does not appear that Claim 17 is based on a writing, and this requirement need not be met. The additional requirements in an individual debtor case set forth at Rule 3001(c)(2) are satisfied. Therefore, Claim 17 does not lack the supporting documentation required by Rule 3001.

The court also is unpersuaded by Debtors' argument that the damages sought are undetermined and speculative. Obj., Doc. #617. "Even where a claim may be defeated under nonbankruptcy law on the ground it is contingent or premature, a claim is not objectionable on that basis in bankruptcy." March, Ahart & Shapiro, CAL. PRAC. GUIDE: BANKRUPTCY ¶ 17:1372 (The Rutter Group 2019) (first citing 11 U.S.C. § 502(b)(1); and then Cool Fuel, Inc. v. Bd. of Equalization (In re Cool Fuel, Inc.), 210 F.3d 999, 1006-07 (9th Cir. 2000)).

Because Claim 17 asserts a set of facts entirely denied by Debtors, an evidentiary hearing is necessary to resolve disputed material factual issues regarding Debtors' objection to Claim 17.

This matter is deemed a contested matter and the July 8 hearing will proceed as a scheduling conference. Pursuant to Rule 9014(c), the federal rules of discovery apply to contested matters. The parties shall be prepared for the court to set necessary discovery deadlines prior to setting an evidentiary hearing.

In addition, it appears that claim nos. 13, 14, 15, 16 and 17 arise out of a common transaction. Federal Rule of Civil Procedure ("FRCP") 42, incorporated by Rule 7042, provides that in actions where there is a common question of law or fact, the court may "consolidate the actions." FRCP 42. The bankruptcy court may consolidate such actions through (1) Rule 7042 which allows the application of FRCP 42 in adversary proceedings; and (2) Rule 9014 which allows the application of Rule 7042 in contested matters. The court has broad discretion to order consolidation and may do so on its own motion to ensure convenient and efficient conduct of litigation. 10 COLLIER ON BANKRUPTCY ¶ 7042.02 (Richard Levin & Henry J. Sommer eds., 16th ed.). The parties should be prepared to address at the hearing whether Debtors' objection to Claim 17 should be consolidated with Debtors' objections to claim nos. 13, 14, 15 and/or 16 for discovery and/or evidentiary purposes pursuant to Rule 7042.

6. 20-10010-A-11 **IN RE: EDUARDO/AMALIA GARCIA**
LKW-23

MOTION TO SELL FREE AND CLEAR OF LIENS
6-11-2021 [634]

AMALIA GARCIA/MV
LEONARD WELSH/ATTY. FOR DBT.

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 the hearing.

This motion was filed and served on at least 21 days' notice prior to the hearing date pursuant to Federal Rule of Bankruptcy Procedure 2002 and 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.

Eduardo Zavala Garcia and Amalia Perez Garcia ("DIP"), the debtors and debtors in possession in this chapter 11 case, move the court pursuant to 11 U.S.C. § 363 for an order authorizing the sale of 398.18 acres of real property located in Kern County, California (the "Hacienda 1 Ranch") to KSB, LP ("KSB") for the purchase price of $6,000,000. Doc. #634. DIP seeks to sell the Property free and clear of any interests in the Property pursuant to 11 U.S.C. § 363(f). Doc. #634.

Pursuant to 11 U.S.C. § 363(b)(1), the debtor in possession, after notice and a hearing, may "use, sell, or lease, other than in the ordinary course of business, property of the estate." Proposed sales under § 363(b) are reviewed to determine whether they are: (1) in the best interests of the estate resulting from a fair and reasonable price; (2) supported by a valid business judgment; and (3) proposed in good faith. 240 N. Brand Partners, Ltd. v. Colony GFP Partners, L.P. (In re 240 N. Brand Partners, Ltd.), 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996). In the context of sales of estate property under § 363, a bankruptcy court "should determine only whether the [debtor in possession's] judgment [is] reasonable and whether a sound business justification exists supporting the sale and its terms." 3 COLLIER ON BANKRUPTCY ¶ 363.02[4] (Richard Levin & Henry J. Sommer eds., 16th ed.).

DIP believes that approval of the sale on the terms set forth in the motion is in the best interests of creditors and will not harm nor prejudice anyone. Mot., Doc. #634. Michael Anchordoquy ("Realtor"), a principal at ASU Commercial, the real estate broker employed by DIP for the sale of the Hacienda 1 Ranch, contends that Hacienda 1 Ranch has a current value of about $6,000,000 based on current market conditions and the condition of the property. Decl. of Michael Anchordoquy, Doc. #637. DIP received and accepted an offer to purchase the Hacienda 1 Ranch from KSB for $6,000,000 cash with an escrow closing within thirty days of DIP's acceptance, subject to authorization by this bankruptcy court. Decl. of Eduardo Zavala Garcia, Doc. #636. Realtor is

familiar with KSB and its principals and believes that KSB is a strong and credible buyer. Decl., Doc. #637.

Proceeds received from the sale of the Hacienda 1 Ranch will be distributed as follows:

Creditor or Administrative Expense	**Lien or Expense Description**	**Estimated Claim Amount as of 5/1/2021**	**Distribution of Sale Proceeds**
Kern County Treasurer-Tax Collector	Tax Lien	$ 218,173.24	$ 218,173.24
Arvin-Edison Water Storage District	Water Assessments	45,619.48	45,619.48
Keevmo, LLC	Deed of Trust	6,748,026.88	5,419,207.28
Helena Chemical Company	Abstract of Judgment	275,151.39	0.00
Real Estate Commission	4% Commission	-	240,000.00
DIP's Attorney Fees	Fees and costs authorized for payment by this court	-	50,000.00
DIP's Accountant Fees	Fees and costs authorized for payment by this court	-	15,000.00
DIP's Costs of Sale	Escrow fees, closing costs, and title insurance	-	12,000.00
		$ 7,286,970.99	**$ 6,000,000.00**

Doc. #658. These payments represent payment in full of the claims held by the Kern County Treasurer-Tax Collector and the Arvin-Edison Water Storage District, payment of approximately 80% of Keevmo LLC's ("Keevmo") claim secured by a Deed of Trust, and payment of $65,000 in administrative expenses incurred by DIP. Doc. #658.

Keevmo's collateral includes 948.63 acres of real property located in Kern County, including the Hacienda 1 Ranch. Doc. #634. Keevmo's claim remaining after the sale of the Hacienda 1 Ranch will continue to be secured by a first deed of trust against the remaining 550.45 acres of farmland owned by DIP. Doc. #634. Helena Chemical Company ("Helena") will receive no payment from the sale of the Hacienda 1 Ranch because Keevmo's claim secured by a senior deed of trust against Hacienda 1 Ranch exceeds the $6 million purchase price. Doc. #634. Helena will retain its judicial lien against all of DIP's other real property located in Kern County. Doc. #634. It appears that the sale of the Hacienda 1 Ranch is in the best interests of the creditors, the Hacienda 1 Ranch will be sold for a fair and reasonable price, and the sale is supported by a valid business judgment and proposed in good faith.

Further, DIP may sell property under § 363(b) free and clear of any interest of an entity other than the estate only if: (1) applicable nonbankruptcy law permits the sale; (2) such entity consents; (3) the interest is a lien and the price at which the property is to be sold is greater than the aggregate value of all liens on the property; (4) the interest is in bona fide dispute; or (5) the entity could be compelled to accept a money satisfaction of the interest. 11 U.S.C. § 363(f). A creditor's consent may be implied when the creditor fails to make a timely objection after receiving proper notice of the sale. In re Elliot, 94 B.R. 343, 345 (Bankr. E.D. Pa. 1988). In this case, the

creditors with an interest in Hacienda 1 Ranch have not affirmatively consented but can raise opposition at the hearing.

Accordingly, subject to any opposition raised at the hearing, the court is inclined to GRANT DIP's motion and authorize the sale of the Hacienda 1 Ranch pursuant to 11 U.S.C. § 363(b)(1) and (f).

7. 21-10445-A-11 **IN RE: HARDEEP KAUR**
LKW-5

MOTION TO ASSUME LEASE OR EXECUTORY CONTRACT
6-9-2021 [58]

HARDEEP KAUR/MV
LEONARD WELSH/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 at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Hardeep Kaur ("DIP"), the debtor and debtor in possession in this chapter 11 case, moves the court for authorization to assume one unexpired real property lease (the "Assumed Lease"). Doc. #58; Ex. A, Doc. #61. The Assumed Lease commenced on January 1, 2015 and will extend through December 31, 2025. Ex. A, Doc. #61.

Lessor	**Location**	**Term of Lease**
Pawan Singh Kooner 8013 Guru Ram Das Court Bakersfield, CA 93307	40 acres of farmland located at Rockpile Rd. and Bear Mtn Blvd, East of Arvin Kern County, CA	Assumed Lease expires December 31, 2025 $40,000 per year 10 year lease

11 U.S.C. § 365(a) states that, subject to the court's approval, the debtor in possession may assume any unexpired lease of the debtor.

In evaluating a decision under § 365(a) to assume an executory contract or unexpired lease in the Ninth Circuit, "the bankruptcy court should presume that the debtor-in-possession acted prudently, on an informed basis, in good faith,

and in the honest belief that the action taken was in the best interests of the bankruptcy estate." Agarwal v. Pomona Valley Med. Grp., Inc. (In re Pomona Valley Med. Grp., Inc.), 476 F.3d 665, 670 (9th Cir. 2007) (citations omitted). The bankruptcy court should approve the assumption under § 365(a) unless the debtor in possession's conclusion is based on bad faith, whim, or caprice. Id.

Here, DIP states that assumption of the Assumed Lease is essential to DIP's successful reorganization. Decl. of Hardeep Kaur, Doc. #60. DIP believes that the 40 acres of farmland DIP leases under the Assumed Lease are essential to DIP's farming operation and losing the 40 acres will damage DIP's business and reorganization. Decl., Doc. #60. DIP asserts that the rent required by the Assumed Lease is reasonable and comparable to lease prices on agricultural real property of comparable size, location, and utility. Decl., Doc. #60. DIP has been performing according to the terms of the Assumed Lease and expected income from DIP's farming business is sufficient to assure future performance under the Assumed Lease. Decl., Doc. #60. DIP believes that assumption of the Assumed Lease is in the best interests of the estate, while rejection of the Assumed Lease would result in the relocation or loss of an essential part of DIP's farming operation. Decl., Doc. #60. The court finds that DIP's decisions are based on sound business judgment.

DIP is authorized to assume the Assumed Lease, as defined here, in conformance with DIP's motion. Doc. #58.

8. 21-10445-A-11 **IN RE: HARDEEP KAUR**
LKW-6

MOTION TO AVOID LIEN OF NATIONAL LOAN ACQUISITIONS COMPANY
6-17-2021 [66]

HARDEEP KAUR/MV
LEONARD WELSH/ATTY. FOR DBT.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

This motion will be DENIED WITHOUT PREJUDICE.

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). 11 U.S.C. § 522(f)(1); Goswami v. MTC Distrib. (In re Goswami), 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003) (quoting In re Mohring, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992)).

Federal Rule of Bankruptcy Procedure ("Rule") 4003(b)(1) allows a party in interest to object to a claim of exemption within 30 days after the conclusion of the § 341 meeting of creditors or 30 days after the filing of an amended Schedule C, whichever is later. In this case, an amended Schedule C was filed on June 11, 2021. Am. Schedule C, Doc. #64. The amended Schedule C asserts, for the first time, exemptions in the 2010 John Deere Tractor. Id.

Because parties in interest can still object to the debtor's claimed exemption under Rule 4003, the debtor cannot yet establish that she is entitled to the scheduled exemptions the debtor asserts are impaired by the lien. This motion therefore is premature and not ripe for hearing because the debtor cannot satisfy the elements required to avoid a lien under § 522(f)(1).

11:00 AM

1. 21-10026-A-7 **IN RE: MARTHA FERNANDEZ**
21-1020

STATUS CONFERENCE RE: COMPLAINT
5-5-2021 [1]

FERNANDEZ V. U.S. DEPARTMENT OF EDUCATION

NO RULING.

2. 20-13641-A-7 **IN RE: MATTHEW/ERIN BACHARA**
21-1008

CONTINUED STATUS CONFERENCE RE: COMPLAINT
2-25-2021 [1]

BACHARA ET AL V. ALTA ONE FEDERAL CREDIT UNION
NICHOLAS WAJDA/ATTY. FOR PL.
DISMISSED 06/03/2021

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

DISPOSITION: Dropped as moot.

NO ORDER REQUIRED.

This adversary proceeding was dismissed on June 3, 2021. Doc. #14.

3. 20-12873-A-7 **IN RE: KEVIN/DELAINE MCNAMARA**
20-1066

CONTINUED STATUS CONFERENCE RE: COMPLAINT
12-10-2020 [1]

MCNAMARA ET AL V. AMERICAN CONTRACTORS INDEMNITY COMPANY
PATRICK KAVANAGH/ATTY. FOR PL.

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

DISPOSITION: Dropped as moot.

NO ORDER REQUIRED.

This adversary proceeding was dismissed on July 6, 2021. Doc. #18.