

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Sacramento, California

July 17, 2019 at 10:00 a.m.

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

1. Matters resolved without oral argument:

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

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

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

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

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

1.	19-20902-D-7 DMW-2	ARTHUR/MARJORIE DRUMM	MOTION TO SELL 6-18-19 [25]
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2.	19-23103-D-11	DAMON RUSHIN	ORDER TO SHOW CAUSE - FAILURE TO PAY FEES 6-19-19 [30]
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3. 18-27710-D-7 UNITED GLOBAL LLC MOTION FOR ADMINISTRATIVE
JMH-1 EXPENSES
6-18-19 [13]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion for administrative tax expense of the Franchise Tax Board in the amount of \$800 is supported by the record. As such the court will grant the motion by minute order. No appearance is necessary.

4. 18-25811-D-11 JLM ENERGY, INC. MOTION TO CONVERT CASE TO
TBG-1 CHAPTER 7
6-20-19 [87]

5. 19-21813-D-7 MICHELLE HERNANDEZ MOTION FOR RELIEF FROM
APN-1 AUTOMATIC STAY
TOYOTA MOTOR CREDIT CORPORATION VS.
6-13-19 [13]

Final ruling:

This matter is resolved without oral argument. This is Toyota Motor Credit Corporation's motion for relief from automatic stay. The court's records indicate that no timely opposition has been filed. The motion along with the supporting pleadings demonstrate that there is no equity in the subject property and debtor is not making post petition payments. The court finds there is cause for relief from stay, including lack of adequate protection of the moving party's interest. As the debtor is not making post-petition payments and the creditor's collateral is a depreciating asset, the court will also waive FRBP 4001(a)(3). Accordingly, the court will grant relief from stay and waive FRBP 4001(a)(3) by minute order. There will be no further relief afforded. No appearance is necessary.

6. 19-22025-D-12 JEFFREY DYER AND JAN CONTINUED MOTION TO APPROVE
RLC-2 WING-DYER POST-PETITION FINANCING
AGREEMENT AND GRANTING SECURITY
INTERESTS
5-23-19 [40]

Final ruling:

This motion has been granted by order filed June 19, 2019, as clarified in the order. The matter is removed from calendar.

7. 19-23429-D-7 ROBERT/TERESA JACOBS MOTION TO COMPEL ABANDONMENT
MOH-1 6-13-19 [44]

Final ruling:

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

8. 19-22731-D-7 CHARLES/CHRISTINE BENSON MOTION FOR RELIEF FROM
JHW-1 AUTOMATIC STAY
SANTANDER CONSUMER USA, INC. 6-5-19 [16]
VS.

Final ruling:

This matter is resolved without oral argument. This is Santander Consumer USA, Inc.'s motion for relief from automatic stay. The court's records indicate that no timely opposition has been filed. The motion along with the supporting pleadings demonstrate that there is no equity in the subject property and debtor is not making post petition payments. The court finds there is cause for relief from stay, including lack of adequate protection of the moving party's interest. As the debtors are not making post-petition payments and the creditor's collateral is a depreciating asset, the court will also waive FRBP 4001(a)(3). Accordingly, the court will grant relief from stay and waive FRBP 4001(a)(3) by minute order. There will be no further relief afforded. No appearance is necessary.

9. 19-22539-D-7 LILYA SAHINYAN MOTION TO COMPEL ABANDONMENT
AA-1 6-10-19 [11]

Final ruling:

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

10. 19-23042-D-7 MAJOR SANDERS
EAT-1
WILMINGTON SAVINGS FUND
SOCIETY, FSB VS.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-14-19 [11]

Final ruling:

This matter is resolved without oral argument. This is Wilmington Savings Fund Society, FSB's motion for relief from automatic stay. The court records indicate that no timely opposition has been filed. The motion along with the supporting pleadings demonstrate that there is no equity in the subject property and the property is not necessary for an effective reorganization. Accordingly, the court finds there is cause for granting relief from stay. The court will grant relief from stay by minute order. There will be no further relief afforded. No appearance is necessary.

11. 17-21149-D-7 LESLEY REEVE
DNL-6

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF DESMOND, NOLAN,
LIVAICH AND CUNNINGHAM FOR J.
RUSSELL CUNNINGHAM, TRUSTEE'S
ATTORNEY(S)
6-13-19 [114]

Final ruling:

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

12. 19-23452-D-11 CIAO RESTAURANTS, LLC
GEL-3

MOTION TO APPROVE STIPULATION
FOR MODIFICATION OF AUTOMATIC
STAY
6-19-19 [39]

13. 19-23452-D-11 CIAO RESTAURANTS, LLC
TF-1
2ASJ COMPANY, LLC VS.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-17-19 [28]

14. 18-22453-D-7 ECS REFINING, INC.
HSM-11

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF HEFNER, STARK &
MAROIS, LLP FOR HOWARD S.
NEVINS, TRUSTEE'S ATTORNEY(S)
6-12-19 [1129]

Tentative ruling:

This is the application of counsel for the chapter 7 trustee ("Counsel") for a first interim allowance of compensation. The record establishes, and the court finds, that the fees and costs requested are reasonable compensation for actual, necessary, and beneficial services under Bankruptcy Code § 330(a). As such, the court intends to grant the application to the extent of approving the compensation in the amount requested and authorizing payment from available unencumbered funds of the estate.

SummitBridge National Investments V LLC ("SummitBridge") has filed a statement that it does not oppose allowance of the compensation or payment from available unencumbered funds, but it does oppose payment from SummitBridge's cash collateral.¹ Counsel for a former chapter 7 trustee in this case, itself an administrative claimant, has filed a reply to SummitBridge's statement of position and SummitBridge, in turn, has filed opposition to and a request to strike that claimant's reply. The court will use this hearing as a status conference with respect to the issue of the use of cash collateral to pay approved compensation. The court will hear the matter.

1 Counsel's application is distinct from two of the other applications on this calendar in that Counsel does not request authority for the use of cash collateral to pay its compensation. Counsel specifically limits its request to the use of available unencumbered funds. However, because SummitBridge has raised the issue with respect to all four applications, the court will treat this application like the others insofar as the use of cash collateral is concerned.

15. 18-22453-D-7 ECS REFINING, INC.
HSM-12

MOTION FOR ADMINISTRATIVE
EXPENSES AND/OR MOTION TO USE
CASH COLLATERAL
6-19-19 [1149]

Tentative ruling:

This is the application of the chapter 7 trustee for allowance of certain costs and to reimburse the trustee for the payment of other costs as chapter 7 administrative expenses and for authority to pay such costs and reimbursement from available unencumbered funds of the estate and, to the extent such funds are insufficient, from cash collateral of SummitBridge National Investments V LLC ("SummitBridge"). The record establishes, and the court finds, that the costs to be paid or reimbursed are actual, necessary costs of preserving the estate under Bankruptcy Code § 503(b)(1)(A). As such, the court intends to grant the application to the extent of allowing the costs and reimbursement as chapter 7 administrative expenses and authorizing payment from available unencumbered funds.

SummitBridge has filed a statement that it does not oppose allowance of the costs and reimbursement or payment from available unencumbered funds, but it does oppose payment from SummitBridge's cash collateral. The court will use this hearing as a status conference with respect to the issue of the use of cash collateral to pay approved costs and reimbursement. The court will hear the matter.

16. 18-22453-D-7 ECS REFINING, INC.
HSM-13

MOTION FOR COMPENSATION FOR
CAPITOL DIGITAL DOCUMENT
SOLUTIONS, LLC, OTHER
PROFESSIONAL(S)
6-19-19 [1144]

Tentative ruling:

This is the chapter 7 trustee's application for a second interim allowance of compensation to Capitol Digital Document Solutions, LLC, dba Califorensics, and for authority to pay such compensation from available unencumbered funds of the estate and, to the extent such funds are insufficient, from cash collateral of SummitBridge National Investments V LLC ("SummitBridge"). The record establishes, and the court finds, that the fees and costs requested are reasonable compensation for actual, necessary, and beneficial services under Bankruptcy Code § 330(a). As such, the court intends to grant the application to the extent of approving the compensation in the amount requested and authorizing payment from available unencumbered funds.

SummitBridge has filed a statement that it does not oppose allowance of the compensation or payment from available unencumbered funds, but it does oppose payment from SummitBridge's cash collateral. The court will use this hearing as a status conference with respect to the issue of the use of cash collateral to pay approved compensation. The court will hear the matter.

17. 18-22453-D-7 ECS REFINING, INC.
KJH-2

MOTION FOR COMPENSATION FOR
GABRIELSON AND COMPANY,
ACCOUNTANT(S)
6-19-19 [1138]

Tentative ruling:

This is the application of the accountancy firm for the chapter 7 trustee for a second interim allowance of compensation. The record establishes, and the court finds, that the fees and costs requested are reasonable compensation for actual, necessary, and beneficial services under Bankruptcy Code § 330(a). As such, the court intends to grant the application to the extent of approving the compensation in the amount requested and authorizing payment from available unencumbered funds of the estate.

SummitBridge has filed a statement that it does not oppose allowance of the compensation or payment from available unencumbered funds, but it does oppose payment from SummitBridge's cash collateral.¹ The court will use this hearing as a status conference with respect to the issue of the use of cash collateral to pay approved compensation. The court will hear the matter.

1 This application is distinct from two of the other applications on this calendar in that the firm does not request authority for the use of cash collateral to pay its compensation. The firm makes no mention of the source of payment of the approved compensation. However, because SummitBridge has raised the issue with respect to all four applications, the court will treat this application like the others insofar as the use of cash collateral is concerned.

18. 19-20064-D-7 BARRY BINNING MOTION TO SELL
DNL-7 6-17-19 [87]

19. 19-22564-D-7 JOSEFINO BLANCO MOTION TO CONVERT CASE TO
RK-1 CHAPTER 13
6-5-19 [10]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion to convert case to Chapter 13 is supported by the record. As such the court will grant the motion and convert the case to a Chapter 13 by minute order. No appearance is necessary.

20. 19-20869-D-7 DIONNA GARCIA MOTION TO AVOID LIEN OF CAPITAL
GAR-2 ONE
6-6-19 [36]

Final ruling:

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

21. 19-23072-D-7 JESSICA/NAOMI SANCHEZ MOTION TO DISMISS CASE
HLG-1 6-13-19 [15]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion to dismiss case is supported by the record. As such the court will grant the motion and dismiss this case by minute order. No appearance is necessary.

22. 15-28774-D-7 OTASHE GOLDEN
SSA-11

MOTION FOR COMPENSATION FOR
ATHERTON AND ASSOCIATES, LLP,
CERTIFIED PUBLIC ACCOUNTANTS,
ACCOUNTANT(S)
6-21-19 [143]

23. 17-23175-D-7 BENJAMIN MANSHIP
CLH-3

MOTION TO COMPEL ABANDONMENT
6-21-19 [96]

Tentative ruling:

This is the debtor's motion to compel the trustee to abandon the estate's interest in the debtor's businesses. The moving party served the chapter 7 trustee and the United States Trustee, but failed to serve the creditors in the case. Thus, the moving party failed to serve the motion in accordance with Fed. R. Bankr. P. 6007.

Fed. R. Bankr. P. 6007(a) requires the trustee or debtor in possession to give notice of a proposed abandonment or disposition of property "to the United States trustee [and] all creditors" On the other hand, Fed. R. Bankr. P. 6007(b) provides that "[a] party in interest may file and serve a motion requiring the trustee or debtor in possession to abandon property of the estate." Ostensibly, the latter subparagraph does not require that notice be given to all creditors, although the former does. A motion under subparagraph (b), however, should generally be served on the same parties who would receive notice under subparagraph (a) of the rule. See In re Jandous Elec. Constr. Corp., 96 B.R. 462, 465 (Bankr. S.D.N.Y. 1989) (citing Sierra Switchboard Co. v. Westinghouse Elec. Corp., 789 F.2d 705, 709-10 (9th Cir. 1986)).

The court will continue the hearing to permit the moving party to file a notice of continued hearing and serve it, together with the motion and declaration, on all creditors in this case, including those filing claims in the case at the addresses on their proofs of claim, as required by Fed. R. Bankr. P. 2002(g) and, for those who have not filed proofs of claim, at their addresses on the debtor's schedules, including the amended schedules filed June 21, 2019, as required by the same rule. The notice of continued hearing may be a notice pursuant to LBR 9014-1(f) (1) or (f) (2), depending on the amount of notice given. The court will hear the matter.

24. 14-22492-D-12 CHARLES CORNELL
PGM-4

MOTION FOR ENTRY OF DISCHARGE
6-10-19 [108]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion for entry of Chapter 12 discharge is supported by the record. As such the court will grant the motion. Moving party is to submit an appropriate order. No appearance is necessary.

25. 19-22696-D-7 BRIANA PAGE
CAS-1
EXETER FINANCE, LLC VS.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-18-19 [14]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion is supported by the record. As such the court will grant relief from stay. As the debtor's Statement of Intentions indicates she will surrender the property, the court will also waive FRBP 4001(a)(3) by minute order. There will be no further relief afforded. No appearance is necessary.

26. 19-22904-D-7 ANDREW HOREJS

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
6-28-19 [22]

Final ruling:

The deficiency has been corrected. As a result the court will issue a minute order discharging the order to show cause and the case will remain open. No appearance is necessary.

27. 18-25811-D-11 JLM ENERGY, INC.
FBD-2

CONTINUED MOTION TO CONVERT
CASE TO CHAPTER 7
5-28-19 [76]

28. 19-22011-D-7 MYRA WOODWARD LEVIAS

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
6-25-19 [20]

Final ruling:

The deficiency has been corrected. As a result the court will issue a minute order discharging the order to show cause and the case will remain open. No appearance is necessary.

29. 19-23211-D-7 DEBRA GREENLAND
VVF-1
AMERICAN HONDA FINANCE
CORPORATION VS. MOTION FOR RELIEF FROM
AUTOMATIC STAY AND/OR MOTION
FOR ADEQUATE PROTECTION
6-25-19 [12]
30. 19-23914-D-7 SHAWN HACK
SLH-1 MOTION TO COMPEL ABANDONMENT
6-25-19 [7]
31. 19-23227-D-7 TYIETHA TOLEFREE
NFS-1
CONSUMER PORTFOLIO SERVICES,
INC. VS. MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-26-19 [12]
32. 19-23143-D-7 GABRIEL QUINTERO-GARCIA
VVF-1 AND SANDRA QUINTERO
AMERICAN HONDA FINANCE
CORPORATION VS. MOTION FOR RELIEF FROM
AUTOMATIC STAY
7-1-19 [15]

Final ruling:

The matter is resolved without oral argument. This motion was noticed under LBR 9014-1(f)(2). However, the debtors' Statement of Intentions indicates they intend to surrender the collateral and the trustee has filed a statement of non-opposition. Accordingly, the court finds a hearing is not necessary and will grant relief from stay by minute order. There will be no further relief afforded. No appearance is necessary.

33. 15-29890-D-7 GRAIL SEMICONDUCTOR
DNL-61

CONTINUED MOTION TO FILE CLAIM
AFTER CLAIMS BAR DATE
6-18-19 [1296]