UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Ronald H. Sargis
Chief Bankruptcy Judge
Sacramento, California

July 22, 2021 at 10:30 a.m.

1.	**17-26125-E-7** **HSM-19**	**FIRST CAPITAL RETAIL, LLC** **Gabriel Liberman**	**MOTION TO SELL** **6-23-21 [647]**

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 7 Trustee, creditors, parties requesting special notice, and Office of the United States Trustee on June 23, 2021. By the court's calculation, 29 days' notice was provided. 21 days' notice is required. FED. R. BANKR. P. 2002(a)(2) (requiring twenty-one days' notice).

The Motion to Sell Property was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 7 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing, unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. At the hearing, ----------.

The Motion to Sell Property is granted.

The Bankruptcy Code permits Kimberly J. Husted, the Chapter 7 Trustee, ("Movant") to sell property of the estate after a noticed hearing. 11 U.S.C. § 363. Here, Movant proposes to sell:

1. all, right, title, and interest in a Judgment entered April 10, 2020 against IAC Capital Source Funding LLC, et al in Adversary Proceeding #19-02116-E, related to this Bankruptcy Case, in the amount of $32,622.22;

2. all of the Estate's rights to participate in a settlement of a class action lawsuit, entitled *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, MDL 1720 (MKB) (JO); and

3. all other assets of the Estate, other than the cash assets, that presently exist, and those that will be generated, after the Trustee's administration of the Estate ("Property").

The proposed purchaser of the Property is SM Financial Services Corporation, and the terms of the sale as summarized by the court are:

A. The Purchase Price is $10,000.00.

B. Closing shall occur as soon as Seller has met her obligations under this Agreement and the court has entered the Sale Order.

C. Purchaser shall not assume, and expressly disclaims, any debts, obligations, duties, expenses, liens, claims or encumbrances or other liabilities, of any kind or nature whatsoever, of Seller or any of its affiliates or representatives.

D. The sale is "as-is" "where-is" condition.

E. The Purchase Agreement represents the entire agreement.

F. The Purchase Agreement may only be amended in writing signed by both parties.

G. The Purchase Agreement is subject to court approval which will be obtained by Seller as soon as possible in the Bankruptcy Case.

Overbidding Procedures

Trustee proposes the following overbidding procedures:

1. An interested Bidder who wants to participate in the overbid process must notify the Trustee of its intention to do so prior to the commencement of the hearing on the Motion;

2. Initial overbid must be at least $11,000.00;

3. Each Interested Bidder must submit a cashier's check to the Trustee in the amount of such Interested Bidder's initial overbid;

4. Each subsequent overbid must be no less than $1,000.00 greater than the initial overbid.

In the event a party other than SM Financial is deemed the winning bidder with respect to the Purchase Agreement, such other party shall be required to purchase the Purchased Assets under the same terms and conditions set forth in the Purchase Agreement.

DISCUSSION

At the time of the hearing, the court announced the proposed sale and requested that all other persons interested in submitting overbids present them in open court. At the hearing, the following overbids were presented in open court: xxxxxxxxxxxxxxx.

Based on the evidence before the court, the court determines that the proposed sale is in the best interest of the Estate because the purchase price is fair and reasonable. The Trustee testifies that she contacted a number of possible buyers of judgments, claims, interests in assets and entities. Dckt. 649, ¶ 8. While a few parties expressed interest, Trustee was unable to elicit an offer for an amount in excess of the proposed $10,000.00 Purchase Price. *Id*. Given her knowledge of the "market" and universe of buyers of assets similar to the Purchased Assets, Trustee has determined that the proposed price represents a fair price for the assets. *Id*.

At the hearing xxxxxxxx

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Sell Property filed by Kimberly J. Husted, the Chapter 7 Trustee, ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that Kimberly J. Husted, the Chapter 7 Trustee, is authorized to sell pursuant to 11 U.S.C. § 363(b) to SM Financial Services Corporation or nominee ("Buyer"), the Property described below on the following terms:

A. The Property authorized to be sold is:

1. all, right, title, and interest in a Judgment entered April 10, 2020 against IAC Capital Source Funding LLC, et al in Adversary Proceeding #19-02116-E, related to this Bankruptcy Case, in the amount of $32,622.22;

2. all of the Estate's rights to participate in a settlement of a class action lawsuit, entitled *In re Payment Card*

Interchange Fee and Merchant Discount Antitrust Litigation, MDL 1720 (MKB) (JO); and

3. all other assets of the Estate, other than the cash assets, that presently exist, and those that will be generated, after the Trustee's administration of the Estate ("Property").

B. The Property shall be sold to Buyer for $10,000.00, on the terms and conditions set forth in the Purchase Agreement, Exhibit A, Dckt. 650, and as further provided in this Order.

C. The sale proceeds shall first be applied to closing costs, other customary and contractual costs and expenses incurred to effectuate the sale.

D. The Chapter 7 Trustee is authorized to execute any and all documents reasonably necessary to effectuate the sale.

2. **18-90029-E-11 FWP-14** **JEFFERY ARAMBEL** **MOTION TO TRANSFER THE FILBIN/STADTLER RANCH TO SECURED CREDITORS IN LIEU OF FORECLOSURE**
2 thru 3 **Pro Se** **7-1-21 [1474]**

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Plan Administrator, creditors holding the twenty largest unsecured claims, creditors, and Office of the U.S. Trustee July 1, 2021. By the court's calculation, 21 days' notice was provided. 21 days' notice is required. FED. R. BANKR. P. 2002(a)(2) (requiring twenty-one days' notice).

The Motion to Sell Property was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 7 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing, unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. At the hearing, ----------.

The Motion to Transfer the Filbin/Stadtler Ranch to Secured Creditors in Lieu of Foreclosure is granted.

The Bankruptcy Code permits Focus Management Group USA, Inc., the Plan Administrator, ("Movant") to sell property of the estate after a noticed hearing. 11 U.S.C. § 363. Here, Movant proposes to transfer by deeds in lieu of foreclosure the estate's interest in approximately 5,178 acres of grazing land in Stanislaus County, California, consisting of two ranches commonly referred to as the "Filbin Ranch" and the "Dilday/Stadtler Ranch" collectively referred to as the "Filbin/Stadtler Ranch" ("Property").

The court notes that the Motion does not identify the persons to whom they are transferred, but provides a non-specific reference as the "secured creditors holding the secured claims designated in this case as Claim Nos. 18, 26, 27." Motion, p. 1 27-28; Dckt. 1474. The court has no idea what "boyz" may have now acquired those secured claims, their relationship to the estate and Debtor, and the

fiduciary plan administrator.

The Agreement which the Plan Administrator seeks approval does identify the various parties to the Agreement as the transferees of the Deeds in Lieu of Foreclosure:

1. Carolyn Dilday and Daniel J. Stadtler, Successor Co-Trustees of the Philip N. Stadtler & Lois C. Stadtler Trust UAD 3/4/1999 (collectively the "Dilday/Stadtler Creditors").

2. Cow Camp Limited Partnership ("Cow Camp") and Philip N. Stadtler Family Limited Partnership, a California limited partnership ("Stadtler LP").

3. Dorothy M. Arnaud and Helen F. Jacobson, as Co-Trustees of the Patrick H. and Margaret J. Filbin Trust UTA dated December 20, 1973, as fiduciary representatives of Thomas R. Filbin, Mary Etta Filbin, Carolyn Filbin, Dorothy Arnaud, Helen Jacobson, Melissa Bencoma, Deborah DeWolf and Sharon Basurto (collectively the "Filbin Trust Creditors").

4. Dorothy Arnaud individually, Helen F. Jacobson individually, Deborah DeWolf, individually and as power of attorney for Sharon Basurto and Melissa Bencoma, (collectively, the "DeWolf Sisters") and separately Garry L. DeWolf ("DeWolf") (collectively with the DeWolf Sisters, the "AJDD Creditors").

Agreement, p.1; Exhibit 1, Dckt. 1477. These transferees are identified as creditors holding the secured claims designated in this case as Claim Nos. 18, 26, and 27 (collectively, the "F/S Creditors"), and the terms of the sale, as summarized, are (Dckt. 1477, Agreement, Exhibit 1):

A. Transfer Subject to Lease and Property Taxes: The transfer shall be subject to the existing lease to Cammy Wells through September 30, 2021. The Plan Administrator shall retain all of the annual rents paid for the Wells lease through September 30, 2021. The Plan Administrator has paid all property taxes for the Filbin Trust Ranch and the Filbin/Stadtler Ranch through the most recent payment due April 10, 2021. The F/S Ranch Creditors shall, respectively, be responsible for payment of all real property taxes that come due after April 10, 2021, for the portions of the Filbin/Stadtler Ranch that they receive.

B. Full Satisfaction of Secured Claims: The F/S Ranch Creditors, Cow Camp and Stadtler LP represent and warrant that they hold all interests represented by Claim Nos. 18, 26, and 27. The Plan Administrator, the F/S Ranch Creditors, Cow Camp and Stadtler LP acknowledge and agree that as of the Closing, the Class 1(c), Class 1(d), and Class 1(e) secured claims, including any potential deficiency claims, held and asserted by the F/S Ranch Creditors shall be deemed fully satisfied and the Estate shall have no further obligations to the F/S Ranch Creditors on account

of the claims asserted by one or more of the F/S Ranch Creditors by Claim Nos. 18, 26, and 27.

C. Reservation of Unsecured Claims: Dilday/Stadtler have and assert a Class 6 unsecured claim against the Estate that is not based upon their Class 1(c) secured claim including any potential deficiency claim that is released pursuant to Paragraph 6 above. Dilday/Stadtler reserve all rights regarding their unsecured Class 6 claim which shall not be released as a result of the deed in lieu of foreclosure.

D. Escrow: Plan Administrator shall open an escrow (the "Escrow") with Chicago Title (the "Escrow Holder") by delivering a fully executed copy of this Agreement to the Escrow Holder. The costs and expenses of the Escrow (including Escrow Holder's fees and charges, title insurance, recording charges, and any documentary transfer taxes due) shall be borne by the F/S Ranch Creditors.

E. Closing Date: The Escrow shall close as soon as possible after the satisfaction of all the conditions contained in this Agreement, but in no event later than July 1, 2021.

F. The transfer shall include the Estate's interest, if any, in the "Appurtenant Interests" and the "Related Interests," as defined in the Agreement, as well as any mineral rights.

G. The proposed transfer is on an "AS-IS/WHERE-IS" basis.

H. The F/S Creditors shall pay all costs, transfer taxes and other expenses related to the transfer of the Property.

Transfer Free and Clear of Liens

The Motion seeks to transfer the Property free and clear of the lien of SBN V Ag I LLC ("Summit") ("Creditor"), which asserts a secured claim on some or all of the Property that is junior in priority to the F/S Ranch Creditors. Dckt. 1474, Motion, at ¶ 13.

The Bankruptcy Code provides for the sale of estate property free and clear of liens in the following specified circumstances,

> (f) The trustee[, debtor in possession, or Chapter 13 debtor] may sell property under subsection (b) or (c) of this section free and clear of any interest in such property of an entity other than the estate, only if–
>
> (1) applicable nonbankruptcy law permits sale of such property free and clear of such interest;
>
> (2) such entity consents;

(3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;

(4) such interest is in bona fide dispute; or

(5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

11 U.S.C. § 363(f)(1)–(5).

For this Motion, Movant has not yet establish that the transfer of the Property free and clear of Summit's lien is authorized by Section 363(f)(2). Plan Administrator is informed and believes that Summit will consent to the transfer free and clear of its security interests. Dckt. 1478, MPA, at 5:4-6. However, this does not mean that Summit will indeed consent. No document has been filed by Summit stating so.

At the hearing xxxxxxxx

Joinder

Dorothy M. Arnaud, individually and as Co-Trustee of the Patrick H. and Margaret J. Filbin Trust UTA, Helen F. Jacobson, individually and as Co-Trustee of the Patrick H. and Margaret J. Filbin Trust UTA, and Deborah DeWolf and Garry DeWolf ("AJDD Creditors") filed a Joinder in support of the Motion. Dckt. 1485.

DISCUSSION

At the time of the hearing, the court announced the proposed sale and requested that all other persons interested in submitting overbids present them in open court. At the hearing, the following overbids were presented in open court: xxxxxxxxxxxxxxx.

There will be no commissions for the transfer of the Property to the F/S Creditors or their designees by Deed in Lieu. The F/S Creditors will pay all costs, transfer taxes and other expenses related to the transfer of the Property, so that the Estate is not paying "out of pocket" for the transfer.

Based on the evidence before the court, the court determines that the proposed sale is in the best interest of the Estate because the Plan Administrator has demonstrated a sound business purpose. The Property has been extensively marketed for almost two years, and the Plan Administrator has not received any offers that would generate any proceeds for the estate. Dckt. 1474, Motion, at 8. Therefore, in the absence of the Agreement, the Plan Administrator would seek an abandonment which would result in a foreclosure. *Id*. Foreclosure would cause the F/S Creditors unnecessary complications and expense because there are multiple deeds of trust on different portions of the Property, and legal title to certain portions are held as fractional undivided interests by Cow Camp and Stadtler LP. *Id*. The proposed transfer by deed in lieu of foreclosure provides a resolution of the respective lienholder interests. *Id*. The F/S Creditors are effectively trading their secured claims, which exceed the market value of the Property, for the Property. *Id*., at 9. These secured claims exceed the highest offer that the Plan Administrator has received. *Id*.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Sell Property filed by Focus Management Group USA, Inc., Plan Administrator, ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is granted and Focus Management Group USA, Inc., the Plan Administrator under the Confirmed Chapter 11 Plan in the Jeffery Arambel bankruptcy case, is authorized t 11 U.S.C. § 363(b) and ~~(f)(2)~~ to:

A. Transfer by Deeds in Lieu of Foreclosure to the following persons:

1. Carolyn Dilday and Daniel J. Stadtler, Successor Co-Trustees of the Philip N. Stadtler & Lois C. Stadtler Trust UAD 3/4/1999 (collectively the "Dilday/Stadtler Creditors").

2. Cow Camp Limited Partnership ("Cow Camp") and Philip N. Stadtler Family Limited Partnership, a California limited partnership ("Stadtler LP").

3. Dorothy M. Arnaud and Helen F. Jacobson, as Co-Trustees of the Patrick H. and Margaret J. Filbin Trust UTA dated December 20, 1973, as fiduciary representatives of Thomas R. Filbin, Mary Etta Filbin, Carolyn Filbin, Dorothy Arnaud, Helen Jacobson, Melissa Bencoma, Deborah DeWolf and Sharon Basurto (collectively the "Filbin Trust Creditors").

4. Dorothy Arnaud individually, Helen F. Jacobson individually, Deborah DeWolf, individually and as power of attorney for Sharon Basurto and Melissa Bencoma, (collectively, the "DeWolf Sisters") and separately Garry L. DeWolf ("DeWolf") (collectively with the DeWolf Sisters, the "AJDD Creditors").

B. The following interests in these identified properties:
[paragraph 1 intentionally omitted]

2. Conveyance of the Estate Interests in the Filbin/Stadtler Ranch to the Filbin Trust, the AJDD Creditors and to the Dilday/Stadtler Creditors. The Plan Administrator agrees to grant, convey, and transfer at Closing to the F/S Ranch Creditors and the F/S Ranch Creditors agree to such transfer and shall accept, fee simple title to their respectively allocated portions of the Filbin/Stadtler Ranch as designated below. Any interests of the Arambel Estate in the Appurtenant/Related Interests by quitclaim deeds in

Escrow Holder's (as defined below) standard form (the "Deeds"), as set forth below:

a. To the Filbin Trust Creditors. At Closing, the Estate shall transfer to the Filbin Trust Creditors all of the Estate's interests, which in some cases are partial interests, in the parcels of the Filbin/Stadtler Ranch identified as Township 5 South, Range 6 East for Sections 2 & 3 and Township 4 South, Range 6 East for Sections 2, 3, 26, 27, 28, 34 and 35 identified by APNs 016-018-009, 016-018-010, 016-018- 011, 016-018-012, 016-018-013 (Sect 28); 016-035-007, 016-035-008 (Sect 27); 016-035-010 (Sect 34); 016-036-006 (Sect 26); 016-036-031, 016-036-037 (Sect 35); 021-007-017, 021-007-018, 021-007-019, 021-007-020, 021-007-023 (Sect 3); 021-007-022, 021-007-028 (Sect 2).

b. To the AJDD Creditors. At Closing, the Estate shall transfer to the AJDD Creditors the Estate's interests in the parcels of the Filbin/Stadtler Ranch identified as follows:

   i. The Estate's interest in Sections 33 and 34 in Township 4 South, Range 6 East, as follows: an undivided 50% interest in APN 016-035-009 (Sect 34) and an undivided 50% interest in APN 016-018-004 (Sect 33). The Property transferred to the AJDD Creditors with resulting 50% interest allocated as follows: one-third Dorothy Arnaud, one-third Helen Jacobson, 50% of one-third interest to Garry L. DeWolf, and 50% of one-third interest divided equally to Melissa Bencoma, Deborah DeWolf, and Sharon Basurto.

   ii. The Estate's interest in Section 4, Township 5 South, Range 6 East, as follows: an undivided 50% interest in APNs 021-008-009, 021-008-010, 021-008-011, 021-008-012, 021-008-013, 021-008-014, 021-008-015, 021- 008-016, 021-008-017, 021-008-018 (Sect 4). The Property transferred to the AJDD Creditors with resulting 50% interest allocated as follows: one-third Dorothy Arnaud, one-third Helen Jacobson, 50% of one-third interest to Garry L. DeWolf, and 50% of one-third interest divided equally to Melissa Bencoma, Deborah DeWolf, and Sharon Basurto.

   iii. Section 12, Township 5 South, Range 6 East: APN 021-007-005.

c. To the Dilday/Stadtler Creditors. At Closing, the Estate shall transfer to the Dilday/Stadtler Creditors the Estate's interests in

the parcels identified as:

i. All of Section 32, Township 4 South, Range 6 East: APNs 016-018- 014, 016-018-015, 016-018-016, 016-018-017, 016-018-018 and 016-018- 019.

ii. The Estate's interest in Sections 33, Township 4 South, Range 6 East: an undivided 25% interest in APN 016-018-004 (Sect 33). . Such Property transferred to the Dilday/Stadtler Creditor parties shall be allocated with a 25% undivided interest to Russell G. Dilday and Carolyn Dilday as community property and 25% undivided interest to Daniel J. Stadtler as tenants in common. Property held by Cow Camp and Stadtler LP shall remain with Cow Camp and Stadtler LP as noted in paragraph 3(b) below.

iii. The Estate's interest in Section 4, Township 5 South, Range 6 East: an undivided 25% interest in APNs 021-008-009, 021-008-010, 021-008- 011, 021-008-012, 021-008-013, 021-008-014, 021-008-015, 021-008-016, 021-008-017, 021-008-018 (Sect 4). Such Property transferred to the Dilday/Stadtler Creditor parties shall be allocated with a 25% undivided interest to Russell G. Dilday and Carolyn Dilday as community property and 25% undivided interest to Daniel J. Stadtler as tenants in common. Property held by Cow Camp and Stadtler LP shall remain with Cow Camp and Stadtler LP as noted in paragraph 3(b) of the Agreement.

C. On the terms and conditions set forth in the Agreement for Deed in Lieu of Foreclosure filed as Exhibit 1, Dckt. 1477.

D. ~~The Property is transferred free and clear of the lien of Summit, Creditor asserting a secured claim, pursuant to 11 U.S.C. § 363(f)(2), with the lien of such creditor attaching to the proceeds.~~

E. The Plan Administrator is authorized to execute any and all documents reasonably necessary to effectuate the sale.

3. **18-90029-E-11 FWP-15** **JEFFERY ARAMBEL** **Pro Se** **MOTION TO USE CASH COLLATERAL 7-1-21 [1466]**

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor in Possession, Debtor in Possession's Attorney, creditors holding the twenty largest unsecured claims], creditors, and Office of the United States Trustee on July 1, 2021. By the court's calculation, 21 days' notice was provided. 14 days' notice is required. FED. R. BANKR. P. 4001(b)(2) (requiring fourteen days' notice).

The Motion for Authority to Use Cash Collateral was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor in Possession, creditors, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing, unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. At the hearing, ----------.

The Motion for Authority to Use Cash Collateral is ~~granted.~~

Focus Management Group USA, Inc. ("Plan Administrator") moves for an order approving the use of cash collateral pursuant to a stipulation with SBN V AG I LLC ("Summit") for the period of June 1, 2021 through September 30, 2021. Plan Administrator requests the use of cash collateral to operate the Reorganizing Debtor's business and pay Plan Expenses such as insurance and professional fees.

APPLICABLE LAW

Pursuant to 11 U.S.C. § 1101, a debtor in possession serves as the trustee in the Chapter 11 case when so qualified under 11 U.S.C. § 322. As a debtor in possession, the debtor in possession can use, sell, or lease property of the estate pursuant to 11 U.S.C. § 363. In relevant part, 11 U.S.C. § 363 states:

(b)(1) The trustee, after notice and a hearing, may use, sell, or lease, other than in

> the ordinary course of business, property of the estate, except that if the debtor in connection with offering a product or a service discloses to an individual a policy prohibiting the transfer of personally identifiable information about individuals to persons that are not affiliated with the debtor and if such policy is in effect on the date of the commencement of the case, then the trustee may not sell or lease personally identifiable information to any person unless–
>
> > (A) such sale or such lease is consistent with such policy; or
> >
> > (B) after appointment of a consumer privacy ombudsman in accordance with section 332, and after notice and a hearing, the court approves such sale or such lease–
> >
> > > (i) giving due consideration to the facts, circumstances, and conditions of such sale or such lease; and
> > >
> > > (ii) finding that no showing was made that such sale or such lease would violate applicable non-bankruptcy law.

Federal Rule of Bankruptcy Procedure 4001(b) provides the procedures in which a trustee or a debtor in possession may move the court for authorization to use cash collateral. In relevant part, Federal Rule of Bankruptcy Procedure 4001(b) states:

> (b)(2) Hearing
>
> The court may commence a final hearing on a motion for authorization to use cash collateral no earlier than 14 days after service of the motion. If the motion so requests, the court may conduct a preliminary hearing before such 14-day period expires, but the court may authorize the use of only that amount of cash collateral as is necessary to avoid immediate and irreparable harm to the estate pending a final hearing.

DISCUSSION

Plan Administrator has shown that the proposed use of cash collateral is in the best interest of the Estate. The proposed use provides for payment of Plan Expenses. The Motion is granted, and Plan Administrator is authorized to use the cash collateral for the period of June 1, 2021, through September 30, 2021, including required adequate protection payments. The court does not pre-judge and authorize the use of any monies for "plan payments" or use of any "profit" by Plan Administrator. All surplus cash collateral from the Property is to be held in a cash collateral account and accounted for separately by Debtor in Possession.

Filed as Exhibit A to the Stipulation, Dckt. 1469, is the budget for the authorized use of cash collateral. When this document is blown up on a large computer monitor, it is readable. It includes historic information and not just the requested use of cash collateral.

The court can identify columns for June, July, August, and September 2021. However, the final column is titled "Funeral Expense 9th Month." It is unclear what a "Funeral Expense 9th Month" would be.

Excerpting from the small font, data intensive Exhibit A and excluding many prior months included, the court copies and pastes here the June, July, August, September, and Funeral, 2021 months use of case collateral:

Arambel Cash Budget Plan of Conversion of Remaining Assets	June 21	July 22	August 23	September 24	Funeral Expense 9th Month	Cumulative Post January 2021 Period
Starting Cash	$ 1,744,800	$ 2,227,520	$ 2,175,551	$ 2,122,551	$ 2,074,551	$ [illegible],766
Cash-In						
Summit Funding	$ -	$ -	$ -	$ -	$ -	$ -
MetLife Funding	-	-	-	-	-	-
FLCC Deposit	-	-	-	-	-	[illegible],390
Additional Funding/LBA Settlement	525,000	-	-	-	-	[illegible],000
Farm Equipment Auction Net Proceeds	-	-	68,250	-	-	68,250
Property Tax Refunds - Stanislaus County	-	-	-	-	-	[illegible],192
Crop Retainage/Coop Patronage	-	-	-	-	-	-
Rental Income	-	-	-	-	-	-
Property Sales	-	-	-	-	5,455,900	[illegible],900
Total Cash-In	$ 525,000	$ -	$ 68,250	$ -	$ 5,455,900	$ [illegible],732
Cash-Out						
Personal Expenses						
Pharmacy	$ -	$ -	$ -	$ -	$ -	$ -
Misc. Medical	-	-	-	-	-	-
Home maintenance + HOA	-	-	-	-	-	-
Home Mortgage	-	-	-	-	-	-
Food, Clothing, and Household	-	-	-	-	-	-
Utilities	-	-	-	-	-	-
Transportation	-	-	-	-	-	-
Total Personal	$ -	$ -	$ -	$ -	$ -	$ -
Farm Expenses						
Water and Power	$ -	$ -	$ -	$ -	$ -	$ -
Fuel	-	-	-	-	-	-
Parts	-	-	-	-	-	-
Lot Line Adj, BPOs, Other Asset Admin	4,000	4,000	4,000	4,000	2,000	[illegible],887
Reorganizing Debtor's Professionals	-	-	-	-	-	[illegible],645
Total Farm	$ 4,000	$ 4,000	$ 4,000	$ 4,000	$ 2,000	$ [illegible],532
Plan Expenses						
Insurance	$ 1,094	$ 1,094	$ 2,000	$ 2,000	$ 2,000	$ [illegible],923
Property Taxes	-	-	-	-	130,000	[illegible],690
Accountant	600	2,000	2,000	2,000	5,000	[illegible],704
Plan Administrator's Attorneys	11,586	15,000	15,000	15,000	20,000	[illegible],155
US Trustees Fees	-	4,875	-	-	75,000	[illegible],750
Plan Administrator Fees	25,000	25,000	30,000	25,000	35,000	[illegible],043
Total Plan	$ 38,280	$ 47,969	$ 49,000	$ 44,000	$ 267,000	$ [illegible],265
Sub-Total	$ 42,280	$ 51,969	$ 53,000	$ 48,000	$ 269,000	$ 968,797
Accrued Professional Fees	$ -	$ -	$ -	$ -	$ -	$ -
2018 Income Tax	-	-	-	-	-	-
Unpaid Utilities	-	-	-	-	-	-
Class 2 Pre-Petition Property Taxes	-	-	-	-	-	-
Class 3 Cure Payments	-	-	-	-	-	-
Sub-Total	$ -	$ -	$ -	$ -	$ -	$ -
Property Sale Disbursements						
Payment on Debt - Brighthouse	$ -	$ -	$ -	$ -	$ -	$ -
Payment on Debt - Summit	-	-	68,250	-	6,451,437	[illegible],687
Sale Expenses (Title, Escrow, Recording)	-	-	-	-	20,446	20,446
Property Taxes	-	-	-	-	20,000	20,000
Other Costs Paid at Closing	-	-	-	-	769,569	769,569
Sub-Total	$ -	$ -	$ 68,250	$ -	$ 7,261,452	$ 7,329,702
Total Cash-Out	$ 42,280	$ 51,969	$ 121,250	$ 48,000	$ 7,530,452	$ 8,298,499
Ending Cash	$ 2,227,520	$ 2,175,551	$ 2,122,551	$ 2,074,551	$ (1)	$ (1)
Period Ending Cash Balance:						
PA Operating Account	$ 644,958	$ 592,989	$ 539,989	$ 491,989	$ (1,582,563)	
PA Fibin Account	3,029	3,029	3,029	3,029	3,029	
PA U.S. Trustee Fees Reserve	-	-	-	-	-	
PA 10% Holdback after $2M to Summit	-	-	-	-	-	
PA Tax Reserve Account	1,579,534	1,579,534	1,579,534	1,579,534	1,579,534	
RD Checking/Petty Cash	-	-	-	-	-	
Period Ending Cash Balance	$ 2,227,521	$ 2,175,552	$ 2,122,552	$ 2,074,552	$ (0)	

At the hearing, counsel for the Plan Administrator explained the "Funeral Expense 9th Month" expenses and how they are part of the administration of the Plan in this case. **xxxxxxx**

At the hearing, xxxxxxxx

~~The Motion is granted.~~

~~Counsel for the Plan Administrator shall prepare and lodged with the court a proposed order, to which a clear, legible, readable budget for the authorized use of cash collateral, and only for the months for which the use of cash collateral is authorized.~~

4. **21-21438-E-7** **PHILIP OUELLETTE** **MOTION TO AVOID LIEN OF**
MOT-1 **Mark O'Toole** **INVESTMENT RETRIEVERS, INC.**
6-14-21 [16]

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 7 Trustee, Creditor, creditors, parties requesting special notice, and Office of the United States Trustee on June 14, 2021. By the court's calculation, 38 days' notice was provided. 28 days' notice is required.

The Motion to Avoid Judicial Lien has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of non-opposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties and other parties in interest are entered. Upon review of the record, there are no disputed material factual issues, and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

The Motion to Avoid Judicial Lien is granted, with the lien avoided for all amounts in excess of $55,525.00.

This Motion requests an order avoiding the judicial lien of Investment Retrievers, Inc. ("Creditor") against property of the debtor, Philip Joseph Ouellette ("Debtor") commonly known as 123 Erle Road, Marysville, California, Yuba County, California ("Property").

A judgment was entered against Debtor in favor of Creditor in the amount of $87,863.49. Exhibit A, Dckt. 18. An abstract of judgment was recorded with Yuba County on December 30, 2020, that encumbers the Property. *Id.*

Pursuant to Debtor's Schedule A, the subject real property has an approximate value of $276,266.00 as of the petition date. Dckt. 1. The unavoidable consensual liens that total $190,390.76 as of the commencement of this case are stated on Debtor's Schedule D. Dckt. 1.

The present relief is sought pursuant to 11 U.S.C. § 522(f) which allows a debtor to avoid a

judicial lien in exempt property of the debtor to the extent it impairs the exemption.

> (f)
> (1) Notwithstanding any waiver of exemptions but subject to paragraph (3), the debtor may avoid the fixing of a lien on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled under subsection (b) of this section, if such lien is—
>
> > (A) a judicial lien, other than a judicial lien that secures a debt of a kind that is specified in section 523(a)(5); . . . .

11 U.S.C. § 522(f)(1).

In his Declaration, Debtor testifies under penalty of perjury that his attorney filed a homestead exemption under C.C.P. 704.730(a)(2) in the amount of the net equity of $85,875.24. It is unclear as to the Debtor having personal knowledge of the California Code of Civil Procedure and the homestead exemption statutes. Debtor also states under penalty of perjury his legal conclusion that, as a matter of law, the judicial lien of Creditor impairs Debtor's exemption.

A review of Schedule C, the Debtor's claim of exemptions in property, which was signed by Debtor under penalty of perjury in this case, reflects that Debtor has claimed various exemptions under the provisions of California Code of Civil Procedure § 703.140. Dckt. 1 at 17-18. Debtor claims exemptions in two vehicles, a cell phone and a TV, clothing, and a checking account, no exemption is claimed in any real property.

In Schedule C, Debtor has elected to claim the "bankruptcy exemptions" permitted under California law. Cal. C.C.P. § 703.140(a). A debtor may claim an exemption in real property used as a residence in an amount not to exceed $29,275. Cal C.C.P. § 703.140(b)(1). Debtor also has a $1,550 "wildcard" exempt amount that can be used in any asset, Cal. C.C.P. § 703.140(b)(5), of which Debtor uses $475.53 to exempt monies in his checking account. Schedule C, Dckt. 1 at 17.

In his Declaration Debtor testifies that the residence property has a value of $276,266 and that it is subject to the senior consensual lien securing an obligation in the amount of $190,390.76. Declaration, ¶¶ 3,4; Dckt. 19. Debtor then computes there being $85,875.24 in value in the Property in which he can claim an exemption and that exists for the judgment lien.

Because Debtor has not claimed an exemption in the Property, there is not an exemption that is being "impaired." However, assuming that the failure to claim an exemption is a clerical oversight, the exemption Debtor can claim under the California Code of Civil Procedure § 703.140(b) exemptions is $30,349.47 (the $29,275 plus the remaining amount of the $1,550 wildcard after deducting for the $475.53 of the wildcard used to exempt the monies in the Debtor's checking account). [Fn.1.]

FN. 1. In his Declaration Debtor testifies that his attorney "filed" an exemption under California Code of Civil Procedure § 704.730(a)(2). That Code Section states the amount of a homestead exemption is an alternative exemption that may be claimed in a residence. California law provides that a judgment debtor may elect the exemptions that may be claimed in the California Code of Civil Procedure §§ 704.010 et seq. portion of the Code or the alternative California Code of Civil Procedure

§ 703.140(b) exemptions if the judgment debtor is a bankruptcy debtor.

> § 703.140. Election of exemptions if bankruptcy petition is filed
>
> (a) In a case under Title 11 of the United States Code, all of the exemptions provided by this chapter, including the homestead exemption, other than the provisions of subdivision (b) are applicable regardless of whether there is a money judgment against the debtor or whether a money judgment is being enforced by execution sale or any other procedure, **but the exemptions provided by subdivision (b) may be elected in lieu of all other exemptions provided by this chapter**, . . .

Debtor has elected the California Code of Civil Procedure § 703.140(b) exemptions in place of "all the other exemptions provided by this chapter [Cal. C.C.P. Chapter 4, Exemptions]."

The mathematical calculation based on the value of the Property, senior liens, and the exemption yields the following result:

FMV.....$276,266
Deed of Trust.....($190,391) [rounding up the cents]
Exemption.....($ 30,350) [rounding up the cents]
= = = = = =
Value Remaining for Judgment Lien.....$55,525

Neither in the Motion nor in the Declaration is any statement made as to the amount of the obligation secured by the judgment lien. However, Debtor has provided the Abstract of Judgment, which has a recording date of December 20, 2020. Exhibit A, Dckt. 18. Also attached as part of Exhibit A, is a Memorandum of Costs after Judgment, which states that the outstanding principal amount of the judgment is ($87,863.49), there was ($18,994.80) in accrued interest, and ($192.00) in postjudgment costs.

Based on the Abstract of Judgment, that obligation is in excess of the $55,525 in value above the liens and exemption that Debtor could claim, thus, it would impair the exemption (if claimed) for all amounts in excess of $55,525.

At the hearing xxxxxxxx

~~After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is value of only $55,525.00 to support the judicial lien. Therefore, the fixing of the judicial lien impairs Debtor's exemption of the real property for amounts in excess of $55,525.00, and its fixing is avoided subject to 11 U.S.C. § 349(b)(1)(B).~~

~~An order substantially in the following form shall be prepared and issued by the court:~~

~~Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the~~

hearing.

The Motion to Avoid Judicial Lien pursuant to 11 U.S.C. § 522(f) filed by Philip Joseph Ouellette ("Debtor") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the judgment lien of Investment Retrievers, Inc., California Superior Court for Yuba County Case No. CVCV18-01827, recorded on December 30, 2020, Document No. 2020-022127,with the Yuba County Recorder, against the real property commonly known as 123 Erle Road, Marysville, California, Yuba County, California, is avoided for all amounts in excess of $55,525.00 pursuant to 11 U.S.C. § 522(f)(1), subject to the provisions of 11 U.S.C. § 349 if this bankruptcy case is dismissed.

5. **21-21153-E-11 SW-1** **REHANA HARBORTH** **Marc Voisenat** **MOTION FOR RELIEF FROM AUTOMATIC STAY** **6-24-21 [66]**
ELITE ACCEPTANCE CORPORATION VS.

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, creditors holding the twenty largest unsecured claims, and Office of the United States Trustee on June 24, 2021. By the court's calculation, 38 days' notice was provided. 28 days' notice is required.

The Motion for Relief from the Automatic Stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of non-opposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties and other parties in interest are entered. Upon review of the record, there are no disputed material factual issues, and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

The Motion for Relief from the Automatic Stay is denied without prejudice.

Elite Acceptance Corporation ("Movant") seeks relief from the automatic stay with respect to an asset identified as a 2011 Hyundai Santa Fe, VIN ending in 5923 ("Vehicle"). The moving party has provided the Declaration of Steve Christensen to introduce evidence to authenticate the documents upon which it bases the claim and the obligation owed by Rehana Harborth ("Debtor").

Movant argues Debtor has not made one post-petition payments, with a total of $259.60 in post-petition payments past due. Declaration, Dckt. 68.

Movant has also provided a copy of the Kelley Blue Book Valuation Report for the Vehicle. The Report has been properly authenticated and is accepted as a market report or commercial publication generally relied on by the public or by persons in the automobile sale business. FED. R. EVID. 803(17).

DISCUSSION

From the evidence provided to the court, and only for purposes of this Motion for Relief, the debt secured by this asset is determined to be $7,770.83 (Declaration, Dckt. 68). Debtor has valued the Vehicle at $5,000.00, as stated in Schedules A/B and D filed by Debtor. Movant's KBB Valuation Report values the Vehicle at $7,659.00.

Movant argues that they are entitled to relief pursuant to 11 U.S.C. § 362(d)(1) because Debtor is delinquent in plan payments, the Vehicle is depreciating rapidly and Movant is not receiving adequate protection for its collateral. Moreover, Movant asserts they are entitled to relief pursuant to 11 U.S.C. § 362(d)(2) because there is barely any equity and the Vehicle is not necessary for an effective reorganization.

Stipulation

On July 6, 2021 the parties filed a Stipulation for Adequate Protection and Relief from Automatic Stay which stipulates to the following:

A. Debtor and Elite ("the Parties") agree that Debtor will make adequate protection payments in the amount of $259.60 per month to Elite beginning on June 30, 2021 and continuing until confirmation of Debtor's Plan of Reorganization.

B. In the event of a default, Movant's counsel shall send, via first class mail, written notification of such default(s) to the Debtor and Debtor's counsel at the specified addresses.

C. The Parties agree that such written notice will provide fourteen days for Debtor to cure the default. If the default remains uncured, Elite may submit a Declaration and Order granting relief from the automatic stay in favor of Elite to the Bankruptcy Court. The Order will authorize Elite to proceed under applicable non-bankruptcy law to enforce its rights and remedies with respect to the Vehicles including recovery and repossession of the Vehicles, and the fourteen (14) day waiting period of Bankruptcy Rule 4001(a)(3) will be expressly waived.

D. Debtor will maintain adequate insurance for the Vehicles as required by the agreements between the Parties, naming Elite as an additional insured and loss payee, and shall provide proof of insurance to Elite upon request.

E. The Stipulation may be executed in two or more counterparts, each of which will be deemed a duplicate original, but all of which will constitute the same document.

F. The parties agree and acknowledge that the terms of this stipulation will not survive the dismissal or conversion of Debtor's bankruptcy case.

Counsel, Debtor, and Movant have responsibly addressed the issues and have presented a Stipulation that allows for protection of Movant's collateral or for the Debtor to keep their mode of transportation. They have reached a stipulated resolution that protects Movant and allows Debtor to continue in her efforts to reorganize.

The court grants relief pursuant to the Stipulation.

No other or additional relief is granted by the court.

The court shall issue an order substantially in the following form holding that:

> Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.
>
> The Motion for Relief from the Automatic Stay filed by Elite Acceptance Corporation ("Movant") having been presented to the court, the Parties having stipulated to the relief to be granted as adequate protection (Stipulation, Dckt. 74) and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,
>
> **IT IS ORDERED** that the Motion is granted, the Stipulation For Adequate Protection is authorized, and the Adequate Protection as specified in Paragraphs A through F is ordered.
>
> **IT IS FURTHER ORDERED** that in the event of a default and the Debtor failuring to cure, for the relief from the stay provided in Paragraph E of the Stipulation, Movant shall file an ex parte motion for supplemental relief in this Contested Matter (using the same Docket Control Number as this Motion, DCN: SW-001), which shall be supported by evidence of the default and failure to cure, serve the *ex parte* motion and supporting pleadings on Debtor and lodge a proposed order with the court.
>
> Within ten days of service, if Debtor asserts that no such default occurred, or if it had, such had been timely cured, Debtor shall file an opposition that relates only to the grounds stated in the *ex parte* motion, and notice the hearing on the motion and opposition for the **first available** regular relief form stay hearing date that is at least twenty-one days after the *ex parte* motion had been served. Reply by Movant may be presented orally at the hearing. The only issues for the hearing will be whether a default had occurred, whether notice had been given, and if there was a default, whether it had been cured.

6. **20-20175-E-11 JHH-11** **HERBERT MILLER** **Judson Henry** **MOTION BY JUDSON H. HENRY TO WITHDRAW AS ATTORNEY 7-6-21 [242]**

DEBTOR DISMISSED: 11/16/2020

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, creditors, parties requesting special notice, and Office of the United States Trustee on July 6, 2021. By the court's calculation, 16 days' notice was provided. 14 days' notice is required.

The Motion to Withdraw as Attorney was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 11 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing, unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. At the hearing, ----------.

The Motion to Withdraw as Attorney is granted.

Judson H. Henry ("Movant"), counsel of record for Herbert Edward Miller ("Debtor"), filed a Motion to Withdraw as Attorney as Debtor's counsel in the bankruptcy case. Movant states the following:

A. The Motion is brought pursuant to Local Bankruptcy Rule 2017-1(e) and California Rule of Professional Conduct Section 1.16(B)(6).

B. Debtor knowingly and freely assents to the termination of the present representation by and of Movant.

Motion, Dckt. 242.

APPLICABLE LAW

District Court Rule 182(d) governs the withdrawal of counsel. LOCAL BANKR. R. 1001-1(C). The District Court Rule prohibits the withdrawal of counsel leaving a party *in propria persona* unless by motion noticed upon the client and all other parties who have appeared in the case. E.D. CAL. LOCAL R. 182(d). The attorney must provide an affidavit stating the current or last known address or addresses of the client and efforts made to notify the client of the motion to withdraw. *Id.* Leave to withdraw may be granted subject to such appropriate conditions as the Court deems fit. *Id.*

Withdrawal is only proper if the client's interest will not be unduly prejudiced or delayed. The court may consider the following factors to determine if withdrawal is appropriate: (1) the reasons why the withdrawal is sought; (2) the prejudice withdrawal may cause to other litigants; (3) the harm withdrawal might cause to the administration of justice; and (4) the degree to which withdrawal will delay the resolution of the case. *Williams v. Troehler*, No. 1:08cv01523 OWW GSA, 2010 U.S. Dist. LEXIS 69757 (E.D. Cal. June 23, 2010). FN.1.

FN.1. While the decision in *Williams v. Troehler* is a District Court case and concerns Eastern District Court Local Rule 182(d), the language in 182(d) is identical to Local Bankruptcy Rule 2017-1.

It is unethical for an attorney to abandon a client or withdraw at a critical point and thereby prejudice the client's case. *Ramirez v. Sturdevant*, 26 Cal. Rptr. 2d 554 (Cal. Ct. App. 1994). An attorney is prohibited from withdrawing until appropriate steps have been taken to avoid reasonably foreseeable prejudice to the rights of the client. *Id.* at 559.

The District Court Rules incorporate the relevant provisions of the Rules of Professional Conduct of the State Bar of California ("Rules of Professional Conduct"). E.D. CAL. LOCAL R. 180(e).

Termination of the attorney-client relationship under the Rules of Professional Conduct is governed by Rule 3-700. Counsel may not seek to withdraw from employment until Counsel takes steps reasonably foreseeable to avoid prejudice to the rights of the client. CAL. R. PROF'L CONDUCT 3-700(A)(2). The Rules of Professional Conduct establish two categories for withdrawal of Counsel: either Mandatory Withdrawal or Permissive Withdrawal.

Mandatory Withdrawal is limited to situations where Counsel (1) knows or should know that the client's behavior is taken without probable cause and for the purpose of harassing or maliciously injuring any person and (2) knows or should know that continued employment will result in violation of the Rules of Professional Conduct or the California State Bar Act. CAL. R. PROF'L CONDUCT 3-700(B).

Permissive withdrawal is limited to certain situations, including the one relevant for this Motion:

(5) The client knowingly and freely assents to termination of the employment.

CAL. R. PROF'L. CONDUCT 1.16(b)(6).

DISCUSSION

As a ground for the Motion to Withdraw as Attorney, Movant states that Movant and Debtor entered into a representation agreement in January 2020 under which Movant was to represent Debtor in a chapter 11 bankruptcy case, which was dismissed on November 16, 2020. Dckt. 242. On June 3, 2021, former creditor Four Ws, LLC reopened this case and simultaneously brought a motion for a determination regarding the date the automatic stay terminated. *Id*. Movant "jumped in" and represented Debtor in this motion, essentially *pro bono* and outside the previous representation agreement and without any new agreement. *Id*. In his Declaration, Movant testifies:

> [I]t is my understanding that [Debtor] does not, at least at this time, wish to deploy his resources towards litigation with Four Ws, LLC and/or its principals. I have not entered into any new representation agreement with Herbert Edward Miller, regarding this case or any other matter, and I do not foresee any such new representation agreement in the foreseeable future.

Declaration, Dckt. 245, ¶ 8. Debtor agrees with Movant's testimony and testifies that he knowingly agrees to and freely assents to termination of the representation and withdrawal of the Movant. Dckt. 244, declaration.

According to his Declaration, Movant has discussed with his client the likelihood of further contested matters or proceedings. Neither the Chapter 11 Trustee, Debtor, nor any other relevant party has filed an opposition to this Motion, however, which was filed according to Local Bankruptcy Rule 9014-1(f)(1).

Those are sufficient reasons for permissive withdrawal.

The court shall issue an order substantially in the following form holding that:

> Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.
>
> The Motion to Withdraw as Attorney filed by Judson H. Henry ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,
>
> **IT IS ORDERED** that the Motion to Withdraw as Attorney is granted, and Movant is permitted to withdraw as counsel for Herbert Edward Miller ("Debtor").

7.	**20-21093-E-7 SMJ-2**	**STEVEN/KIMBERLY KENT Mohammad Mokarram**	**MOTION TO COMPEL ABANDONMENT 7-7-21 [61]**

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 7 Trustee, creditors, parties requesting special notice, and Office of the United States Trustee on July 7, 2021. By the court's calculation, 15 days' notice was provided. 14 days' notice is required.

The Motion to Compel Abandonment was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 7 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing, unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. At the hearing, ----------.

The Motion to Compel Abandonment is granted.

After notice and a hearing, the court may order a trustee to abandon property of the Estate that is burdensome to the Estate or is of inconsequential value and benefit to the Estate. 11 U.S.C. § 554(b). Property in which the Estate has no equity is of inconsequential value and benefit. *Cf. Vu v. Kendall (In re Vu)*, 245 B.R. 644 (B.A.P. 9th Cir. 2000).

The Motion filed by Steven Delmar Kent and Kimberly Kent ("Debtor") requests the court to order Kimberly J. Husted ("the Chapter 7 Trustee") to abandon real property commonly known as 2090 Bourbon Street, El Dorado Hills, California ("Property"). The Property is encumbered by the lien of Quicken Loans, securing a claim of $357,730.00. Dckt. 1. The Declaration of Kimberly Kent has been filed in support of the Motion and values the Property at $425,000.00. Dckt. 63.

Trustee has no opposition to the relief requested. Trustee's July 15, 2021 Docket Entry Statement.

DISCUSSION

Review of Minimum Pleading Requirements for a Motion

The Supreme Court requires that the motion itself state with particularity the grounds upon which the relief is requested. FED. R. BANKR. P. 9013. The Rule does not allow the motion to merely be a direction to the court to "read every document in the file and glean from that what the grounds should be for the motion." That "state with particularity" requirement is not unique to the Bankruptcy Rules and is also found in Federal Rule of Civil Procedure 7(b).

Consistent with this court's repeated interpretation of Federal Rule of Bankruptcy Procedure 9013, the bankruptcy court in *In re Weatherford*, applied the general pleading requirements enunciated by the United States Supreme Court to the pleading with particularity requirement of Bankruptcy Rule 9013. *See* 434 B.R. 644, 646 (N.D. Ala. 2010) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 545 (2007)). The *Twombly* pleading standards were restated by the Supreme Court in *Ashcroft v. Iqbal* to apply to all civil actions in considering whether a plaintiff had met the minimum basic pleading requirements in federal court. *See* 556 U.S. 662 (2009).

Federal Rule of Bankruptcy Procedure 9013 incorporates the "state with particularity" requirement of Federal Rule of Civil Procedure 7(b), which is also incorporated into adversary proceedings by Federal Rule of Bankruptcy Procedure 7007. Interestingly, in adopting the Federal Rules of Civil Procedure and of Bankruptcy Procedure, the Supreme Court endorsed a stricter, state-with-particularity-the-grounds-upon-which-the-relief-is-based standard for motions rather than the "short and plain statement" standard for a complaint.

Law and motion practice in bankruptcy court demonstrates why such particularity is required in motions. Many of the substantive legal proceedings are conducted in the bankruptcy court through the law and motion process. These include sales of real and personal property, valuation of a creditor's secured claim, determination of a debtor's exemptions, confirmation of a plan, objection to a claim (which is a contested matter similar to a motion), abandonment of property from the estate, relief from the automatic stay, motions to avoid liens, objections to plans in Chapter 13 cases (akin to a motion), use of cash collateral, and secured and unsecured borrowing.

The court in *Weatherford* considered the impact to other parties in a bankruptcy case and to the court, holding,

> The Court cannot adequately prepare for the docket when a motion simply states conclusions with no supporting factual allegations. The respondents to such motions cannot adequately prepare for the hearing when there are no factual allegations supporting the relief sought. Bankruptcy is a national practice and creditors sometimes do not have the time or economic incentive to be represented at each and every docket to defend against entirely deficient pleadings. Likewise, debtors should not have to defend against facially baseless or conclusory claims.

434 B.R. at 649–50; *see also In re White*, 409 B.R. 491, 494 (Bankr. N.D. Ind. 2009) (holding that a proper motion must contain factual allegations concerning requirements of the relief sought, not conclusory allegations or mechanical recitations of the elements).

The courts of appeals agree. The Tenth Circuit Court of Appeals rejected an objection filed by a party to the form of a proposed order as being a motion. *St. Paul Fire & Marine Ins. Co. v. Continental Casualty Co.*, 684 F.2d 691, 693 (10th Cir. 1982). The Seventh Circuit Court of Appeals refused to allow a party to use a memorandum to fulfill the pleading with particularity requirement in a motion, stating:

> Rule 7(b)(1) of the Federal Rules of Civil Procedure provides that all applications to the court for orders shall be by motion, which unless made during a hearing or trial, "shall be made in writing, [and] *shall state with particularity the grounds therefor*, and shall set forth the relief or order sought." The standard for "particularity" has been determined to mean "reasonable specification."

Martinez v. Trainor, 556 F.2d 818, 819–20 (7th Cir. 1977) (citing 2-A JAMES WM. MOORE ET AL., MOORE'S FEDERAL PRACTICE ¶ 7.05 (3d ed. 1975)).

Not stating with particularity the grounds in a motion can be used as a tool to abuse other parties to a proceeding, hiding from those parties grounds upon which a motion is based in densely drafted points and authorities—buried between extensive citations, quotations, legal arguments, and factual arguments. Noncompliance with Federal Rule of Bankruptcy Procedure 9013 may be a further abusive practice in an attempt to circumvent Bankruptcy Rule 9011 by floating baseless contentions to mislead other parties and the court. By hiding possible grounds in citations, quotations, legal arguments, and factual arguments, a movant bent on mischief could contend that what the court and other parties took to be claims or factual contentions in the points and authorities were "mere academic postulations" not intended to be representations to the court concerning any actual claims and contentions in the specific motion or an assertion that evidentiary support exists for such "postulations."

Grounds Stated in Motion

Movant has not provided any grounds, merely unsupported conclusions of law. The insufficient statement made by Movant is:

> A. Debtors Steven Delmar Kent and Kimberly Kent (hereinafter "Debtor"), by and through their attorney of hereby move this Court for an order under 11 U.S.C. §554 that compels the Chapter 7 Trustee to abandon the real property located at 2090 Bourbon Street, El Dorado Hills, California 95762, as it is of inconsequential value of the bankruptcy estate.

That "ground" is merely a conclusion of law by Movant. Presumably, Movant believed that the court would make those conclusions, but the "grounds" cannot merely state the anticipated conclusions. Such pleadings render the role of the court as mere surplusage.

Movant is reminded that "[f]ailure of counsel or of a party to comply with these [Local Bankruptcy] Rules . . . may be grounds for imposition of any and all sanctions authorized by statute or rule within the inherent power of the Court, including without limitation, **dismissal of any action**, entry of default, finding of contempt, imposition of monetary sanctions or attorneys' fees and costs, and other lesser sanctions." LOCAL BANKR. R. 1001-1(g) (emphasis added).

The Motion states that grounds are found in:

A. Memorandum of Points and Authorities;
B. Declarations, and
C. Other papers and information which may be presented at hearing in support.

The court generally declines an opportunity to do associate attorney work and assemble motions for parties. It may be that Movant believes that the Points and Authorities is "really" the motion and the court should decide what pleadings and how they should be filed for Movant.. That belief fails for multiple reasons. One is that under Local Bankruptcy Rule 9014-1(d)(4), a motion and a memorandum of points and authorities are separate documents.

Decision

Nevertheless, the court finds that the debt secured by the Property exceeds the value of the Property and that there are negative financial consequences to the Estate caused by retaining the Property. The court determines that the Property is of inconsequential value and benefit to the Estate and orders the Chapter 7 Trustee to abandon the property.

The court shall issue an order substantially in the following form holding that:

> Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.
>
> The Motion to Compel Abandonment filed by Steven Delmar Kent and Kimberly Kent ("Debtor") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,
>
> **IT IS ORDERED** that the Motion to Compel Abandonment is granted, and the Property identified as 2090 Bourbon Street, El Dorado Hills, California 95762 and listed on Schedule A / B by Debtor is abandoned by the Chapter 7 Trustee, Kimberly J. Husted ("Trustee") to Steven Delmar Kent and Kimberly Kent by this order, with no further act of the Trustee required.

8. **19-22401-E-7 PSB-2** **JOSEPH/CHRISTINA BERTOLINO** **MOTION BY PAULDEEP BAINS TO WITHDRAW AS ATTORNEY O.S.T. 7-14-21 [73]**

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(3) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Chapter 7 Trustee, creditors, parties requesting special notice, and Office of the United States Trustee on July 14, 2021. By the court's calculation, 8 days' notice was provided. The court set the hearing for July 22, 2021. Dckt. 82.

The Motion to Withdraw as Attorney was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(3). Debtor, creditors, the Chapter 7 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing, unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. At the hearing ----------.

The Motion to Withdraw as Attorney is granted.

Pauldeep Bains ("Movant"), counsel of record for Joseph Stewart Bertolino and Christina Michelle Bertolino ("Debtor"), filed a Motion to Withdraw as Attorney as Debtor's counsel in the bankruptcy case. Movant states the following:

A. The Motion is brought pursuant to Local Bankruptcy Rule 2017-1(e) and Rule 1.16 of the Rules of Professional Conduct of the State Bar of California.

B. Movant has been discharged, and is able to withdraw without materially affecting the interests of the client.

C. Movant considers the actions of Debtor repugnant and fundamentally disagrees with said actions.

D. Movant has provided warnings of withdrawal over various occasions prior to the filing of this Motion.

E. Other good cause for withdrawal is unreasonable delay by debtor and a loss of faith by Mr. Bains of Debtor's intentions.

Motion, Dckt. 73.

APPLICABLE LAW

District Court Rule 182(d) governs the withdrawal of counsel. LOCAL BANKR. R. 1001-1(C). The District Court Rule prohibits the withdrawal of counsel leaving a party *in propria persona* unless by motion noticed upon the client and all other parties who have appeared in the case. E.D. CAL. LOCAL R. 182(d). The attorney must provide an affidavit stating the current or last known address or addresses of the client and efforts made to notify the client of the motion to withdraw. *Id.* Leave to withdraw may be granted subject to such appropriate conditions as the Court deems fit. *Id.*

Withdrawal is only proper if the client's interest will not be unduly prejudiced or delayed. The court may consider the following factors to determine if withdrawal is appropriate: (1) the reasons why the withdrawal is sought; (2) the prejudice withdrawal may cause to other litigants; (3) the harm withdrawal might cause to the administration of justice; and (4) the degree to which withdrawal will delay the resolution of the case. *Williams v. Troehler*, No. 1:08cv01523 OWW GSA, 2010 U.S. Dist. LEXIS 69757 (E.D. Cal. June 23, 2010). FN.1.

FN.1. While the decision in *Williams v. Troehler* is a District Court case and concerns Eastern District Court Local Rule 182(d), the language in 182(d) is identical to Local Bankruptcy Rule 2017-1.

It is unethical for an attorney to abandon a client or withdraw at a critical point and thereby prejudice the client's case. *Ramirez v. Sturdevant*, 26 Cal. Rptr. 2d 554 (Cal. Ct. App. 1994). An attorney is prohibited from withdrawing until appropriate steps have been taken to avoid reasonably foreseeable prejudice to the rights of the client. *Id.* at 559.

The District Court Rules incorporate the relevant provisions of the Rules of Professional Conduct of the State Bar of California ("Rules of Professional Conduct"). E.D. CAL. LOCAL R. 180(e).

Termination of the attorney-client relationship under the Rules of Professional Conduct is governed by Rule 3-700. Counsel may not seek to withdraw from employment until Counsel takes steps reasonably foreseeable to avoid prejudice to the rights of the client. CAL. R. PROF'L CONDUCT 3-700(A)(2). The Rules of Professional Conduct establish two categories for withdrawal of Counsel: either Mandatory Withdrawal or Permissive Withdrawal.

Mandatory Withdrawal is limited to situations where Counsel (1) knows or should know that the client's behavior is taken without probable cause and for the purpose of harassing or maliciously injuring any person and (2) knows or should know that continued employment will result in violation of the Rules of Professional Conduct or the California State Bar Act. CAL. R. PROF'L CONDUCT 3-700(B).

Permissive withdrawal is limited to certain situations, including the ones relevant for this Motion:

> **(1) the client insists upon presenting a claim or defense in litigation, or asserting a position or making a demand in a non-litigation matter, that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;**
>
> (2) the client either seeks to pursue a criminal or fraudulent* course of conduct or has used the lawyer's services to advance a course of conduct that the lawyer reasonably believes* was a crime or fraud;*
>
> (3) the client insists that the lawyer pursue a course of conduct that is criminal or fraudulent;*
>
> **(4) the client by other conduct renders it unreasonably difficult for the lawyer to carry out the representation effectively;**
>
> **(5) the client breaches a material term of an agreement with, or obligation, to the lawyer relating to the representation, and the lawyer has given the client a reasonable* warning after the breach that the lawyer will withdraw unless the client fulfills the agreement or performs the obligation;**
>
> (6) the client knowingly* and freely assents to termination of the representation;
>
> **(7) the inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;**
>
> [. . .]

CAL. R. PROF'L. CONDUCT 1.16(b) (emphasis added).

DISCUSSION

As a ground for the Motion to Withdraw as Attorney, Movant states that both Movant and Debtor have agreed that a withdrawal is acceptable and can be accomplished without material adverse interest effect on the interests of the client. the client insists upon taking action that the Attorney considers repugnant or which the Attorney has a fundamental disagreement, the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given warning that the lawyer will withdraw unless the obligation is fulfilled, and for other good cause. Movant states in the Motion (but not his Declaration):

> [T]he client insists upon taking action that the Attorney considers repugnant or which the Attorney has a fundamental disagreement, the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given warning that the lawyer will withdraw unless the obligation is fulfilled, and for other good cause.

Motion, at 1:21-25.

> The Motion builds on the last statement regarding "good cause" explaining
>
> In this case, other good cause for withdrawal is unreasonable delay by debtor and a loss of faith by Mr. Bains [Movant] of debtor's intentions.

Motion, at 2:4-6.

Movant does not discuss any prejudice that withdrawal as a counsel will or will not cause or harm it might or might not have on administration of justice. Neither the Chapter 7 Trustee, Debtor, nor any other relevant party has filed an opposition to this Motion, however, which was filed according to Local Bankruptcy Rule 9014-1(f)(1).

The court notes that both of the debtors have received their discharges in this case and there are no contested matters pending. However, the court has authorized a 2004 examination to be taken by Earl Harrington and Susan Long-Harrington. Order, Dckt. 66. These parties have a stipulated nondischargeable judgment against Debtor. Dckt. 59.

Debtor being informed and Counsel testifying that Debtor has agreed to this withdrawal, the Motion is granted.

The court shall issue a minute order substantially in the following form holding that:

> Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.
>
> The Motion to Withdraw as Attorney filed by Pauldeep Bains ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,
>
> **IT IS ORDERED** that the Motion to Withdraw as Attorney is granted, and Movant is permitted to withdraw as counsel for Joseph Stewart Bertolino and Christina Michelle Bertolino ("Debtor").

FINAL RULINGS

9.	**21-22159-E-7** **9 thru 10**	**AT HOME ELECTRIC** **Pro Se**	**ORDER TO SHOW CAUSE - FAILURE TO PAY FEES** **6-24-21 [21]**

Final Ruling: No appearance at the July 22, 2021 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor and Chapter 7 Trustee as stated on the Certificate of Service on June 26, 2021. The court computes that 24 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: $338.00 due on June 10, 2021.

The Order to Show Cause is sustained, and the case is dismissed.

The court's docket reflects that the default in payment that is the subjection of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: $338.00.

The court has previously addressed the propriety of the filing and prosecution of this case by the limited liability company Debtor in *pro se*. Status Conference Civil Minutes, Dckt. 27. Debtor still has not obtained counsel. The Trustee's Report from the July 14, 2021 First Meeting of Creditors states that the principal of the Debtor failed to appear. Trustee's July 14, 2021 Docket Entry Report.

The court shall issue an order substantially in the following form holding that:

> Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.
>
> The Order to Show Cause having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,
>
> **IT IS ORDERED** that the Order to Show Cause is sustained, no other sanctions are issued pursuant thereto, and the case is dismissed.

10. 21-22159-E-7 AT HOME ELECTRIC
Pro se

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
7-6-21 [28]

Final Ruling: No appearance at the July 22, 2021 hearing is required.

The Order to Show Cause was served by the Clerk of the Court on Debtor (*pro se*) and Chapter 7 Trustee as stated on the Certificate of Service on July 8, 2021. The court computes that 14 days' notice has been provided.

The court issued an Order to Show Cause based on Debtor's failure to pay the required fees in this case: $32.00 due on June 21, 2021.

The Order to Show Cause is sustained, and the case is dismissed.

The court's docket reflects that the default in payment that is the subjection of the Order to Show Cause has not been cured. The following filing fees are delinquent and unpaid by Debtor: $32.00.

The court has previously addressed the propriety of the filing and prosecution of this case by the limited liability company Debtor in *pro se*. Status Conference Civil Minutes, Dckt. 27. Debtor still has not obtained counsel. The Trustee's Report from the July 14, 2021 First Meeting of Creditors states that the principal of the Debtor failed to appear. Trustee's July 14, 2021 Docket Entry Report.

The court shall issue an order substantially in the following form holding that:

> Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.
>
> The Order to Show Cause having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,
>
> **IT IS ORDERED** that the Order to Show Cause is sustained, no other sanctions are issued pursuant thereto, and the case is dismissed.