UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Sacramento, California

August 27, 2014 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.	13-31701-D-7 SSA-2	SEUNG CHAN KWON AND JUNG EUN LEE	MOTION TO SELL 7-15-14 [38]

2.	14-23307-D-7 RTD-1	VINCENTE PORTER	MOTION TO DISMISS CASE 7-7-14 [24]

Final ruling:

Pursuant to a notice of continuance of hearing, filed by the moving party on August 11, 2014, the hearing on this motion will be continued to September 10, 2014, at 10:00 a.m. No appearance is necessary on August 27, 2014.

3. 09-33808-D-11 KIP/ILLA SKIDMORE — MOTION FOR ENTRY OF DEFAULT JUDGMENT
13-2192 RLC-10 — 7-16-14 [110]
REYNOLDS V. CUSHMAN REXRODE CORPORATION ET AL

Final ruling:

This is the plaintiff's application for entry of a default judgment against defendant Intervest-Mortgage Investment Co. ("Intervest"). The motion will be denied because the plaintiff failed to serve the reissued summons and complaint on Intervest in strict compliance with Fed. R. Bankr. P. 7004(b)(3). On April 18, 2014, the plaintiff served the complaint and a reissued summons on Intervest by certified mail, whereas the rule requires that service on a corporation such as Intervest, that is not an FDIC-insured institution, be by first-class mail, not certified mail. See preamble to Fed. R. Bankr. P. 7004(b).

This distinction is important. For an FDIC-insured institution, the rule requires that service be by certified mail (see Fed. R. Bankr. P. 7004(h)), whereas for a corporation, partnership, or other unincorporated association that is not an FDIC-insured institution, the rule requires service by first-class mail. See preamble to Fed. R. Bankr. P. 7004(b). If service on an entity that is not an FDIC-insured institution by certified mail were appropriate, the distinction in the manner of service, as between the two rules, would be superfluous.

As a result of this service defect, the application will be denied by minute order. No appearance is necessary. With regard to any future service of the summons and complaint, the moving party will need to obtain issuance of an alias summons. See Fed. R. Bankr. P. 7004(e). In addition, pursuant to Fed. R. Civ. P. 4(m), incorporated herein by Fed. R. Bankr. P. 7004(a)(1), the court will by its minute order require that service of the summons and complaint be made not later than September 12, 2014, and that a proof of service be filed not later than September 16, 2014; otherwise, the complaint will be dismissed without prejudice as against Intervest.

Finally, because the default of Intervest was based on defective service of the reissued summons and complaint, the default, which is on the court's docket at DN 109, will be vacated by minute order.

4. 14-26408-D-7 MARK GILROY — MOTION FOR RELIEF FROM AUTOMATIC STAY
ASW-1 — 7-21-14 [11]
BANK OF AMERICA, N.A. VS.

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 he 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.

5.	11-42209-D-7 GMR-2	AMERICAN PRIVATE SECURITY INC.	MOTION FOR COMPENSATION FOR GABRIELSON & COMPANY, ACCOUNTANT(S) 7-21-14 [68]

Tentative ruling:

This is the application of Gabrielson & Company (the "Applicant") for a first and final allowance of compensation for services rendered as accountant for the trustee in this case. The United States Trustee (the "UST") has filed opposition and, the chapter 7 trustee has filed a reply. For the following reasons, the application will be granted in part.

The application consists of two parts. First, the Applicant seeks approval of compensation for services rendered in this case from August 7, 2013 through July 17, 2014. The Applicant's employment in this case was approved by order dated September 20, 2013, on an application filed August 21, 2013, two weeks after the Applicant began rendering services. No party-in-interest opposes that portion of the application, 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 in part, and allow compensation in the full amount requested in that part of the application, $12,401 in fees and $236.53 in expenses, for a total of $12,637.53.

In the second part of the application, the Applicant seeks approval of compensation for services rendered in a different but related case, In re Ayk Tsatouryan, Case No. 11-41671-D-7 (the "Tsatouryan case"), from February 26, 2013 to March 14, 2013. That time period predates by several months the filing of the trustee's application to employ the Applicant in the present case, In re American Private Security, Inc. (the "APS case"). The Applicant secured an order in the Tsatouryan case approving its employment effective February 25, 2013, on an application filed March 1, 2013; however, no similar application to approve employment was filed in the APS case until August 21, 2013. The Tsatouryan case was closed as a no-asset case on June 14, 2013. Presumably because there were no funds in the Tsatouryan estate from which to pay for the Applicant's services in that case, the Applicant now seeks to be paid from funds of the estate in the APS case, a total of $5,752.50 for 17.7 hours of work.

Awards of compensation for services rendered without court approval of employment "should be limited to exceptional circumstances where an applicant can show both a satisfactory explanation for the failure to receive prior judicial approval and that he or she has benefited the bankrupt estate in some significant manner." In re THC Fin. Corp., 837 F.2d 389, 392 (9th Cir. 1988). The Applicant has submitted the declaration of Geoffrey Richards, who was appointed successor trustee in the APS case on March 26, 2013. (Mr. Richards was the trustee in the Tsatouryan case from its commencement, in September of 2011. He was appointed trustee in the APS case after the original trustee in that case, Lewis Partridge, resigned.) Mr. Richards testifies about the nature of the services performed by the Applicant for Mr. Richards as trustee in the Tsatouryan case between February 26, 2013 and March 14, 2013; he concludes that those services directly benefited the APS estate. The UST does not dispute that conclusion, and the court has no reason to dispute it.

The Applicant, however, has not met the second prong of the THC Financial test, in that it has failed to provide an adequate explanation for its failure to obtain court approval of its employment in the APS case at the same time it obtained approval of its employment in the Tsatouryan case, or at least, shortly thereafter. As the UST aptly points out, the Applicant has been employed as accountant, with court approval, in many bankruptcy cases in this district, beginning as early as 2008. Between 2008 and March 1, 2013, when the application to employ the Applicant in the Tsatouryan case was filed, the Applicant had sought approval of its employment in no fewer than 55 other cases in this district, and thus, was familiar with the process and, certainly, with the need for prior court approval of employment. Further, the Applicant's principal, Michael Gabrielson, was aware, at least as early as February 25, 2013, of the need for obtaining court approval of the Applicant's employment – that was the day he signed his declaration supporting the application to employ the Applicant in the Tsatouryan case. Yet he apparently made no attempt to obtain court approval of the Applicant's employment in the APS case.

The Applicant's explanation for this omission is simply insufficient. The application states that

> **no employment application was filed in the [APS] case because at the time, there was no need for additional services between the period of March 14, 2013 and August 7, 2013. The Trustee and his counsel were able to continue negotiations with counsel for ISS, in part because they already had the data provided by Gabrielson & Company in the context of the Tsatouryan Bankruptcy Case. It was only after the negotiations continued that Gabrielson & Company's services were necessary. At that point, a motion was filed to authorize the employment [of] Gabrielson & Company to provide the services between August 17, 2013 and June 23, 2014.**

Application for Fees, filed July 21, 2014, at 6:14-22. This may explain why no application was made to employ the Applicant after March 14, 2013; it does not explain why no application was made on March 1, 2013, when the application was filed in the Tsatouryan case.

In reply to the UST's opposition, Mr. Richards adds that he and his attorneys, who were also representing Mr. Partridge as trustee in the APS case, had been relying on Mr. Partridge, a CPA by profession, to perform the necessary accounting analysis. However, according to Mr. Richards, "[u]nfortunately, this did not get done [and] attempts to prevail on Mr. Partridge to take action in the APS Case were unsuccessful." G. Richards Decl., filed Aug. 20, 2014, at 2:20-24. (Mr. Partridge had cancer; he has since died.)

> **As that hope diminished [that Mr. Partridge would be able to perform the accounting analysis], [my counsel] and I took other steps to investigate the relationship between the two debtors . . ., including hiring Mr. Gabrielson in the Tsatouryan Case (the only case that I had authority to hire an accountant). Mr. Gabrielson then performed the services [for which he is now seeking compensation]. These were the services that everyone believed Mr. Partridge was going to provide, and very likely would have provided had circumstances in his personal life been different.**

Id. at 3:1-7. Mr. Richards' conclusion is telling: "It appears that no one realized that a separate application should have been filed in the APS Case." Id. at 3:17-18.

Based on this testimony, the court finds that either (1) the Applicant and the trustees' joint counsel simply overlooked the matter of the Applicant's employment in the APS case or (2) the services were actually being performed for the trustee in the Tsatouryan case, in which the Applicant did seek approval of its employment, and not for the trustee in the APS case.[1] If the former explanation is accurate, it is not a sufficient explanation. See In re B.E.S. Concrete Products, Inc., 93 B.R. 228, 231 (Bankr. E.D. Cal. 1988) (citation omitted) ["Mere negligence is not sufficient to establish the requisite exceptional circumstances."]. If the latter explanation is accurate, the Applicant has provided no authority for the proposition that the estate in one case, in which approval of employment was not sought, should pay for services rendered in another case, in which approval was sought, simply because the services happened to benefit, in a roundabout or even a direct way, the estate in the first case. That is simply not the yardstick under THC Financial.

In his reply, the trustee contends nothing prevents a professional from performing services in one case and receiving payment from the estate in another case, if he satisfies the THC Financial requirements. The trustee faults the UST for failing to provide contrary authority. However, as a matter of common sense, § 330(a)(1), which provides that the court may award compensation to "a professional person employed under section 327," refers to a professional person employed under § 327 in the case in which the services were performed, in this case the Tsatouryan case.[2] Further, the THC Financial requirements themselves imply that the payment is to come from the estate in the case in which the services were actually performed. If a contrary conclusion is to be reached, it should be the Applicant or the trustee who provides the authority; the court is aware of none.

In any event, however, the court finds that the Applicant has failed to meet the second THC Financial requirement – it has failed to provide a satisfactory explanation for its failure to secure prior court approval in the APS case. Accordingly, as to the second part of the application, the application will be denied.

The court will hear the matter.

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1 As the UST points out, "[there is no evidence] to suggest that when Mr. Gabrielson performed accounting services in the Tsatouryan case, he was taking directions from Mr. Partridge, regularly reporting to Mr. Partridge, or otherwise performing services for the APS estate." Objection, filed Aug. 1, 2014, at 2:22-25.

2 Section 327(a) permits "the trustee," with court approval, to employ a professional person; logically, this means the trustee in the case in which the services are performed.

6. 14-25209-D-7 KAREN JACKSON MOTION TO EXTEND TIME
HCS-2 7-25-14 [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 extend time to object to exemptions is supported by the record. As such the court will grant the motion to extend time to object to exemptions. Moving party is to submit an appropriate order. No appearance is necessary.

7. 13-33810-D-7 CM-1 — ERLINDA GRAHAM — MOTION TO COMPEL ABANDONMENT 7-29-14 [33]

Final ruling:

The matter is resolved without oral argument. There is no timely opposition to the debtor's motion compel trustee to abandon real property and the trustee has demonstrated the real 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 by minute order. No appearance is necessary.

8. 14-25710-D-7 RK-3 — STEVEN/MELISSA CUSTODIO — MOTION TO AVOID LIEN OF PORTFOLIO RECOVERY ASSOCIATES, LLC 7-24-14 [30]

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 debtors are entitled. As a result, the court will grant the debtors' motion to avoid the lien. Moving party is to submit an appropriate order. No appearance is necessary.

9. 12-40315-D-7 DNL-8 — OLUSEGUN/YVONNE LERAMO — MOTION TO SET CHAPTER 11 ADMINISTRATIVE CLAIMS BAR DATE 7-29-14 [200]

10. 14-27519-D-12 — LOEK VAN WARMERDAM — STATUS CONFERENCE RE: CHAPTER 12 VOLUNTARY PETITION 7-23-14 [1]

11. 13-34828-D-7 GABRIEL PACHECO AND EVELYN COUNTS
KAZ-1
DEUTSCHE BANK NATIONAL TRUST COMPANY VS.

MOTION FOR RELIEF FROM AUTOMATIC STAY
7-15-14 [68]

Final ruling:

This case was dismissed on August 1, 2014. As a result the motion will be denied by minute order as moot. No appearance is necessary.

12. 14-20329-D-7 JOHNNIE GAINES
HCS-4

MOTION FOR COMPENSATION BY THE LAW OFFICE OF HERUM/CRABTREE/SUNTAG TRUSTEE'S ATTORNEY(S)
7-21-14 [35]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed. With the exception noted below, 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 this motion is being resolved without a hearing, the court will reduce the fees requested by $325.00 for the 1 hour charged for appearing at the hearing on this motion. As such, the court will grant the motion with the noted reduction and the moving party is to submit an order consistent with this ruling. No appearance is necessary.

13. 13-29030-D-7 WILLIAM/JANET CHENG

AMENDED MOTION TO VACATE
7-28-14 [546]

Final ruling:

The court finds that a hearing will not be helpful and is not necessary. This is the debtors' motion to vacate and set aside what the debtors characterize as "the 7-21-2014 tentative ruling and[/]or order that was mistakenly entered for compensation for Gabrielson's accountant fee." Amended Motion, filed July 28, 2014, DN 546, at 1:15-17. The motion will be denied for the following reasons.

On June 17, 2014, Gabrielson & Company filed a motion for a first interim allowance of compensation as accountant for the trustee (the "Gabrielson motion"), which Gabrielson & Company set for hearing on July 23, 2014. The court issued a final ruling in advance of the hearing, and determined that no appearance would be necessary. Thus, no hearing was held. The debtors' use of the term "tentative ruling" in the present motion is a misnomer – the court did not issue a tentative ruling on the Gabrielson motion, only a final ruling. (The final ruling is now incorporated in the court's minutes of the July 23, 2014 hearing, DN 536 on the docket.) Thus, the court construes the present motion as a motion to vacate (1) the final ruling on the Gabrielson motion; and (2) the order granting the Gabrielson motion, filed July 23, 2014. So that the record is clear, the court notes that debtor Janet Cheng filed a declaration in support of the motion on August 15, 2014. The court has read and considered the declaration prior to issuing this ruling.

The debtors' motion will be denied for several reasons. First, the debtors failed to include a docket control number on the motion and notice of motion, as required by LBR 9014-1(c). The court has pointed out this requirement to the debtors in connection with numerous earlier motions they have filed.

Turning to the debtors' arguments, first, the debtors claim they were not informed of the court's ruling on the Gabrielson motion. However, the ruling was posted in three places as part of the court's pre-hearing dispositions for its July 23, 2014, 10:00 a.m. calendar – on the court's website, outside the courtroom, and inside the courtroom. The debtors have been involved in this case for over a year. The court has drawn their attention several times to its procedures for the issuance of tentative and final rulings. If the debtors were not aware of the final ruling on the Gabrielson motion, it was through their own fault.

Next, the debtors complain they were not served with Gabrielson & Company's reply to the debtors' opposition to the Gabrielson motion. This appears to be accurate. The individual who served Gabrielson & Company's reply utilized an outdated version of the PACER matrix that did not reflect the change of address the debtors had unambiguously included on their opposition to the Gabrielson motion. However, the debtors suffered no harm as a result of this service defect because the court did not rely on anything in the reply when it issued its final ruling on the Gabrielson motion. Thus, the service defect is not a basis for vacating the ruling or the order on the Gabrielson motion.

Next, the debtors contend debtor Janet Cheng was unable to present what the debtors call crucial testimony because the court cancelled the hearing. However, they have failed to suggest the substance of the testimony Janet Cheng would have given if the court had held a hearing. As the debtors are or should by now be aware, the court generally takes testimony on motions by way of declarations (see LBR 9014-1(d)(6)), permitting live testimony only where requested in accordance with LBR 9014-1(g)(3) and where the court determines an evidentiary hearing is necessary to resolve disputed material factual issues. LBR 9014-1(g)(4). Here, the debtors did not comply with LBR 9014-1(g)(3), and even if they had, based on what the debtors presented in their opposition to the Gabrielson motion, the court would not have determined that an evidentiary hearing would be necessary or helpful. The debtors have presented nothing in the present motion that leads the court to believe an evidentiary hearing would have been necessary or helpful. The court carefully considered the debtors' opposition to the Gabrielson motion before issuing its ruling; nothing in the record as of this date would cause the court to change anything in the ruling.

Finally, the debtors have failed to make a showing that the final ruling or the order on the Gabrielson motion resulted from a denial of due process, a violation of the Civil Rights Act, or a denial of equal treatment under the law.

For the reasons stated, the motion will be denied by minute order. No appearance is necessary.

14. 13-29030-D-7 WILLIAM/JANET CHENG AMENDED MOTION TO VACATE
7-28-14 [549]

Final ruling:

The court finds that a hearing will not be helpful and is not necessary. This is the debtors' motion to vacate and set aside what the debtors characterize as "the 7-21-2014 tentative ruling and[/]or order that was mistakenly entered for compensation for trustee'[s] attorney fees." Amended Motion, filed July 28, 2014, DN 546, at 1:15-17. The motion will be denied for the following reasons.

On June 25, 2014, Herum\Crabtree\Suntag filed a motion for a first interim allowance of compensation as counsel for the trustee (the "Suntag motion"), which Suntag set for hearing on July 23, 2014. The court issued a final ruling in advance of the hearing, and determined that no appearance would be necessary. Thus, no hearing was held. The debtors' use of the term "tentative ruling" in the present motion is a misnomer – the court did not issue a tentative ruling on the Suntag motion, only a final ruling. (The final ruling is now incorporated in the court's minutes of the July 23, 2014 hearing, DN 537 on the docket.) Thus, the court construes the present motion as a motion to vacate (1) the final ruling on the Suntag motion; and (2) the order granting the Suntag motion, filed July 23, 2014. So that the record is clear, the court notes that debtor Janet Cheng filed a declaration in support of the motion on August 15, 2014. The court has read and considered the declaration prior to issuing this ruling.

The debtors' motion will be denied for several reasons. First, the debtors failed to include a docket control number on the motion and notice of motion, as required by LBR 9014-1(c). The court has pointed out this requirement to the debtors in connection with numerous earlier motions they have filed.

Turning to the debtors' arguments, first, the debtors claim they were not informed of the court's ruling on the Suntag motion. However, the ruling was posted in three places as part of the court's pre-hearing dispositions for its July 23, 2014, 10:00 a.m. calendar – on the court's website, outside the courtroom, and inside the courtroom. The debtors have been involved in this case for over a year. The court has drawn their attention several times to its procedures for the issuance of tentative and final rulings. If the debtors were not aware of the final ruling on the Suntag motion, it was through their own fault.

Next, the debtors complain they were not served with Suntag's reply to the debtors' opposition to the Suntag motion. This appears to be inaccurate. The proof of service of the Suntag motion is evidence the debtors were served at the new address shown on their opposition to the Suntag motion. Further, even if the debtors did not receive the reply, they suffered no harm as a result because the court did not rely on anything in the reply when it issued its final ruling on the Suntag motion. Thus, the service defect, if any, is not a basis for vacating the ruling or the order on the Suntag motion.

Next, the debtors contend debtor Janet Cheng was unable to present what the debtors call crucial testimony because the court cancelled the hearing. However, they have failed to suggest the substance of the testimony Janet Cheng would have given if the court had held a hearing. As the debtors are or should by now be aware, the court generally takes testimony on motions by way of declarations (see LBR 9014-1(d)(6)), permitting live testimony only where requested in accordance with

LBR 9014-1(g)(3) and where the court determines an evidentiary hearing is necessary to resolve disputed material factual issues. LBR 9014-1(g)(4). Here, the debtors did not comply with LBR 9014-1(g)(3), and even if they had, based on what the debtors presented in their opposition to the Suntag motion, the court would not have determined that an evidentiary hearing would be necessary or helpful. The debtors have presented nothing in the present motion that leads the court to believe an evidentiary hearing would have been necessary or helpful. The court carefully considered the debtors' opposition to the Suntag motion before issuing its ruling; nothing in the record as of this date would cause the court to change anything in the ruling.

Finally, the debtors have failed to make a showing that the final ruling or the order on the Suntag motion resulted from a denial of due process, a violation of the Civil Rights Act, or a denial of equal treatment under the law.

For the reasons stated, the motion will be denied by minute order. No appearance is necessary.

15.	14-23133-D-7 EAT-1 NATIONSTAR MORTGAGE, LLC VS.	KEITH/ADRIALYN HEDMAN	MOTION FOR RELIEF FROM AUTOMATIC STAY 7-31-14 [44]

16.	13-25235-D-7 DNL-4	AARON THAO AND MALIA YANG	MOTION FOR COMPENSATION BY THE LAW OFFICE OF DESMOND, NOLAN, LIVAICH AND CUNNINGHAM FOR J. RUSSELL CUNNINGHAM, TRUSTEE'S ATTORNEY(S) 7-22-14 [31]

Final ruling:

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

17. 14-26246-D-7 TERRI TAYLOR — MOTION TO COMPEL ABANDONMENT
HLG-1 — 7-22-14 [14]

Tentative ruling:

This is the debtor's motion to compel abandonment of her business and business-related assets. The motion will be denied because the debtor failed to serve the three parties listed on her Schedule G as parties to month-to-month tenancies, CrossFit Sacramento, Parker Stevenson, and Randolph Solorio. 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, even though 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 Fed. R. Bankr. P. 6007. 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)).

In this case, the debtor did not list CrossFit Sacramento, Parker Stevenson, or Randolph Solorio on her master address list. However, in light of the very broad definition of "creditor" under the Bankruptcy Code (see § 101(5) and (10)), there is no doubt that parties to unexpired tenancies, even month-to-month tenancies, are creditors within the applicable definition, and are required to be served where "all creditors" are to be served. Moreover, Fed. R. Bankr. P. 1007(a)(2) requires a debtor to list on his or her master address list all parties listed on his or her Schedules D, E, F, G, and H. This the debtor in this case did not do. Thus, when she utilized the PACER matrix for service of this motion, the matrix did not include the creditors listed on her Schedule G, and the debtor, as the moving party, failed to serve all creditors.

As a result of this service defect, the motion will be denied by minute order. In the alternative, the court will continue the hearing to permit the moving party to serve the three previously-omitted creditors. The court will hear the matter.

18. 14-25448-D-7 JOSE/KARLA CANJURA — MOTION FOR RELIEF FROM AUTOMATIC STAY
PPR-1 — 7-17-14 [14]
THE BANK OF NEW YORK MELLON
VS.

Final ruling:

This matter is resolved without oral argument. This is The Bank of New York Mellon'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.

19.	14-25754-D-7 RDW-1 SPRINGLEAF FINANCIAL SERVICES, INC. VS.	JAMES HARLAN	MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR ADEQUATE PROTECTION 7-24-14 [13]
20.	09-29162-D-11 SH-274	SK FOODS, L.P.	OMNIBUS OBJECTION TO CLAIMS 7-14-14 [4967]
21.	09-47763-D-7 ARS-1	LEA TINO	MOTION FOR COMPENSATION FOR ADVANCED RECEIVABLES SOLUTIONS, OTHER PROFESSIONAL(S) 7-25-14 [34]
22.	14-23368-D-7 BLL-6	JESSE M. LANGE DISTRIBUTOR, INC.	MOTION FOR COMPENSATION FOR BYRON LEE LYNCH, TRUSTEE'S ATTORNEY(S) 7-30-14 [50]

Tentative ruling:

This is the application of Byron Lee Lynch ("Counsel") for a first interim allowance of compensation as attorney for the trustee. No timely opposition has been filed, and with one exception, the relief requested appears to be supported by the record. The exception is that Counsel's time records include several instances where Counsel has "lumped" several tasks into a single time entry, with no breakdown of the time spent on each particular task. This prevents the court from effectively assessing whether the time spent on a particular task was reasonable. Thus, the

practice of lumping "is universally disapproved by bankruptcy courts . . . ." In re Staggie, 255 B.R. 48, 55 (Bankr. D. Idaho 2000) (citation omitted). Because no opposition has been filed by any party-in-interest, the court will allow all the requested fees on an interim basis. However, Counsel should understand that the fees will be revisited when an application for final compensation is filed. Further, on a go-forward basis, Counsel should discontinue using this billing practice.

The court will hear the matter.

23.	11-22685-D-7 MAYA, LLC VS.	BLUE RIBBON STAIRS, INC.	MOTION FOR RELIEF FROM AUTOMATIC STAY 7-16-14 [1165]

Final ruling:

The motion is denied for the following reasons: (1) moving party failed to include an appropriate docket control number as required by LBR 9014-1(c); (2) the date, time, and department information was not provided in the caption as required by LBR 9014-1(d)(1); and (3) moving party failed to file a proof of service as required by LBR 9014-1(e). For these reasons the court will deny the motion by minute order. No appearance is necessary.

24.	11-22685-D-7 WSH-7672 KB HOME GREATER LOS ANGELES, INC. VS.	BLUE RIBBON STAIRS, INC.	MOTION FOR RELIEF FROM AUTOMATIC STAY 7-23-14 [1178]

Final ruling:

This matter is resolved without oral argument. This is KB Home Greater Los Angeles, Inc.'s motion seeking relief from automatic stay to pursue available insurance proceeds. The court's records indicate that no timely opposition has been filed. The motion along with the supporting pleadings demonstrate that there is cause for granting limited relief from stay to allow the moving party to proceed with litigation, as is necessary, to collect against available insurance proceeds. Accordingly, the court will grant limited relief from stay to allow the moving party to proceed to judgment against the debtor for the limited purpose of pursuing any available insurance proceeds. There will be no further relief afforded. Moving party is to submit an appropriate order. No appearance is necessary.

25.	13-36088-D-7 APN-1 SANTANDER CONSUMER USA, INC. VS.	TRINA JONES	MOTION FOR RELIEF FROM AUTOMATIC STAY 7-26-14 [22]

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. 14-27292-D-7 ANNA GERASENKOVA — MOTION FOR WAIVER OF THE CHAPTER 7 FILING FEE OR OTHER FEE
7-16-14 [5]

27. 14-25094-D-7 BRIAN PORTER — MOTION FOR RELIEF FROM AUTOMATIC STAY
PD-1
7-18-14 [19]

Final ruling:

This matter is resolved without oral argument. This is Bank of America, N.A.'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.

28. 13-21595-D-7 PATRICIA CUNNINGHAM — MOTION FOR COMPENSATION BY THE LAW OFFICE OF PINO AND ASSOCIATES FOR ESTELA O. PINO, TRUSTEE'S ATTORNEY(S)
PA-8
7-30-14 [183]

Tentative ruling:

This is the motion of Pino & Associates ("Counsel") for a first and final allowance of compensation for services as counsel for the trustee in this case. No opposition has been filed, and with one exception, the court finds that the fees and costs requested are reasonable compensation for actual, necessary, and beneficial services under Bankruptcy Code § 330(a). The exception is that Counsel has charged for 10 hours of services of paraprofessionals, at $125 per hour, whereas the services were purely secretarial or clerical in nature, and thus, are not compensable. See Sousa v. Miguel, 32 F.3d 1370, 1374 (9th Cir. 1994). Those services included setting up client files, calendaring deadlines, e-filing motions and supporting documents, serving motions and supporting documents, preparing proofs of service, faxing and mailing the attorney's letter, requesting from the U.S. Trustee a recording of the meeting of creditors, confirming with the client that he has the original of a particular document, checking the appellate panel's docket to verify no new entries, arranging and confirming delivery of keys, preparing labels, and stuffing envelopes. The court is aware of Counsel's position in a different case that it is important these types of services be done correctly. However, they are the very type of services courts in this circuit routinely hold to be non-compensable.[1]

For this reason, the court will not approve the charges billed at $125 per hour on the following dates, a total of 10 hours, for total charges of $1,250. Those dates are (in the order listed on the moving party's exhibits) 5/8/13, 5/10/13, 5/13/13, 5/20/13, 5/31/13 (two entries), 8/12/13, 2/11/14, 3/11/14, 7/31/13 (two entries), 10/23/13, 10/24/13, 1/31/14, 4/18/14, 7/21/14, 11/21/13, 5/22/13, 6/6/13, 7/3/13, 7/11/13, 8/8/13, 9/5/13, 9/6/13, 12/17/13, 10/28/13, 4/4/14, 4/7/14, and 7/30/14. With that exception, the motion will be granted.

The court will hear the matter.

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1 In re Stewart, 2008 Bankr. LEXIS 4706, *20 (9th Cir. BAP 2008); Bryce v. Lawrence (In re Bryce), 2013 Bankr. LEXIS 4347, *22 (Bankr. W.D. Wash. 2013); In re TVIA, Inc., 2009 Bankr. LEXIS 2918, *4 (Bankr. N.D. Cal. 2009); In re Schneider, 2007 Bankr. LEXIS 3118, *11 (Bankr. N.D. Cal. 2007); In re Dimas, LLC, 357 B.R. 563, 577 (Bankr. N.D. Cal. 2006); In re SonicBlue Inc., 2006 Bankr. LEXIS 1576, *14 (Bankr. N.D. Cal. 2006).

29. 13-30496-D-7 JRR-3
EDWARD/LORRAINE KURATA
MOTION FOR COMPENSATION FOR JOHN R. ROBERTS, CHAPTER 7 TRUSTEE
7-31-14 [79]

Final ruling:

The hearing on this motion will be continued by minute order to September 24, 2014, at 10:00 a.m. No appearance is necessary on August 27, 2014.

30. 13-21199-D-7 DNL-14
JAMES SCOTT
COUNTER MOTION FOR AUTHORITY TO ABANDON REAL PROPERTIES
7-30-14 [259]

Final ruling:

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

31. 13-21199-D-7 KAZ-1
JAMES SCOTT
MOTION FOR RELIEF FROM AUTOMATIC STAY
7-17-14 [253]
THE BANK OF NEW YORK TRUST COMPANY, N.A. VS.

32. 14-26408-D-7 MARK GILROY — COUNTER MOTION TO ABANDON REAL PROPERTY
PA-1 — 8-13-14 [19]

Tentative ruling:

This is the trustee's counter-motion for permission to abandon certain real property of the estate. The counter-motion was noticed pursuant to LBR 9014-1(f)(2); thus, the court would ordinarily entertain opposition, if any, at the hearing. However, in this instance, the court will deny the counter-motion because the moving party served only the debtor, the debtor's attorney, the United States Trustee, and the attorney for Bank of America, holder of a deed of trust on the property sought to be abandoned, and failed to serve all creditors, as required by Fed. R. Bankr. P. 6007(a) ["Unless otherwise directed by the court, the trustee . . . shall give notice of a proposed abandonment . . . to . . . all creditors . . . ."]. No proofs of claim have been filed in this case; however, there are several creditors listed on the debtor's schedules. The moving party served none of them, except the holder of the deed of trust through its attorney.

As a result of this service defect, the court will deny the counter-motion. In the alternative, the court will continue the hearing to allow the moving party to serve all creditors. The court will hear the matter.

33. 14-25816-D-11 DEEPAL WANNAKUWATTE — ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
8-6-14 [131]

Final ruling:

The deficiency stated in the order to show cause does not warrant dismissal of this case. 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.

34. 14-25816-D-11 DEEPAL WANNAKUWATTE — CONTINUED MOTION TO APPROVE FORM AND MANNER OF NOTICE BY PUBLICATION OF CLAIMS BAR DATE
DNL-3 — 7-16-14 [81]

This matter will not be called before 10:30 a.m.

35. 14-27417-D-7 MARIE BARTLETT
DJD-1
SETERUS, INC. VS.

MOTION FOR RELIEF FROM AUTOMATIC STAY
8-12-14 [9]

36. 14-27519-D-12 LOEK VAN WARMERDAM
WW-3

MOTION TO USE CASH COLLATERAL
O.S.T.
8-7-14 [26]

37. 14-25820-D-11 INTERNATIONAL MANUFACTURING GROUP, INC.
FWP-8

CONTINUED MOTION FOR ORDER AUTHORIZING FORM AND MANNER OF PUBLICATION NOTICE OF BAR DATE
7-16-14 [114]

This matter will not be called before 10:30 a.m.

38. 14-25263-D-7 STEVEN QUIPP

MOTION TO RECONSIDER
8-4-14 [20]

39.	14-27766-D-7	WILLIAM BONCZYK	ORDER TO SHOW CAUSE - FAILURE TO FILE DOCUMENTS 8-4-14 [27]
40.	13-23371-D-11 TCS-8	JUAN/MARGARITA RAMIREZ	CONTINUED CONFIRMATION OF SECOND PLAN OF REORGANIZATION FILED BY DEBTORS 12-24-13 [138]
41.	13-23371-D-11 KMR-2	JUAN/MARGARITA RAMIREZ	MOTION TO APPROVE STIPULATION ON PLAN TREATMENT 8-12-14 [212]
42.	09-91476-D-7 JCK-6	KARLA CHANCELLOR	CONTINUED MOTION TO AVOID LIEN OF FINANCIAL PACIFIC LEASING, LLC 7-21-14 [49]

Final ruling:

This is the debtor's motion, DC JCK-6, to avoid a judicial lien held by Financial Pacific Leasing, LLC ("Financial Pacific") as to the debtor's real property known as 730 E. Main Street, Turlock, California. The hearing was continued because the moving party's counsel failed to appear at the original hearing, on August 13, 2014. Working backward, the docket reveals the following. On August 8, 2014, the moving party filed a notice that the motion was withdrawn. The motion had been noticed pursuant to LBR 9014-1(f)(2); that is, no written opposition was required, and by the time the notice of withdrawal was filed, no opposition had been filed. Thus, the moving party was entitled to withdraw the

motion, pursuant to Fed. R. Civ. P. 41(a)(1)(A), incorporated herein by Fed. R. Bankr. 7041 and 9014(c). At the time of the August 13, 2014 hearing, the court was unaware of the moving party's notice of withdrawal of the motion, and thus, the hearing was continued. It appears the reason the moving party did not appear at the August 13, 2014 hearing was that the moving party had withdrawn the motion.

Continuing backward, the court's record reveals that on or about July 21, 2014, the debtor submitted a proposed amended order on an earlier motion to avoid Financial Pacific's lien, DC No. JCK-5. The amended order, which was signed by the court on July 21, 2014, and which appears on the docket at DN 53, states that "[s]uch lien is a judicial lien that impairs the exemption of the debtor in property of the debtor described as 1000 E. Main Street, Turlock, CA 95380 and 730 E. Main Street, Turlock, CA 95380." See DN 53. Thus, the amended order provided that the lien is extinguished as to "said property." The second property named in the amended order – 730 E. Main Street – is the property that is the subject of the present motion, DC No. JCK-6. Thus, it appears the reason the debtor withdrew this motion, DC JCK-6, is that the amended order on her earlier motion, DC No. JCK-5, purported to avoid the lien as to the property at 730 E. Main Street, as well as the property at 1000 E. Main Street, making DC No. JCK-6 unnecessary.

The problem is that the earlier motion, DC No. JCK-5, and the debtor's declaration in support of that motion mentioned only the property at 1000 E. Main Street, and not the property at 730 E. Main Street. The address 730 E. Main Street did not appear anywhere in the moving papers for DC No. JCK-5, and the moving papers did not contain any information about the value of that property or the amounts of other liens against the property that are not avoidable. Thus, the original order submitted on DC No. JCK-5, filed July 10, 2014 as DN 47, avoided the lien only as to 1000 E. Main Street, and not as to 730 E. Main Street. By submitting a proposed amended order on DC No. JCK-5 for, apparently, the sole purpose of adding the property at 730 E. Main Street, the moving party eliminated the need for any further motion concerning 730 E. Main Street. Apparently, that is the reason the moving party then withdrew DC No. JCK-6.[1]

Because the amended order concerned a property that was not mentioned in the motion at all, the amended order was entered without due process to Financial Pacific. Accordingly, that order, which is on the docket at DN 53, will be vacated. The court will issue a separate order vacating the amended order. The present motion, DC JCK-6, will be removed from calendar as having been withdrawn by the moving party. No appearance is necessary.

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1 Except for adding the address 730 E. Main Street, the original order and the amended order on DC No. JCK-5 are identical.

43.	12-24884-D-7 MSM-1	RAMON/MARILOU ARROYO	MOTION TO AVOID LIEN OF FIA CARD SERVICES, N.A. 8-8-14 [26]

Final ruling:

This is the debtors' motion to avoid a judicial lien held by FIA Card Services, N.A. ("FIA"), which is an FDIC-insured institution. The motion will be denied because the moving parties failed to serve FIA in strict compliance with Fed. R. Bankr. P. 7004(h), as required by Fed. R. Bankr. P. 9014(b). The moving parties served FIA by certified mail to the attention of an officer, managing or general agent, or person authorized to receive service of process, whereas the rule requires that service on an FDIC-insured institution, such as FIA, be to the attention of an officer, and only an officer.

This distinction is important. For a corporation, partnership, or other unincorporated association that is not an FDIC-insured institution, the applicable rule requires service to the attention of an officer, managing or general agent, or agent for service of process (see Fed. R. Bankr. P. 7004(b)(3)), whereas for an FDIC-insured institution, the rule requires service to the attention of an officer. Fed. R. Bankr. P. 7004(h). If service on an FDIC-insured institution to the attention of an officer, managing or general agent, or person authorized to receive service of process were appropriate, the distinction in the manner of service, as between the two rules, would be superfluous.

As a result of this service defect, the motion will be denied by minute order. No appearance is necessary.