

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA**

Honorable Fredrick E. Clement  
Bakersfield Federal Courthouse  
510 19<sup>th</sup> Street, Second Floor  
Bakersfield, California

**PRE-HEARING DISPOSITIONS**

**DAY:** WEDNESDAY  
**DATE:** SEPTEMBER 6, 2017  
**CALENDAR:** 10:00 A.M. CHAPTER 7 CASES

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

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

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

**Final Ruling:** Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions. If the parties stipulate to continue the hearing on the matter or agree to resolve the matter in a way inconsistent with the final ruling, then the court will consider vacating the final ruling only if the moving party notifies chambers before 4:00 pm at least one business day before the hearing date: Department A-Kathy Torres (559)499-5860; Department B-Jennifer Dauer (559)499-5870. If a party has grounds to contest a final ruling because of the court's error under FRCP 60 (a) (FRBP 9024) ["a clerical mistake (by the court) or a mistake arising from (the court's) oversight or omission"] the party shall notify chambers (contact information above) and any other party affected by the final ruling by 4:00 pm one business day before the hearing.

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

1. [17-12802](#)-A-7 DAWN WOLTZ MOTION TO COMPEL ABANDONMENT  
RSW-1 8-17-17 [[12](#)]  
DAWN WOLTZ/MV  
ROBERT WILLIAMS/Atty. for dbt.

**No Ruling**

2. [16-14108](#)-A-7 ROGER FRAPPIED PRETRIAL CONFERENCE RE: AMENDED  
JLC-3 MOTION TO AVOID LIEN OF EDWIN  
ROGER FRAPPIED/MV K. NILES  
5-23-17 [[103](#)]  
JAMES CONKEY/Atty. for dbt.  
RESPONSIVE PLEADING

**Final Ruling**

This matter is continued to September 19, 2017, at 9:00 a.m. in Fresno

3. [17-10608](#)-A-7 JOHN ANTONGIOVANNI MOTION TO SELL  
KDG-3 8-8-17 [[49](#)]  
JEFFREY VETTER/MV  
PATRICK KAVANAGH/Atty. for dbt.  
LISA HOLDER/Atty. for mv.  
RESPONSIVE PLEADING

**No Ruling**

4. [17-11218](#)-A-7 JOSE/VERONICA GUTIERREZ MOTION FOR RELIEF FROM  
MDE-1 AUTOMATIC STAY  
THE BANK OF NEW YORK MELLON/MV 7-17-17 [[16](#)]  
ROBERT WILLIAMS/Atty. for dbt.  
MARK ESTLE/Atty. for mv.  
DISCHARGED

**Final Ruling**

**Motion:** Stay Relief

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Granted in part, denied in part as moot

**Order:** Civil minute order

**Subject:** 900 Pershing Street A, B, C, & D, Bakersfield, CA

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court

considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

#### **AS TO DEBTOR**

The motion will be denied in part as moot to the extent it seeks stay relief as to the debtor. The stay that protects the debtor terminates at the entry of discharge. 11 U.S.C. § 362(c)(2). In this case, discharge has been entered. As a result, the motion will be denied in part as moot as to the debtor.

#### **AS TO ESTATE**

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

#### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The Bank of New York's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted in part and denied as moot in part. The automatic stay is vacated with respect to the interest of the trustee in the property described in the motion, commonly known as 900 Pershing Street A, B, C, & D, Bakersfield, CA. Relief from the automatic stay as to the interest of the debtor in such property is denied as moot given the entry of the discharge in this case. 11 U.S.C. § 362(c)(2)(C).

IT IS FURTHER ORDERED that the 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

5. [17-10136](#)-A-7 FRESNO MOVING & STORAGE MOTION FOR COMPENSATION BY THE  
KDG-5 INC. LAW OFFICE OF KLEIN, DENATALE,  
GOLDNER, COOPER, ROSENLIEB &  
KIMBALL, LLP FOR LISA HOLDER,  
TRUSTEES ATTORNEY(S)  
8-16-17 [[106](#)]

JEFFREY ROWE/Atty. for dbt.

### **Tentative Ruling**

**Application:** Allowance of Final Compensation and Expense Reimbursement

**Notice:** LBR 9014-1(f) (2); no written opposition required

**Disposition:** Approved

**Order:** Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

### **COMPENSATION AND EXPENSES**

In this Chapter 7 case, Klein DeNatale Goldner, general counsel for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$10,828.50 and reimbursement of expenses in the amount of \$354.86.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis.

### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Klein DeNatale Goldner's application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$10,828.50 and reimbursement of expenses in the amount of \$354.86.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

6. [16-13443](#)-A-7 R.L. SURGENER, INC.  
KDG-8

MOTION FOR COMPENSATION BY THE  
LAW OFFICE OF KLEIN, DENATALE,  
GOLDNER, COOPER, ROSENLIB &  
KIMBALL, LLP FOR LISA HOLDER,  
TRUSTEES ATTORNEY(S)  
8-16-17 [[98](#)]

LEONARD WELSH/Atty. for dbt.

### **Tentative Ruling**

**Application:** Allowance of Interim Compensation and Expense  
Reimbursement

**Notice:** LBR 9014-1(f)(2); no written opposition required

**Disposition:** Approved

**Order:** Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

### **COMPENSATION AND EXPENSES**

In this Chapter 7 case, Klein, DeNatale, Goldner, Cooper, Rosenlieb, & Kimball, LLP, general counsel for the trustee, has applied for an allowance of interim compensation and reimbursement of expenses. The application requests that the court allow compensation in the amount of \$25,428.00 and reimbursement of expenses in the amount of \$1013.43.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis as to the amounts requested. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure.

The court authorizes for immediate payment 80% of the compensation approved and 100% of the costs approved.

## CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Klein, DeNatale, Goldner, Cooper, Rosenlieb, & Kimball, LLP's application for allowance of interim compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved. The court allows interim compensation in the amount of \$25,428.00 and reimbursement of expenses in the amount of \$1013.43. The fees and costs are allowed pursuant to 11 U.S.C. § 331 as interim fees and costs, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure.

IT IS FURTHER ORDERED that the court authorizes for immediate payment 80% of the compensation approved in the amount of \$20,342.40, and 100% of the costs approved in the amount of \$1013.43.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

7. [16-13443](#)-A-7 R.L. SURGENER, INC.  
KDG-9  
JEFFREY VETTER/MV  
LEONARD WELSH/Atty. for dbt.  
LISA HOLDER/Atty. for mv.

MOTION TO SELL  
8-16-17 [[105](#)]

**No Ruling**

8. [14-12654](#)-A-7 ROGELIO RIOS  
VG-3  
VINCENT GORSKI/MV

MOTION FOR COMPENSATION FOR  
VINCENT A. GORSKI, CHAPTER 7  
TRUSTEE(S)  
7-21-17 [[165](#)]

PHILLIP GILLET/Atty. for dbt.  
LISA HOLDER/Atty. for mv.

### **Final Ruling**

**Application:** Allowance of Compensation and Expense Reimbursement

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Approved

**Order:** Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this application was required not less than 14 days before the hearing on the application. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

### **COMPENSATION AND EXPENSES**

In this Chapter 7 case, the chapter 7 trustee Vincent Gorski has applied for an allowance of final compensation and reimbursement of expenses. A trustee's compensation is considered in accordance with § 326(a) and § 330(a)(1), (7). Section 326(a) provides a formula for determining the maximum compensation a trustee may receive in a chapter 7 case. *In re Ruiz*, 541 B.R. 892, 896 (B.A.P. 9th Cir. 2015).

"[A] trustee's request for compensation should be presumed reasonable as long as the amount requested does not exceed the statutory maximum calculated pursuant to § 326. [A]bsent extraordinary circumstances, bankruptcy courts should approve chapter 7, 12 and 13 trustee fees without any significant additional review. If the court has found that extraordinary circumstances are present, only then does it become appropriate to conduct a further inquiry to determine whether there exists a rational relationship between the compensation requested and the services rendered." *Id.* at 896 (second alteration in original) (citations omitted) (internal quotation marks omitted).

In short, Congress intended to establish trustee's compensation for the "vast majority of cases" at the commission rates set forth in § 326. *Id.* at 897.

In this Chapter 7 case, the trustee has applied for an allowance of compensation and reimbursement of expenses. The court finds (1) that the compensation requested by the trustee is consistent with 11 U.S.C. § 326(a); (2) that no extraordinary circumstances are present in this case, *see In re Salgado-Nava*, 473 B.R. 911 (B.A.P. 9th Cir. 2012); and (3) that expenses for which reimbursement is sought, if any, are actual and necessary.

## CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Chapter 7 trustee Vincent Gorski's application for allowance of compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows to the trustee compensation in the amount of \$31,271.42 and reimbursement of expenses in the amount of \$0.00.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

9. [17-11158](#)-A-7 MALLORY MOORE MOTION TO DISMISS CASE  
DMG-1 7-28-17 [[10](#)]  
MALLORY MOORE/MV  
D. GARDNER/Atty. for dbt.  
WITHDRAWN

### Final Ruling

The motion withdrawn, the matter is dropped as moot.

10. [17-12961](#)-A-7 QUENTIN HIGGINS MOTION FOR RELIEF FROM  
ABG-1 AUTOMATIC STAY  
KINECTA FEDERAL CREDIT 8-8-17 [[11](#)]  
UNION/MV  
R. BELL/Atty. for dbt.  
MARK BLACKMAN/Atty. for mv.

### Final Ruling

**Motion:** Stay Relief

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 2012 Hyundai Elantra

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, incorporated by Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

#### **STAY RELIEF**

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

#### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Kinecta Federal Credit Union's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as a 2012 Hyundai Elantra, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

11. [16-12166](#)-A-7 TRACY MOOD  
APN-1  
SANTANDER CONSUMER USA INC./MV  
ROBERT WILLIAMS/Atty. for dbt.  
AUSTIN NAGEL/Atty. for mv.

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
7-12-17 [[45](#)]

**Final Ruling**

**Motion:** Stay Relief

**Notice:** LBR 9014-1(f) (1); written opposition required

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 2013 Toyota Corolla

Unopposed motions are subject to the rules of default. Fed. R. Civ. P.55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f) (1) (B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

**STAY RELIEF**

Section 362(d) (2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d) (2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a) (3) will be waived. No other relief will be awarded.

**CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Santander Consumer USA Inc.'s motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as a 2013 Toyota Corolla, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a) (3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

12. [17-12967](#)-A-7 MARIA GALLARDO ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
8-14-17 [[11](#)]  
  
PHILLIP GILLET/Atty. for dbt.  
\$335.00 FILING FEE PAID  
8/14/17

**Final Ruling**

The fee paid in full, the order to show cause is discharged and the case shall remain pending.

13. [17-12375](#)-A-7 JOHN/MARIA SANCHEZ MOTION FOR RELIEF FROM  
APN-1 AUTOMATIC STAY  
SANTANDER CONSUMER USA INC./MV 7-12-17 [[10](#)]  
WILLIAM OLCOTT/Atty. for dbt.  
AUSTIN NAGEL/Atty. for mv.

**Final Ruling**

**Motion:** Stay Relief

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 2012 Scion TC

Unopposed motions are subject to the rules of default. Fed. R. Civ. P.55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

**STAY RELIEF**

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

## CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Santander Consumer USA Inc.'s motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as a 2012 Scion TC, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

14. [17-12280](#)-A-7 BERTHA CARRILLO MOTION FOR RELIEF FROM  
APN-1 AUTOMATIC STAY  
GATEWAY ONE LENDING & 7-11-17 [[19](#)]  
FINANCE/MV  
AUSTIN NAGEL/Atty. for mv.  
DISMISSED

### Final Ruling

The case dismissed, the motion is denied as moot.

15. [17-10384](#)-A-7 NICHOLAS BRISTER MOTION TO CONVERT CASE FROM  
TGF-1 CHAPTER 7 TO CHAPTER 13  
7-12-17 [[36](#)]  
VINCENT GORSKI/Atty. for dbt.

### Final Ruling

**Motion:** Convert Case from Chapter 7 to Chapter 13

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Prepared by moving party

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court

considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Section 706 of the Bankruptcy Code gives Chapter 7 debtors a qualified conversion right. See 11 U.S.C. § 706(a), (d). A debtor's right to convert a case from Chapter 7 to Chapter 11, 12, or 13 is conditioned on (i) the debtor's eligibility for relief under the chapter to which the case will be converted and (ii) the case not having been previously converted under §§ 1112, 1208, or 1307. 11 U.S.C. § 706(a), (d); see also *Marrama v. Citizens Bank of Mass.*, 549 U.S. 365, 372-74 (2007) (affirming denial of debtor's conversion from Chapter 7 to Chapter 13 based on bad faith conduct sufficient to establish cause under § 1307(c)).

The secured and unsecured debt amounts shown in the debtor's schedules are below the debt limits provided in § 109(e). See 11 U.S.C. § 109(e). The case has not been previously converted under § 1112, 1208, or 1307 of the Bankruptcy Code. See *id.* § 706(a). No party in interest has questioned the debtor's eligibility for relief under Chapter 13.

16. [17-10384](#)-A-7      NICHOLAS BRISTER      CONTINUED MOTION TO DISMISS  
UST-1      CASE PURSUANT TO 11 U.S.C.  
TRACY DAVIS/MV      SECTION 707(B)  
      5-15-17 [[23](#)]
- VINCENT GORSKI/Atty. for dbt.  
ROBIN TUBESING/Atty. for mv.  
RESPONSIVE PLEADING

### **Final Ruling**

The case having been converted on the debtor's motion, the court will deny the motion as moot.

17. [17-11824](#)-A-7      HORISONS UNLIMITED      MOTION TO EXTEND TIME  
WFH-2      8-30-17 [[193](#)]  
JAMES SALVEN/MV  
CECILY DUMAS/Atty. for dbt.  
OST 8/30/17

### **Tentative Ruling**

**Motion:** Extend Time to Assume or Reject Unexpired Lease of Nonresidential Real Property

**Notice:** LBR 9014-1(f)(3); no written opposition required

**Disposition:** Granted

**Order:** Prepared by moving party

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, incorporated by Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Section 365(d)(4)(B) authorizes the court to extend the time during which a trustee may assume or assign an unexpired lease of nonresidential real property without the lease being deemed rejected. 11 U.S.C. §365(d)(4)(B)(i). The court may grant such an extension only before the expiration of the initial 120-day period. *Id.* The initial 120-day period may be extended by an additional 90-day period. *Id.* Subsequent extensions may be granted only with the lessor's consent. *Id.* § 365(d)(4)(B)(ii).

The Debtor requests an extension of time in which to assume or reject a nonresidential real property lease that is less than the 90-day extension authorized by § 364(d)(4)(B). The court will grant the motion and extend the time in which to assume or reject the nonresidential real property lease.

18. [17-11824](#)-A-7    HORISONS UNLIMITED  
WFH-3  
JAMES SALVEN/MV

MOTION FOR ORDER AUTHORIZING  
TRUSTEE TO OPERATE BUSINESS FOR  
LIMITED AMOUNT OF TIME  
8-30-17 [[199](#)]

CECILY DUMAS/Atty. for dbt.  
OST 8/30/17

### **Tentative Ruling**

**Motion:** Authorize Trustee to Operate Business for Limited Time

**Notice:** LBR 9014-1(f)(3) and order shortening time; no written opposition required

**Disposition:** Granted

**Order:** Prepared by moving party

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The trustee represents that it is necessary for him to operate the debtor's business for a limited period through October 31, 2017. The operation of the business is necessary for the trustee to administer the estate. The trustee is not requesting authority to provide health care services by this motion. The trustee requests authorization to operate the business of the debtor solely to preserve and administer assets of the estate and to properly organize and store patient medical records.

The court will grant the motion under § 721 of the Bankruptcy Code. This section permits the court to authorize the trustee to operate the business of the debtor for a limited period if such operation is in the best interests of the estate. The court will sign an order prepared by the moving party authorizing the specific actions listed in subsections (a) through (h) of the request for relief on pages 3 and 4 of the motion.