

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

October 24, 2016 at 10:00 a.m.

No written opposition has been filed to the following motions set for argument on this calendar:

1, 2, 9

When Judge McManus convenes court, he will ask whether anyone wishes to oppose this motion. If you wish to oppose the motion, tell Judge McManus there is opposition. Please do not identify yourself or explain the nature of your opposition. If there is opposition, the motion will remain on calendar and Judge McManus will hear from you when he calls the motion for argument.

If there is no opposition, the moving party should inform Judge McManus if it declines to accept the tentative ruling. Do not make your appearance or explain why you do not accept the ruling. If you do not accept the ruling, Judge McManus will hear from you when he calls the motion for argument.

If no one indicates they oppose the motion and if the moving party does not reject the tentative ruling, that ruling will become the final ruling. The motion will not be called for argument and the parties are free to leave (unless they have other matters on the calendar).

MOTIONS ARE ARRANGED ON THIS CALENDAR IN TWO SEPARATE SECTIONS. A CASE MAY HAVE A MOTION IN EITHER OR BOTH SECTIONS. THE FIRST SECTION INCLUDES ALL MOTIONS THAT WILL BE RESOLVED WITH A HEARING. A TENTATIVE RULING IS GIVEN FOR EACH MOTION. THE SECOND SECTION INCLUDES ALL MOTIONS THAT HAVE BEEN RESOLVED BY THE COURT WITHOUT A HEARING. A FINAL RULING IS GIVEN FOR EACH MOTION. WITHIN EACH SECTION, CASES ARE ORGANIZED BY THE LAST TWO DIGITS OF THE CASE NUMBER.

ITEMS WITH TENTATIVE RULINGS: IF A CALENDAR ITEM HAS BEEN SET FOR HEARING BY THE COURT PURSUANT TO AN ORDER TO SHOW CAUSE OR AN ORDER SHORTENING TIME, OR BY A PARTY PURSUANT TO LOCAL BANKRUPTCY RULE 3007-1(c)(1) OR LOCAL BANKRUPTCY RULE 9014-1(f)(1), AND IF ALL PARTIES AGREE WITH THE TENTATIVE RULING, THERE IS NO NEED TO APPEAR FOR ARGUMENT. HOWEVER, IT IS INCUMBENT ON EACH PARTY TO ASCERTAIN WHETHER ALL OTHER PARTIES WILL ACCEPT A RULING AND FOREGO ORAL ARGUMENT. IF A PARTY APPEARS, THE HEARING WILL PROCEED WHETHER OR NOT ALL PARTIES ARE PRESENT. AT THE CONCLUSION OF THE HEARING, THE COURT WILL ANNOUNCE ITS DISPOSITION OF THE ITEM AND IT MAY DIRECT THAT THE TENTATIVE RULING, AS ORIGINALLY WRITTEN OR AS AMENDED BY THE COURT, BE APPENDED TO THE MINUTES OF THE HEARING AS THE COURT'S FINDINGS AND CONCLUSIONS.

IF A MOTION OR AN OBJECTION IS SET FOR HEARING BY A PARTY PURSUANT TO LOCAL BANKRUPTCY RULE 3007-1(c)(2) OR LOCAL BANKRUPTCY RULE 9014-1(f)(2), RESPONDENTS WERE NOT REQUIRED TO FILE WRITTEN OPPOSITION TO THE RELIEF REQUESTED. RESPONDENTS MAY APPEAR AT THE HEARING AND RAISE OPPOSITION ORALLY. IF THAT OPPOSITION RAISES A POTENTIALLY MERITORIOUS DEFENSE OR ISSUE, THE COURT WILL GIVE THE RESPONDENT AN OPPORTUNITY TO FILE WRITTEN OPPOSITION AND SET A FINAL HEARING UNLESS THERE IS NO NEED

October 24, 2016 at 10:00 a.m.

TO DEVELOP THE WRITTEN RECORD FURTHER.

IF THE COURT SETS A FINAL HEARING, UNLESS THE PARTIES REQUEST A DIFFERENT SCHEDULE THAT IS APPROVED BY THE COURT, THE FINAL HEARING WILL TAKE PLACE ON NOVEMBER 14, 2016 AT 10:00 A.M. OPPOSITION MUST BE FILED AND SERVED BY OCTOBER 31, 2016, AND ANY REPLY MUST BE FILED AND SERVED BY NOVEMBER 7, 2016. THE MOVING/OBJECTING PARTY IS TO GIVE NOTICE OF THESE DATES.

ITEMS WITH FINAL RULINGS: THERE WILL BE NO HEARING ON THE ITEMS WITH FINAL RULINGS. INSTEAD, EACH OF THESE ITEMS HAS BEEN DISPOSED OF AS INDICATED IN THE FINAL RULING BELOW. THAT RULING ALSO WILL BE APPENDED TO THE MINUTES. THIS FINAL RULING MAY OR MAY NOT BE A FINAL ADJUDICATION ON THE MERITS. IF ALL PARTIES HAVE AGREED TO A CONTINUANCE OR HAVE RESOLVED THE MATTER BY STIPULATION, THEY MUST ADVISE THE COURTROOM DEPUTY CLERK PRIOR TO HEARING IN ORDER TO DETERMINE WHETHER THE COURT VACATE THE FINAL RULING IN FAVOR OF THE CONTINUANCE OR THE STIPULATED DISPOSITION.

ORDERS: UNLESS THE COURT ANNOUNCES THAT IT WILL PREPARE AN ORDER, THE PREVAILING PARTY SHALL LODGE A PROPOSED ORDER WITHIN 14 DAYS OF THE HEARING.

MATTERS FOR ARGUMENT

1. 15-21617-A-7 TIM/CARISSA ALDRICH MOTION TO
DNL-6 APPROVE COMPENSATION OF TRUSTEE'S
ATTORNEY
9-30-16 [137]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the trustee, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the debtor, the 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 offers 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. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted.

Desmond, Nolan, Livaich & Cunningham, attorney for the trustee, has filed its first and final motion for approval of compensation. The requested compensation consists of \$6,722.15 in fees and \$777.85 in expenses, for a total of \$7,500. This motion covers the period from May 10, 2015 through September 26, 2016. The court approved the movant's employment as the trustee's attorney effective May 10, 2015.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant's services included, without limitation, advising and representing the trustee in connection with the avoidance of liens on a Mercedes, the turnover and sale of such vehicle, and objecting to the debtor's exemption of it. The movant also represented the trustee in an action to deny the debtor's discharge for scheming to defraud creditors and the estate by transferring the vehicle.

The court concludes that the compensation is for actual and necessary services rendered in the administration of this estate. The requested compensation will be approved.

2. 12-22720-A-7 MICHAEL SHOWALTER MOTION TO
DNL-9 APPROVE COMPENSATION OF TRUSTEE'S
ATTORNEY
10-3-16 [117]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the trustee, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the debtor, the 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 offers 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. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted.

Desmond, Nolan, Livaich & Cunningham, attorney for the trustee, has filed its first and final motion for approval of compensation. The requested compensation consists of \$18,927.96 in fees and \$1,072.04 in expenses, for a total of \$20,000. This motion covers the period from April 17, 2012 through September 28, 2016. The court approved the movant's employment as the trustee's attorney effective April 17, 2012.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant's services included, without limitation, advising and representing the trustee in connection with an objection to the debtor's exemption of a fractional interest in a Florida residential property. The objection was successful and was defended on appeal to both the BAP and the Ninth Circuit. The movant also represented the trustee in connection with an action pursuant to 11 U.S.C. § 363(h) which was resolved by an agreed sale.

The court concludes that the compensation is for actual and necessary services rendered in the administration of this estate. The requested compensation will be approved.

3. 16-26226-A-7 KENNETH/KIMBERLY HORTON MOTION TO
MKJ-1 COMPEL ABANDONMENT
10-8-16 [14]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the creditor, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the other creditors, the debtor, the 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 offers 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. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be dismissed without prejudice.

The motion seeks to compel the bankruptcy estate to abandon certain business assets because they are exempt and therefore of no value to the estate. However, because the first meeting of creditors will not take place until October 19, the deadline to object to the debtor's exemptions will not expire until November 18. See Fed. R. Bankr. P. 4003(b)(1). Therefore, this motion is premature. Until it is known whether the exemptions will be allowed, it is unknown whether the business assets are of no value to the estate.

4. 16-26229-A-7 TAMARA GRAYSON MOTION TO
FF-1 COMPEL ABANDONMENT
10-10-16 [9]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the creditor, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the other creditors, the debtor, the 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 offers 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. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be dismissed without prejudice.

The motion seeks to compel the bankruptcy estate to abandon certain business assets because they are exempt and therefore of no value to the estate. However, because the first meeting of creditors will not take place until October 19, the deadline to object to the debtor's exemptions will not expire until November 18. See Fed. R. Bankr. P. 4003(b)(1). Therefore, this motion is premature. Until it is known whether the exemptions will be allowed, it is unknown whether the business assets are of no value to the estate.

5. 16-26636-A-7 TARA BAILEY MOTION FOR
TEMPORARY WAIVER OF THE CREDIT
COUNSELING REQUIREMENT
10-4-16 [8]

Tentative Ruling: None.

6. 12-38363-A-7 WILLIAM ST CLAIR MOTION FOR
DBJ-1 RELIEF FROM AUTOMATIC STAY
ROBERT MARTIN VS. 9-21-16 [329]

Tentative Ruling: The motion will be granted.

The movant, Robert Martin, seeks relief from stay with to remove a 1955 Buick Century from the premises of real property located in Chico, California. The debtor no longer has a legal interest in the Chico property, and the movant is the current facility manager. The vehicle is apparently abandoned and non-operational. The vehicle is registered to the debtor. The movant alleges that the debtor has not responded to repeated attempts by the movant to have the vehicles removed.

The debtor filed opposition contending that: (1) the vehicle has value; (2) the debtor "has always sought the release of the vehicle and has been continuously refused;" and (3) the debtor intends to communicate with the movant to arrange for release of the vehicle. Id. at 1.

The movant filed a reply to the debtor's opposition, which states that the vehicle does not have value. Docket 340.

The court will grant relief from stay under section 362(d)(1) to allow the movant to dispose of the vehicle in compliance with applicable state law. See, e.g., Cal. Civ. Proc. Code § 1988. The debtor no longer holds a legal interest in the real property where the vehicle is located, and California law permits the owner of real property to dispose of personal property remaining on a premises by a tenant. Id.

Whether the vehicle is property of the estate or of the debtor, the result is

the same. The owner of personal property leaves personal property on the real property of someone else.

No fees and costs are awarded because the movant is not an over secured creditor. See 11 U.S.C. § 506.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived.

7. 12-38363-A-7 WILLIAM ST CLAIR MOTION TO
MOH-4 COMPEL ABANDONMENT
9-12-16 [324]

Tentative Ruling: The motion will be denied.

The debtor seeks an order compelling the trustee to abandon the estate's interest in his home.

11 U.S.C. § 554(b) provides that on request of a party in interest and after notice and a hearing, the court may order the trustee to abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate.

According to the motion, the home has a value of \$280,000 and is subject to a secured claim of approximately \$220,000. A review of Schedule C, both the original version and the amended version, reveals that the debtor has not claimed the equity in the property as exempt.

Given the property's value, the amount of the encumbrances, and the absence of an exemption, the court concludes that the property is of consequential value to the estate. The motion will be denied.

8. 11-35073-A-7 ULYSSES/JEANNINE JUAN MOTION TO
VS. MIDLAND FUNDING, L.L.C. AVOID JUDICIAL LIEN
9-21-16 [21]

Tentative Ruling: The motion will be denied without prejudice.

First, there is no evidence the debtor served the respondent with the motion.

Second, there is no evidence that the respondent recorded a judgment lien in the county in which the debtor owns a home.

Third, the motion includes no evidence as to the value of the home, the amount of unavoidable liens, or the debtor's entitlement to an exemption or its amount. Without this information it is impossible to apply the formula in 11 U.S.C. § 522(f)(2)(A) and determine whether a judicial lien impairs an exemption.

9. 16-25277-A-7 KAREN BARON MOTION FOR
CJO-1 RELIEF FROM AUTOMATIC STAY
JPMORGAN CHASE BANK, N.A. VS. 10-5-16 [13]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the creditor, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the other creditors, the debtor, the 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 offers 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. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted.

The movant, JPMorgan Chase Bank, N.A., seeks relief from the automatic stay as to real property in Jacksonville, Florida. The property has a value of \$151,000 and it is encumbered by claims totaling approximately 109,568. The movant's deed is in first priority position and secures a claim of approximately \$105,217.

The court concludes that there is limited equity in the property and there is no evidence that it is necessary to a reorganization or that the trustee can administer it for the benefit of creditors. The court also notes that in the statement of intention, the debtor has indicated an intent to surrender the property. Further, the debtor filed a statement of non-opposition to the motion for relief on October 11, 2016.

Thus, the motion will be granted pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to conduct a foreclosure sale and to obtain possession of the subject property following sale. No other relief is awarded.

Because the movant has not established that the value of its collateral exceeds the amount of its secured claim, the court awards no fees and costs in connection with the movant's secured claim as a result of the filing and prosecution of this motion. 11 U.S.C. § 506(b).

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will not be waived.

10. 15-26985-A-7 SCOTT HOMES MOTION TO
CDH-3 SELL
9-26-16 [73]

Tentative Ruling: The motion will be granted subject to overbids.

The chapter 7 trustee requests authority to sell for \$50,000 the estate's unencumbered interest in three Internet domain names and 50 CDs of digital background images. These were used by the debtor in connection with a business that provided digital background images.

While the buyer, Gary Weldon, is offering \$50,000, only \$10,000 is payable immediately and the remainder will be paid in monthly installments of \$1,250. Further, the \$50,000 will be discounted to \$40,000 if a total of \$40,000 is paid by September 1, 2018, and will be discounted to \$30,000 if a total of \$30,000 is paid by December 1, 2016.

The trustee also asks for waiver of the 14-day period of Fed. R. Bankr. P. 6004(h).

11 U.S.C. § 363(b) allows the trustee to sell property of the estate, other than in the ordinary course of business. The sale will generate money for distribution to creditors of the estate. Given that the sale does not involve

other sale costs, such as an auctioneer commission, the sale will be approved pursuant to 11 U.S.C. § 363(b), as it is in the best interests of the creditors and the estate. The court will waive the 14-day period of Rule 6004(h).

FINAL RULINGS BEGIN HERE

11. 12-28413-A-7 F. RODGERS CORPORATION OBJECTION TO
CWC-32 CLAIM
VS. KIMBERLY A. CHRISTIAN 9-9-16 [1028]

Final Ruling: This objection to the proof of claim of Kimberly A. Christian has been set for hearing on at least 44 days' notice to the claimant as required by Local Bankruptcy Rule 3007-1(c)(1)(ii). The failure of the claimant to file written opposition at least 14 calendar days prior to the hearing is considered as consent to the sustaining of the objection. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the objecting party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the claimant's default is entered and the objection will be resolved without oral argument.

The objection will be sustained.

The claimant has filed a priority claim of \$5,569.75. Of the amount demanded, only \$725.75 is for wages earned within 180 days before the date of the cessation of the debtor's business. The balance, \$4,844, represents damages and penalties assessed by the State Labor Commissioner and are not wages entitled to priority under 11 U.S.C. § 507(a)(4).

The claim is allowed as a \$725.75 priority unsecured claim and \$4,844 nonpriority unsecured claim.

12. 12-28413-A-7 F. RODGERS CORPORATION OBJECTION TO
CWC-33 CLAIM
VS. JEFFREY L. WAX 9-9-16 [1033]

Final Ruling: This objection to the proof of claim of Jeffrey L. Wax has been set for hearing on at least 44 days' notice to the claimant as required by Local Bankruptcy Rule 3007-1(c)(1)(ii). The failure of the claimant to file written opposition at least 14 calendar days prior to the hearing is considered as consent to the sustaining of the objection. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the objecting party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the claimant's default is entered and the objection will be resolved without oral argument.

The objection will be sustained.

The claimant has filed a priority claim of \$6,719.88. Of the amount demanded, the debtor has demonstrated that only \$877.58 is for wages earned within 180 days before the date of the cessation of the debtor's business. The balance, \$5,842.30, includes a "penalty" of \$4,634.40. A penalty is not a wage, salary or similar compensation that is entitled to priority under 11 U.S.C. § 507(a)(4). And, while the \$926.88 for additional wages and \$1,158.60 for vacation benefits could be entitled to priority, the proof of claim includes nothing indicating these two amounts were earned within 180 days before the date of the cessation of the debtor's business.

The claim is allowed as a \$725.75 priority unsecured claim and \$4,844 nonpriority unsecured claim.

13. 12-28413-A-7 F. RODGERS CORPORATION MOTION FOR
JDF-3 RELIEF FROM AUTOMATIC STAY
TAYLOR MORRISON OF CA, L.L.C. VS. 9-20-16 [1054]

Final Ruling: This motion for relief from the automatic stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the debtor and the trustee, to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The movant, Taylor Morrison Services of CA, L.L.C., seeks relief from the automatic stay to proceed in state court with its construction defect claims against the debtor. Recovery will be limited to available insurance coverage, if any.

Given that the movant would not seek to enforce any judgment against the debtor or the estate and will proceed against the debtor only to the extent its claims can be satisfied from the debtor's insurance proceeds, the court concludes that cause exists for the granting of relief from the automatic stay. The motion will be granted pursuant to 11 U.S.C. § 362(d)(1) to allow the movant to prosecute the claims against the debtor, but not to enforce any judgments against the debtor or the estate other than against available insurance coverage, if any.

No fees and costs are awarded because the movant is not an over-secured creditor. See 11 U.S.C. § 506.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived.

14. 16-24816-A-7 ROBBY/JENNIFER COCHRAN MOTION FOR
AP-1 RELIEF FROM AUTOMATIC STAY
BANK OF AMERICA, N.A. VS. 9-22-16 [15]

Final Ruling: This motion for relief from the automatic stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the debtor and the trustee, to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The movant, Bank of America, N.A., seeks relief from the automatic stay as to real property in Yuba City, California. The property has a value of \$472,173 and it is encumbered by a claim totaling approximately \$489,003. The movant's deed is in first priority position and secures a claim of approximately

\$489,003.

The court concludes that there is no equity in the property and there is no evidence that it is necessary to a reorganization or that the trustee can administer it for the benefit of creditors. The court also notes that in the statement of intention, the debtor has indicated an intent to surrender the property.

Thus, the motion will be granted pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to conduct a nonjudicial foreclosure sale and to obtain possession of the subject property following sale. No other relief is awarded.

The court determines that this bankruptcy proceeding has been finalized for purposes of Cal. Civil Code § 2923.5 and the enforcement of the note and deed of trust described in the motion against the subject real property. Further, upon entry of the order granting relief from the automatic stay, the movant and its successors, assigns, principals, and agents shall comply with Cal. Civil Code § 2923.52 et seq., the California Foreclosure Prevention Act, to the extent it is otherwise applicable.

Because the movant has not established that the value of its collateral exceeds the amount of its secured claim, the court awards no fees and costs in connection with the movant's secured claim as a result of the filing and prosecution of this motion. 11 U.S.C. § 506(b).

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will not be waived. That period, however, shall run concurrently with the 7-day period specified in Cal. Civ. Code § 2924g(d) to the extent section 2924g(d) is applicable to orders terminating the automatic stay.

15.	16-25033-A-7 KATHLEEN TURNER JHW-1 FORD MOTOR CREDIT COMPANY, L.L.C. VS.	MOTION FOR RELIEF FROM AUTOMATIC STAY 9-20-16 [10]
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Final Ruling: This motion for relief from the automatic stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the debtor and the trustee, to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The movant seeks relief from the automatic stay with respect to a 2016 Ford Fusion. The vehicle has a value of \$16,810, and its secured claim is approximately \$33,369.

The court concludes that there is no equity in the vehicle and no evidence exists that it is necessary to a reorganization or that the trustee can administer it for the benefit of the creditors. The court also notes that the trustee filed a report of no distribution on September 29, 2016. Further, the debtors have not made one pre-petition and one post-petition payments to the movant. And, in the statement of intention, the debtor has indicated an intent

to surrender the vehicle. This is cause for the granting of relief from stay.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (2) to permit the movant to repossess its collateral, dispose of it pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

Because the movant has not established that the value of its collateral exceeds the amount of its secured claim, the court awards no fees and costs in connection with the movant's secured claim as a result of the filing and prosecution of this motion. 11 U.S.C. § 506(b).

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived due to the fact that the movant's vehicle is being used by the debtor without compensation and it is depreciating in value.

16. 10-53041-A-7 MOMOTAKA/DEBORAH SAIYO MOTION TO
DRE-2 APPOINT TRUSTEE
9-2-16 [38]

Final Ruling: The motion will be dismissed because it is moot. The court has appointed a trustee at the request of the U.S. Trustee.

17. 14-28852-A-7 JOHN LIVINGSTON MOTION TO
DNL-5 APPROVE COMPENSATION OF TRUSTEE'S
ATTORNEY
9-26-16 [76]

Final Ruling: This compensation motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1) and Fed. R. Bankr. R. 2002(a)(6). The failure of the trustee, the debtor, the United States Trustee, the creditors, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

Desmond, Nolan, Livaich & Cunningham, attorney for the trustee, has filed its first and final motion for approval of compensation. The requested compensation consists of \$10,920 in fees and \$198.47 in expenses, for a total of \$11,118.47. This motion covers the period from November 5, 2014 through September 21, 2016. The court approved the movant's employment as the trustee's attorney effective November 5, 2014.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant's services included, without limitation, advising and representing the trustee in connection with the sale of commercial property in Toulumne.

The court concludes that the compensation is for actual and necessary services rendered in the administration of this estate. The requested compensation will

be approved.

18. 16-22567-A-7 SOPHIE JACKSON MOTION TO
UST-3 EXTEND DEADLINE
9-21-16 [24]

Final Ruling: The court concludes that a hearing will not be helpful to its consideration and resolution of this matter. The debtor has stipulated to the extension, there is no objection to the relief requested, and the court will not materially alter the relief requested. Accordingly, an actual hearing is unnecessary and this matter is removed from calendar for resolution without oral argument. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006).

The motion will be granted. The deadline for the U.S. Trustee to file a complaint pursuant to 11 U.S.C. § 727 is extended to and including October 31, 2016.

19. 16-24175-A-7 VERTIS/AMY WHEELER MOTION TO
HMS-1 EXTEND DEADLINE
9-14-16 [22]

Final Ruling: The court concludes that a hearing will not be helpful to its consideration and resolution of this matter. The debtor has stipulated to the extension, there is no objection to the relief requested, and the court will not materially alter the relief requested. Accordingly, an actual hearing is unnecessary and this matter is removed from calendar for resolution without oral argument. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006).

The motion will be granted. The deadline for the U.S. Trustee to file a complaint pursuant to 11 U.S.C. § 727 is extended to and including October 31, 2016.

20. 15-26780-A-7 ROY/DONNA PALMER MOTION TO
BHS-6 APPROVE COMPENSATION OF TRUSTEE'S
ATTORNEY
9-15-16 [69]

Final Ruling: This compensation motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1) and Fed. R. Bankr. R. 2002(a)(6). The failure of the trustee, the debtor, the United States Trustee, the creditors, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

Barry H. Spitzer, attorney for the trustee, has filed his first and final motion for approval of compensation. The requested compensation consists of \$16,535 in fees and \$134.17 in expenses, for a total of \$16,135. This motion covers the period from October 21, 2015 through September 15, 2016. The court approved the movant's employment as the trustee's attorney effective May 21, 2015.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant's services included, without limitation, advising and representing the trustee in connection with the compromise of claims against residential property, the sale of such property, and the compromise of tax claims encumbering it.

The court concludes that the compensation is for actual and necessary services rendered in the administration of this estate. The requested compensation will be approved.

21.	16-24780-A-7	JUSTIN/RAYNELLE	MOTION FOR
	KAZ-1	FINKLESTEIN	RELIEF FROM AUTOMATIC STAY
	CALIBER HOME LOANS, INC. VS.		9-23-16 [29]

Final Ruling: This motion for relief from the automatic stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the debtor and the trustee, to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The movant, Caliber Home Loans, Inc., seeks relief from the automatic stay as to real property in Fairfield, California. The property has a value of \$305,000 and it is encumbered by a claim totaling approximately \$287,184. The movant's deed is in first priority position and secures a claim of approximately \$287,184.

The court concludes that there is limited equity in the property and there is no evidence that it is necessary to a reorganization or that the trustee can administer it for the benefit of creditors. The court also notes that the trustee filed a report of no distribution on September 3, 2016. And, in the statement of intention, the debtor has indicated an intent to surrender the property.

Thus, the motion will be granted pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to conduct a nonjudicial foreclosure sale and to obtain possession of the subject property following sale. No other relief is awarded.

The court determines that this bankruptcy proceeding has been finalized for purposes of Cal. Civil Code § 2923.5 and the enforcement of the note and deed of trust described in the motion against the subject real property. Further, upon entry of the order granting relief from the automatic stay, the movant and its successors, assigns, principals, and agents shall comply with Cal. Civil Code § 2923.52 et seq., the California Foreclosure Prevention Act, to the extent it is otherwise applicable.

Because the movant has not established that the value of its collateral exceeds the amount of its secured claim, the court awards no fees and costs in connection with the movant's secured claim as a result of the filing and prosecution of this motion. 11 U.S.C. § 506(b).

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will not be waived. That period, however, shall run concurrently with the 7-day period specified in Cal. Civ. Code § 2924g(d) to the extent section 2924g(d) is applicable to orders terminating the automatic stay.

22. 15-27094-A-7 FRANK VERGARA
NLL-1
FREEDOM MORTGAGE CORPORATION VS.

MOTION FOR
RELIEF FROM AUTOMATIC STAY
9-16-16 [38]

Final Ruling: This motion for relief from the automatic stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the debtor and the trustee, to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The movant, Freedom Mortgage Corporation, seeks relief from the automatic stay as to real property in Pittsburg, California. The movant's deed is in first priority position and secures a claim of approximately \$486,537.

There is no evidence as to the value of the subject property. The debtor did not schedule or value the property in his petition. The claims' register does not reflect that the movant filed a proof of claim. The motion for relief and related filings do not indicate a value of the property.

11 U.S.C. § 362(d)(4) provides that:

"On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay . . . with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real property, if the court finds that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either-

(A) transfer of all or part ownership of, or other interest in, such real property without the consent of the secured creditor or court approval; or

(B) multiple bankruptcy filings affecting such real property."

This chapter 7 case was filed on September 9, 2015. The trustee filed a final report on August 15, 2016. Docket 35.

The movant holds a promissory note dated 03/05/2013, in the principal amount of \$486,537.00, which is secured by the deed of trust of the same date as signed by Celestino C. Mercado and Nerliza Mercado. On March 12, 2015, the debtor obtained an interest in the property via grant deed executed without the knowledge or consent of the movant and in violation of the terms under the deed of trust executed by the original borrowers. See Docket 42, Ex. 4.

The above facts demonstrate an egregious manipulation of the legal process and

the bankruptcy laws to delay, hinder and defraud creditors, namely the movant.

The motion will be granted pursuant to 11 U.S.C. § 362(d)(4) to permit the movant to conduct a nonjudicial foreclosure sale and to obtain possession of the subject property following sale. The order shall be binding in any other case under this title purporting to affect the subject property, filed no later than two years after the date of entry of the order. See 11 U.S.C. § 362(d)(4). No other relief is awarded. Other in rem relief will be denied because it is not appropriate under 11 U.S.C. § 105 and because it requires an adversary proceeding. Johnson v. TRE Holdings LLC (In re Johnson), 346 B.R. 190, 195 (B.A.P. 9th Cir. 2006).

The court determines that this bankruptcy proceeding has been finalized for purposes of Cal. Civil Code § 2923.5 and the enforcement of the note and deed of trust described in the motion against the subject real property. Further, upon entry of the order granting relief from the automatic stay, the movant and its successors, assigns, principals, and agents shall comply with Cal. Civil Code § 2923.52 et seq., the California Foreclosure Prevention Act, to the extent it is otherwise applicable.

Because the movant has not established that the value of its collateral exceeds the amount of its secured claim, the court awards no fees and costs in connection with the movant's secured claim as a result of the filing and prosecution of this motion. 11 U.S.C. § 506(b).

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will not be waived. That period, however, shall run concurrently with the 7-day period specified in Cal. Civ. Code § 2924g(d) to the extent section 2924g(d) is applicable to orders terminating the automatic stay.

23.	16-21599-A-7 CHRISTOPHER/GLEE WOODYARD NLL-1 U.S. BANK, N.A. VS.	MOTION FOR RELIEF FROM AUTOMATIC STAY 9-15-16 [89]
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Final Ruling: This motion for relief from the automatic stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the debtor and the trustee, to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The movant, U.S. Bank, N.A., seeks relief from the automatic stay as to real property in Antelope, California. The property has a value of \$235,705 and it is encumbered by a claim totaling approximately \$382,524. The movant's deed is in first priority position and secures a claim of approximately \$338,958.

The court concludes that there is no equity in the property and there is no evidence that it is necessary to a reorganization or that the trustee can administer it for the benefit of creditors. The court also notes that the trustee filed a statement of non-opposition on September 19, 2016.

Thus, the motion will be granted pursuant to 11 U.S.C. § 362(d)(2) to permit the movant to conduct a nonjudicial foreclosure sale and to obtain possession of the subject property following sale. No other relief is awarded.

The court determines that this bankruptcy proceeding has been finalized for purposes of Cal. Civil Code § 2923.5 and the enforcement of the note and deed of trust described in the motion against the subject real property. Further, upon entry of the order granting relief from the automatic stay, the movant and its successors, assigns, principals, and agents shall comply with Cal. Civil Code § 2923.52 et seq., the California Foreclosure Prevention Act, to the extent it is otherwise applicable.

Because the movant has not established that the value of its collateral exceeds the amount of its secured claim, the court awards no fees and costs in connection with the movant's secured claim as a result of the filing and prosecution of this motion. 11 U.S.C. § 506(b).

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will not be waived. That period, however, shall run concurrently with the 7-day period specified in Cal. Civ. Code § 2924g(d) to the extent section 2924g(d) is applicable to orders terminating the automatic stay.