

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable Jennifer E. Niemann  
Hearing Date: Tuesday, November 3, 2020  
Place: Department A - Courtroom #11  
Fresno, California

**ALL APPEARANCES MUST BE TELEPHONIC  
(Please see the court's website for instructions.)**

*Pursuant to District Court General Order 618, no persons are permitted to appear in court unless authorized by order of the court until further notice. All appearances of parties and attorneys shall be telephonic through CourtCall. The contact information for CourtCall to arrange for a phone appearance is: (866) 582-6878.*

**INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS**

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.

**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.

**THE COURT ENDEAVORS TO PUBLISH ITS RULINGS AS SOON AS POSSIBLE. HOWEVER, CALENDAR PREPARATION IS ONGOING AND THESE RULINGS MAY BE REVISED OR UPDATED AT ANY TIME PRIOR TO 4:00 P.M. THE DAY BEFORE THE SCHEDULED HEARINGS. PLEASE CHECK AT THAT TIME FOR POSSIBLE UPDATES.**

1. [17-10427](#)-A-12     **IN RE: LUIS/ANGELA OLIVEIRA**  
[WJH-1](#)

CONTINUED MOTION FOR ENTRY OF DISCHARGE  
9-2-2020    [[229](#)]

LUIS OLIVEIRA/MV  
RILEY WALTER/ATTY. FOR DBT.

FINAL RULING:        There will be no hearing on this matter.

DISPOSITION:         Granted.

ORDER:                The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition 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. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Luis M. Oliveira and Angela C. Oliveira (together, "Debtors"), the Chapter 12 debtors in this case, move this court for an order authorizing the entry of discharge. Mot., Doc. #229.

11 U.S.C. § 1228 contains the discharge provision applicable to Chapter 12 cases. Section 1228 provides that a discharge of all debts provided for in the plan shall be granted as soon as practicable after completion by the debtor of all payments under the plan. 11 U.S.C. § 1228(a); In re Grimes, 117 B.R. 531, 533 (B.A.P. 9th Cir. 1990).

The court finds no reasonable cause to believe that § 522(q)(1) may be applicable to Debtors. The court also finds no reasonable cause to believe that there is pending any proceeding in which Debtors may be found guilty of a felony of the kind described in § 522(a)(1)(A) or liable for a debt of the kind described in § 522(q)(1)(B).

The court finds that Debtors have made all payments under the confirmed Chapter 12 plan and notes that no opposition has been filed. Pursuant to § 1228(a), Debtors' discharge shall be entered.

Accordingly, this motion is GRANTED.

2. 20-10569-A-12      **IN RE: BHAJAN SINGH AND BALVINDER KAUR**  
GMJ-1

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT  
AGREEMENT WITH DEBTORS  
9-30-2020    [360]

NIRMAL SIHOTA/MV  
DAVID JENKINS/ATTY. FOR DBT.  
CHRISTOPHER SEYMOUR/ATTY. FOR MV.

FINAL RULING:      There will be no hearing on this matter.

DISPOSITION:      Granted.

ORDER:              The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition 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. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Bhajan Singh and Balvinder Kaur (together, "Debtors"), the Chapter 12 debtors, move the court for an order pursuant to Federal Rule of Bankruptcy Procedure 9019 approving the compromise of all known and unknown claims between Debtors and Nirmal J. Sihota ("Sihota"). Mot., Doc. #360; Settlement Agreement dated Sept. 25, 2020, Ex. 1, Doc. #364.

Among the assets of Debtors and the estate are claims against Sihota, including, without limitation, a claim to monies received from the class action filed in the United States Court of Federal Claims styled Bruce Ciapessoni v. United States. Mot., Doc. #360; Ex. 1, Doc. #364. Sihota filed ten proofs of claim for unsecured claims against Debtors in this Chapter 12 case. Claims 10 through 19; Ex. 1, Doc. #364. Sihota agrees to withdraw the proofs of claim, with prejudice, in consideration of Debtors' release of any and all claims against Sihota, including any claim to monies received from the class action. Ex. 1, Doc. #364. Each party will bear its own costs, expenses, and attorneys' fees. Ex. 1, Doc. #364.

11 U.S.C. § 1203 provides that a Chapter 12 debtor in possession "shall have all the rights . . . and powers, and shall perform all the functions and duties . . . of a trustee serving in a case under chapter 11 . . . ." On motion by the trustee and after notice and a hearing, Rule 1909(a) permits the court to approve a compromise or settlement. Fed. R. Bankr. P. 1909(a). Approval of a compromise must be based upon considerations of fairness and equity. In re A & C Props., 784 F.2d 1377, 1381 (9th Cir. 1986). The court must consider and

balance four factors: (1) the probability of success in the litigation; (2) the difficulties, if any, to be encountered in the matter of collection; (3) the complexity of the litigation involved, and the expense, inconvenience, and delay necessarily attending it; and (4) the paramount interest of the creditors with a proper deference to their reasonable views. In re Woodson, 839 F.2d 610, 620 (9th Cir. 1988).

It appears from the moving papers that Debtors considered the standards of A & C Props. and Woodson. Mot., Doc. #360. Although Debtors and Sihota each contend that they will prevail on the merits of their claims, the settlement obviates the need to continue any related litigation. Mot., Doc. #360; Ex. 1, Doc. #364. Before collecting, Debtors would need to commence litigation, in which time Sihota might file for bankruptcy. Doc. #360. The disputes between Debtors and Sihota have been ongoing in some form since at least 2016. Decl. of David M. Gilmore, Doc. #363. Settling the claims between Debtors and Sihota will enable Debtors to focus resources on reorganizing under Chapter 12. Doc. #360. In Debtors' business judgment the settlement is fair, reasonable, and obtains an economically advantageous result for the estate. Doc. 360; Ex. 1, Doc. #364. The court concludes that the Woodson factors balance in favor of approving the compromise, and the compromise is in the best interests of the creditors and the estate.

It appears that the compromise pursuant to Bankruptcy Rule 9019 is a reasonable exercise of Debtors' business judgment. The court may give weight to the opinions of the trustee, the parties, and their attorneys. In re Blair, 538 F.2d 849, 851 (9th Cir. 1976). No opposition has been filed. Furthermore, the law favors compromise and not litigation for its own sake. Id.

Accordingly, the motion is GRANTED, and the settlement between Debtors and Sihota is approved. This ruling does not authorize payment of any fees or costs associated with the litigation.

3. [20-12577](#)-A-11 **IN RE: MARIA LUNA MANZO**

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION  
8-5-2020 [[1](#)]

JUSTIN HARRIS/ATTY. FOR DBT.

NO RULING.

4. [20-12577](#)-A-11 **IN RE: MARIA LUNA MANZO**  
[HLF-3](#)

CONTINUED MOTION TO EXTEND AUTOMATIC STAY  
8-19-2020 [[20](#)]

MARIA LUNA MANZO/MV  
JUSTIN HARRIS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Denied with respect to the debtor pursuant to 11 U.S.C. § 362(c)(3); however, termination of the automatic stay

under section 362(c)(3) does not extend to property of the estate.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The court will issue an order.

Debtor moved the court for an order extending the automatic stay pursuant to 11 U.S.C. § 362(c)(3). Doc. #20. Debtor had one Chapter 13 case pending within the preceding one-year period that was dismissed, Case No. 20-10591-A-13 (Bankr. E.D. Cal) (the "Prior Case"). The Prior Case was filed on February 19, 2020 and dismissed on July 17, 2020. Case No. 20-10591-A-13, Doc. ##1, 47. Debtor filed this case on August 5, 2020. Doc. #1.

Under 11 U.S.C. § 362(c)(3)(A), if a debtor has had a bankruptcy case pending within the preceding one-year period that was dismissed, then the automatic stay with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease, shall terminate "with respect to the debtor" on the 30th day after the filing of the current case.

Bankruptcy Code section 362(c)(3)(B) allows the court to extend the stay to any or all creditors, subject to any limitations the court may impose, after notice and a hearing where the debtor or a party in interest demonstrates that the filing of the latter case is in good faith as to the creditors to be stayed. 11 U.S.C. § 362(c)(3)(B).

The burden of establishing the presence of presumptive bad faith rests upon an opponent to the motion. In re Montoya, 342 B.R. 312, 316 (Bankr. S.D. Cal. 2006). If the stay is to be extended as to all creditors, section 362(c)(3)(C)(i) creates a presumption that the case was not filed in good faith if (1) the debtor filed more than one prior case in the preceding year; (2) the debtor failed to file or amend the petition or other documents without substantial excuse, provide adequate protection as ordered by the court, or perform the terms of a confirmed plan; or (3) the debtor has not had a substantial change in his or her financial or personal affairs since the dismissal, or there is no other reason to believe that the current case will result in a discharge or fully performed plan.

The presumption of bad faith may be rebutted by clear and convincing evidence. 11 U.S.C. § 362(c)(3)(C). Under the clear and convincing standard, the evidence presented by the movant must "place in the ultimate factfinder an abiding conviction that the truth of its factual contentions are 'highly probable.'" Factual contentions are highly probable if the evidence offered in support of them 'instantly tilt[s] the evidentiary scales in the affirmative when weighed against the evidence [the non-moving party] offered in opposition.'" Emmert v. Taggart (In re Taggart), 548 B.R. 275, 288, n.11 (B.A.P. 9th Cir. 2016) (citations omitted) (overruled on other grounds by Taggart v. Lorenzen, 139 S. Ct. 1795 (2019)).

The Prior Case was dismissed for unreasonable delay under 11 U.S.C. § 1307(c)(1) and Debtor's failure to make all payments due pursuant to an unconfirmed plan under sections 1307(c)(1) and (c)(4), without opposition from Debtor. Case No. 20-10591-A-13, Doc. #47. Debtor declares that "[she] let [her] chapter 13 case be dismissed . . . with the intention to refile a bankruptcy pursuant to chapter 11, subchapter V." Doc. #22, Manzo Decl. at ¶ 5. Debtor states that she came to believe that "chapter 13 would not provide [her] the flexibility needed to effectively reorganize," particularly with respect to approximately 22 acres of farm land (the "Property") that secures loans with Blackridge Corporation ("Blackridge"), Jesse Canales dba America 1st Mortgage ("America 1st Mortgage"), and Shogy Ahmed ("Ahmed"). Id. at ¶¶ 2, 5. However,

in additional pleadings, Debtor attests "[she] was out of [her] depth and did not have the level of assistance [she] would have liked" in the Prior Case. Doc. #41, Manzo Decl. at ¶ 6.

Secured Creditors Ahmed and Blackridge oppose continuing the stay, arguing the Debtor fails to show that this case was filed in good faith as to the creditors to be affected. Doc. ##34, 45. Ahmed and Blackridge contend there has not been a substantial change in the Debtor's financial or personal affairs since the dismissal of the Prior Case except for a sudden increase in the asserted value of the Property. Doc. #34, p. 2, lines 1-9 and Doc. #45, pp. 5-6. In the Prior Case, Debtor scheduled the Property as "vacant land" worth \$650,000.00. Case No. 20-10591-A-13, Doc. #9, Schedule A/B, line 1.2. However, in this motion and subsequently filed schedules in this case, Debtor describes the Property as "farm" land worth \$800,000.00. Doc. #20 and Doc. #39, Schedule A/B, line 1.2. Debtor explains the difference by stating that she derived the new value of the Property from a real estate agent. Doc. #41, Manzo Decl. at ¶ 2.

As Blackridge points out in its opposition, there are numerous discrepancies in Debtor's disclosures between the Prior Case and this current case, including the asserted value of the Property and the total amount of debt secured by the Property. See Doc. #45.

In this motion, Debtor states she owes approximately \$180,000.00 to Blackridge, about \$23,000.00 to America 1st Mortgage, and disputes a third deed of trust in favor of Ahmed in the claimed amount of \$267,000.00 (altogether totaling \$470,000.00 in encumbrances). Doc. #22, Manzo Decl. at ¶ 2.

However, in the Prior Case, Debtor listed the Property as securing the claims of Blackridge in the amount of \$180,000.00, First American Real Estate in the amount of \$327,000.00, and Ahmed in the disputed amount of \$267,000.00. Case No. 20-10591-A-13, Doc. #9, Schedule D, lines 2.1, 2.3, 2.5.

In schedules filed in this case on September 2, 2020, after the filing of this motion, Debtor now discloses Blackridge's secured claim as \$226,000.00, lists a second deed of trust in favor of America 1st Mortgage with a different address than First American Real Estate and a significantly lower secured claim of only \$23,000.00, and the disputed claim of Ahmed for \$267,000.00. Doc. #39, Schedule D, lines 2.1, 2.4, 2.6.

According to Blackridge's opposition, Debtor owes at least \$238,675.62 on Blackridge's secured claim, and Debtor is in default by failing to make all timely payments. Doc. #45, at ¶¶ 5-6.

Yet, in Debtor's supplemental declaration in support of the motion filed on September 16, 2020, Debtor continues to maintain she owes only \$180,000.00 to Blackridge, about \$23,000.00 to America 1st Mortgage, and \$267,000.00 to Ahmed, contradicting Debtor's own schedules. Doc. #41, Manzo Decl. at ¶ 3.

Debtor does not explain if First American Real Estate is the same party as America 1st Mortgage. The court notes that these two entities are listed with different addresses. If First American Real Estate and America 1st Mortgage are the same party, Debtor fails to explain how she reduced the secured claim from \$327,000.00 in the Prior Case to only \$23,000.00 in this case. In the Statement of Financial Affairs, Debtor attests that she did not pay any creditor a total of \$6,825.00 or more within the 90 days prior to filing this current case. Doc. #39, Statement of Fin. Affairs, line 6.

Because of the inconsistencies, Debtor may have secured claims against the Property of as little as \$470,000.00 according to the motion; \$516,000.00

according to the schedules filed after the motion; \$528,675.62 based on Blackridge's claim of \$238,675.62, the \$23,000.00 owed to Jesse Canales, and the disputed claim of Ahmed for \$267,000.00; or as much as \$855,675.62 if Debtor also owes another \$327,000.00 to First American Real Estate as scheduled in the Prior Case.

The court notes several other unexplained discrepancies in Debtor's schedules in this case compared to the Prior Case. In the Prior Case, Debtor disclosed combined monthly income of \$7,933.00; but in this case, Debtor lists combined monthly income of \$10,900.00. Compare Case No. 20-10591-A-13, Doc. #9, Schedule I, line 12 with Doc. #39, Schedule I, line 12. In the Statement of Financial Affairs, Debtor stated her total gross income for 2019 was \$58,900.00 in the Prior Case, but changed the total gross income for 2019 to \$79,000.00 in this current case. Compare Case No. 20-10591-A-13, Doc. #9, Statement of Fin. Affairs, line 4 with Doc. #39, Statement of Fin. Affairs, line 4. In this case, Debtor failed to disclose her interest in \$40,000.00 worth of blueberry crops that were scheduled in the Prior Case, and which appears to have made up part of her income. See Case No. 20-10591-A-13, Doc. #9, Schedule B, line 48; Schedule I, line 8h; Statement of Fin. Affairs, line 4. Debtor does not explain the changes of income in her additional pleadings despite its potential relevance to whether Debtor has had a substantial change in her financial or personal affairs.

Having reviewed Debtor's statements in support of this motion, the opposition presented, and the records in this case and the Prior Case, the court does not find clear and convincing evidence that Debtor has had a substantial change in her financial or personal affairs since the dismissal of the Prior Case to rebut the presumption of bad faith that arises in this case. While the numbers presented in the Prior Case and this case are different, these inconsistencies are largely left unexplained despite Debtor's opportunity to file additional pleadings.

On September 30, 2020, the court issued an order continuing the hearing on the motion to extend the automatic stay to November 3, 2020 at 9:30 a.m. to permit Ahmed and Blackridge to submit further briefing in opposition to this court's tentative ruling that denial of the extension of the automatic stay under 11 U.S.C. § 362(c)(3) does not extend to the estate or property of the estate. Doc. #54.

11 U.S.C. § 362(c) provides in relevant part:

(c) Except as provided in subsections (d), (e), (f), and (h) of this section—

(1) the stay of an act against property of the estate under subsection (a) of this section continues until such property is no longer property of the estate;

(2) the stay of any other act under subsection (a) of this section continues until the earliest of—

(A) the time the case is closed;

(B) the time the case is dismissed; or

(C) if the case is a case under chapter 7 of this title concerning an individual or a case under chapter 9, 11, 12, or 13 of this title, the time a discharge is granted or denied;

(3) if a single or joint case is filed by or against a debtor who is an individual in a case under chapter 7, 11,

or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b)–

(A) the stay under subsection(a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case; . . .

Ahmed and Blackridge assert that this court should follow the analysis in Reswick v. Reswick (In re Reswick), 446 B.R. 362 (B.A.P. 9th Cir. 2011), which holds that 11 U.S.C. § 362(c)(3)(A) "terminates the automatic stay in its entirety on the 30th day after the petition date" if not extended as permitted under 11 U.S.C. § 362(c)(3)(B). Reswick, 446 B.R. at 373. This is the minority view in interpreting 11 U.S.C. § 362(c)(3)(A). In re Thu Thi Dao, 616 B.R. 103, 104 (Bankr. E.D. Cal. 2020) (Klein, J.) (noting over 50 cases, led by the Fifth Circuit, find that the stay does not terminate as to property of the estate and over 20 cases, led by the First Circuit and including Reswick, find that the stay ceases to protect property of the estate).

Decisions of the Ninth Circuit Bankruptcy Appellate Panel are not binding on bankruptcy courts in the Ninth Circuit. State Compensation Ins. Fund v. Zamora (In re Silverman), 616 F.3d 1001, 1005 (9th Cir. 2010 (citing Bank of Maui v. Estate Analysis, Inc., 904 F.2d 470, 472 (9th Cir. 1990))). Thus, the holding of Reswick is not binding on this court. While there is a circuit split on this issue, the Ninth Circuit has not weighed in. Compare Rose v. Select Portfolio Serv., 945 F.3d 226, 230 (5th Cir. 2019), cert. denied, 2020 U.S. LEXIS 3390 (June 29, 2020)(holding section 362(c)(3)(A) "terminates the stay only with respect to the debtor") with Smith v. State of Maine Bureau of Revenue Services (In re Smith), 910 F.3d 576, 590 (1st Cir. 2018) (holding section 362(c)(3)(A) "terminates the entire automatic stay . . . after thirty days for second time filers.").

The court has reviewed the supplemental pleadings submitted by all parties and analyzed 11 U.S.C. § 362(c) as well as the relevant case law, and holds that termination of the automatic stay under section 362(c)(3) does not extend to property of the estate. The court finds that the majority position in interpreting Bankruptcy Code section 362(c)(3) based on the express language of section 362(c)(3) and statutory construction to be more persuasive.

The court agrees with the majority of cases that "§ 362(c)(3) is not ambiguous and that extending the stay termination to the estate and property of the estate is a bridge too far that offends 'plain language' that threatens to read § 362(c)(1) out of the statute." Dao, 616 B.R. at 106. Section 362(c)(3)(A) clearly states that "the stay under subsection(a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor[.]" 11 U.S.C. § 362(c)(3)(A). The court holds that the plain language of section 362(c)(3)(A) does not terminate the automatic stay with respect to the estate or property of the estate.

Moreover, Reswick does not address how its holding that section 362(c)(3)(A) terminates the automatic stay in its entirety rather than only with respect to the debtor is reconciled with section § 362(c)(1), a provision that specifically addresses when the automatic stay terminates with respect to property of the estate. Bankruptcy Code sections 362(c)(1) and 362(c)(2) create two different schemes for termination of the automatic stay imposed under



section 362(a). Under section 362(c)(1), the automatic stay against property of the estate "continues until such property is no longer property of the estate[.]" 11 U.S.C. § 362(c)(1). Section 362(c)(2), on the other hand, provides that the automatic stay with respect to any other act continues until (a) the case is closed, (b) the case is dismissed, or (c) in a chapter 7 case involving an individual or in case under a chapter 9, 11, 12, or 13, when the discharge is granted or denied. 11 U.S.C. § 362(c)(2). Thus, there are two separate schemes for determining when the automatic stay terminates, depending upon whether the stay is against property of the estate or not, and this existed at the time that Congress enacted 11 U.S.C. § 362(c)(3). There is nothing in the language of section 362(c)(3)(A) that indicates Congress intended to trump section 362(c)(1) in enacting section 362(c)(3)(A) so that 11 U.S.C. § 362(c)(3)(A) terminates the automatic stay in its entirety rather than only with respect to the debtor. The court disagrees with the minority position interpreting section 362(c)(3)(A) that "finds ambiguity [in section 362(c)(3)(A)] and reasons that inferring such an extension is consistent with the Congressional purpose of thwarting bad-faith manipulations of bankruptcy." Dao, 616 B.R. at 106.

Accordingly, the court is inclined to DENY Debtor's motion to extend the automatic stay "with respect to the debtor" pursuant to 11 U.S.C. § 362(c)(3); however, termination of the automatic stay under section 362(c)(3) does not extend to property of the estate.

5. [12-12998](#)-A-11 **IN RE: FARSHAD TAFTI**

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION  
4-2-2012 [[1](#)]

PETER FEAR/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Continued to December 9, 2020 at 9:30 a.m.

ORDER: The court will issue an order.

Pursuant to the Debtor's Status Report filed October 30, 2020, Doc. #423, the status conference will be continued to December 9, 2020, at 9:30 a.m.

1. [20-11911](#)-A-7     **IN RE: PARAMJIT KAUR**  
[JES-1](#)

MOTION TO SELL  
9-30-2020   [[17](#)]

JAMES SALVEN/MV  
LAYNE HAYDEN/ATTY. FOR DBT.

TENTATIVE RULING:           This matter will proceed as scheduled for higher and better offers.

DISPOSITION:                 Granted.

ORDER:                        The minutes of the hearing will be the court's findings and conclusions. The Moving Party will submit a proposed order after the hearing.

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1) and will proceed as scheduled for higher and better offers. The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the above-mentioned parties in interest are entered. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

James Salven ("Trustee"), the Chapter 7 trustee of the bankruptcy estate of Paramjit Kaur ("Debtor"), moves the court pursuant to 11 U.S.C. § 363 for an order authorizing the sale of the bankruptcy estate's interest in a 2016 Freightliner commercial truck (the "Vehicle") to Debtor for the purchase price of \$35,000.00, subject to higher and better bids at the hearing. Doc. #17.

Pursuant to 11 U.S.C. § 363(b)(1), the trustee, after notice and a hearing, may "use, sell, or lease, other than in the ordinary course of business, property of the estate." Proposed sales under § 363(b) are reviewed to determine whether they are: (1) in the best interests of the estate resulting from a fair and reasonable price; (2) supported by a valid business judgment; and (3) proposed in good faith. In re Alaska Fishing Adventure, LLC, 594 B.R. 883, 887 (Bankr. D. Alaska 2018) (citing 240 N. Brand Partners, Ltd. v. Colony GFP Partners, L.P. (In re 240 N. Brand Partners, Ltd.), 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996)). "In the context of sales of estate property under § 363, a bankruptcy court 'should determine only whether the trustee's judgment [is] reasonable and whether a sound business justification exists supporting the sale and its terms.'" Alaska Fishing Adventure, 594 B.R. at 889 (quoting 3 COLLIER ON BANKRUPTCY ¶ 363.02[4] (Richard Levin & Henry J. Sommer eds., 16th ed.)). "[T]he trustee's business judgment is to be given great judicial deference." Id. at 889-90 (quoting In re Psychometric Sys., Inc., 367 B.R. 670, 674 (Bankr. D. Colo. 2007)).

Trustee believes that approval of the sale on the terms set forth in the motion is in the best interests of creditors and the estate. Doc. ##17, 19. Trustee's proposed sale to Debtor is made in consideration of the full and fair market value of the Vehicle. Doc. #19. Debtor offered to buy the Vehicle for the net purchase price of \$35,000.00, subject to overbid at the hearing. Doc. #17. The court recognizes that no commission will need to be paid because the sale is to Debtor.

It appears that the sale of the estate's interest in the Vehicle is in the best interests of the estate, the Vehicle will be sold for a fair and reasonable price, and the sale is supported by a valid business judgment and proposed in good faith.

Accordingly, subject to overbid offers made at the hearing, the court is inclined to GRANT Trustee's motion and authorize the sale of the estate's interest in the Vehicle to Debtor on the terms set forth in the motion.

2. [20-13220](#)-A-7 **IN RE: JACQUELINE MELENDEZ**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
10-16-2020 [[12](#)]

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: The OSC will be vacated.

ORDER: The court will issue an order.

The record shows that the installment fees now due have been paid. The case shall remain pending.

3. [20-12627](#)-A-7 **IN RE: RALPH/LEANNA HODGE**  
[MMW-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
10-2-2020 [[21](#)]

METRO CAPITAL FUND LLC/MV  
NICHOLAS WAJDA/ATTY. FOR DBT.  
MICHAEL WINTRINGER/ATTY. FOR MV.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition 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. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The movant, Metro Capital Fund LLC ("Movant"), seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to real property located at 16486 Mahogany Way, Delhi, California ("Property"). Doc. #21.

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtor does not have an equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, the court finds that "cause" exists to lift the stay because the debtors defaulted under the terms of the Note by failing to make the monthly payment owed on June 16, 2011, and all subsequent payments due thereafter. Moreover, by its own terms the Note matured on October 11, 2013. Movant has produced evidence that debtors are delinquent by at least \$261,581.28. Doc. #23.

The court also finds that the debtors do not have any equity in the Property and the Property is not necessary to an effective reorganization because debtors are in chapter 7. The Property is valued at \$271,605.00 and debtors owe \$419,768.68, which includes a First Trust Deed, Second Trust Deed, Third Trust Deed, a Judgment Lien and the cost of the sale. Doc. #21.

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

The order shall also provide that the bankruptcy proceeding has been finalized for purposes of California Civil Code § 2923.5.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because debtors have been in default to Movant since June 2011.

4. 19-14953-A-7     **IN RE: STARLENE VEGA**  
JHW-1

MOTION FOR RELIEF FROM AUTOMATIC STAY  
9-28-2020    [39]

SANTANDER CONSUMER USA INC./MV  
BENNY BARCO/ATTY. FOR DBT.  
JENNIFER WANG/ATTY. FOR MV.  
DISCHARGED 3/16/2020;

FINAL RULING:        There will be no hearing on this matter.

DISPOSITION:        Granted in part and denied as moot in part.

ORDER:                The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition 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. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The motion will be GRANTED IN PART as to the trustee's interest and DENIED AS MOOT IN PART as to the debtor's interest pursuant to 11 U.S.C. § 362(c)(2)(C). The debtor's discharge was entered on March 16, 2020. Doc. #23. The motion will be GRANTED IN PART for cause shown as to the chapter 7 trustee.

The movant, Santander Consumer USA Inc. ("Movant"), seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to a 2016 Acura MDX ("Vehicle"). Doc. #39

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtor does not have an equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, the court finds that "cause" exists to lift the stay because the debtor has failed to make at least eight complete post-petition payments. Movant has produced evidence that debtor is delinquent by at least \$7,218.82. Doc. #41.

The court also finds that the debtor does not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because debtor is in chapter 7. Movant values the Vehicle at \$25,750.00 and the amount owed to Movant is \$34,383.14. Doc. #39.

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

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because debtor has failed to make at least eight post-petition payments to Movant and the Vehicle is a depreciating asset.

5. [19-14781](#)-A-7     **IN RE: DEVON PERRYMAN**  
[BLF-3](#)

MOTION FOR COMPENSATION FOR LORIS L BAKKEN, TRUSTEES  
ATTORNEY(S)  
10-6-2020 [[52](#)]

SCOTT LYONS/ATTY. FOR DBT.

FINAL RULING:     There will be no hearing on this matter.

DISPOSITION:     Granted.

ORDER:            The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition 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. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Loris L. Bakken of the Bakken Law Firm ("Movant"), counsel for Chapter 7 trustee Irma C. Edmonds ("Trustee"), requests an allowance of final compensation and reimbursement for expenses for services rendered January 22, 2020 through November 3, 2020. Doc. #52. Movant provided legal services valued at \$4,950.00, and requests compensation for that amount. Doc. #52. Movant requests reimbursement for expenses in the amount of \$67.65. Doc. #52.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a "professional person." 11 U.S.C. § 330(a)(1). In determining the amount of reasonable compensation to be awarded to a

professional person, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Movant's services included, without limitation: (1) case administration; (2) disposition and recovery of estate property; and (3) settlement negotiations with the debtor. Decl., Doc. #54; Exs., Doc. #56. The court finds the compensation and reimbursement sought are reasonable, actual, and necessary.

This motion is GRANTED on a final basis. The court allows final compensation in the amount of \$4,950.00 and reimbursement for expenses in the amount of \$67.65. Trustee is authorized to make a combined payment of \$5,017.65, representing compensation and reimbursement, to Movant. Trustee is authorized to pay the amount allowed by this order from available funds only if the estate is administratively solvent and such payment is consistent with the priorities of the Bankruptcy Code.

6. [20-12695](#)-A-7     **IN RE: ALFRED DE/ISABIEL DE CRUZ**  
[JES-1](#)

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO APPEAR AT  
SEC. 341(A) MEETING OF CREDITORS FILED BY ALFRED DE LA CRUZ  
9-25-2020   [[20](#)]

FINAL RULING:        There will be no hearing on this matter.

DISPOSITION:         Conditionally denied.

ORDER:                The court will issue the order.

The chapter 7 trustee's motion to dismiss is CONDITIONALLY DENIED.

The debtor, Alfred De La Cruz, shall attend the meeting of creditors rescheduled for November 19, 2020 at 9:00 a.m. If the debtor fails to do so, the chapter 7 trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

The time prescribed in Rules 1017(e)(1) and 4004(a) for the chapter 7 trustee and the U.S. Trustee to object to the debtors' discharge or file motions for abuse, other than presumed abuse, under § 707, is extended to 60 days after the conclusion of the meeting of creditors.

7. [20-12695](#)-A-7     **IN RE: ALFRED DE/ISABIEL DE CRUZ**  
[JES-1](#)

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO APPEAR AT  
SEC. 341(A) MEETING OF CREDITORS FILED BY ISABIEL DE LA CRUZ  
9-25-2020   [[20](#)]

FINAL RULING:        There will be no hearing on this matter.

DISPOSITION:         Conditionally denied.

ORDER:                The court will issue the order.

The chapter 7 trustee's motion to dismiss is CONDITIONALLY DENIED.

The debtor, Isabiel De L Cruz, shall attend the meeting of creditors rescheduled for November 19, 2020 at 9:00 a.m. If the debtor fails to do so, the chapter 7 trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

The time prescribed in Rules 1017(e)(1) and 4004(a) for the chapter 7 trustee and the U.S. Trustee to object to the debtors' discharge or file motions for abuse, other than presumed abuse, under § 707, is extended to 60 days after the conclusion of the meeting of creditors.