

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil  
Bankruptcy Judge  
Sacramento, California

November 4, 2015 at 10:00 a.m.

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INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

1. Matters resolved without oral argument:

Unless otherwise stated, the court will prepare a civil minute order on each matter listed. If the moving party wants a more specific order, it should submit a proposed amended order to the court. In the event a party wishes to submit such an Order it needs to be titled 'Amended Civil Minute Order.'

If the moving party has received a response or is aware of any reason, such as a settlement, that a response may not have been filed, the moving party must contact Nancy Williams, the Courtroom Deputy, at (916) 930-4580 at least one hour prior to the scheduled hearing.

2. The court will not continue any short cause evidentiary hearings scheduled below.

3. If a matter is denied or overruled without prejudice, the moving party may file a new motion or objection to claim with a new docket control number. The moving party may not simply re-notice the original motion.

4. If no disposition is set forth below, the matter will be heard as scheduled.

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1. 15-27016-D-7 JENNIFER/CURTIS MARTIN CONTINUED ORDER TO SHOW CAUSE -  
FAILURE TO PAY FEES  
Final ruling: 9-18-15 [11]

The deficiency has been corrected and a civil minute order was entered on October 9, 2015 discharging this order to show cause. As such this order to show case will be removed from calendar as moot. No appearance is necessary.

2. 15-25121-D-7 PETER AMENDOLA AND MOTION FOR RELIEF FROM  
AP-1 VANESSA PERALTA AUTOMATIC STAY  
U.S. BANK, N.A. VS. 10-2-15 [46]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion is supported by the record. The debtors received their discharge on October 22, 2015 and, as a result, the stay is no longer in effect as to the debtors (see 11 U.S.C. § 362(c)(3)). Accordingly, the motion will be denied as to the debtors as moot. The court will grant relief from stay as to the trustee and the estate, and will waive FRBP 4001(a)(3). This relief will be granted by minute order. There will be no further relief afforded. No appearance is necessary.

3. 10-47422-D-7 DENNIS/SHERYL LANCASTER MOTION FOR COMPENSATION BY THE  
HSM-6 LAW OFFICE OF HEFNER, STARK &  
MAROIS, LLP FOR AARON A. AVERY,  
TRUSTEE'S ATTORNEY(S)  
9-30-15 [95]

4. 15-27023-D-7 ERIN ROBERTS MOTION FOR RELIEF FROM  
APN-1 AUTOMATIC STAY  
WELLS FARGO BANK, N.A. VS. 9-30-15 [10]

**Final ruling:**

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion is supported by the record. As such the court will grant relief from stay. As the debtor's Statement of Intentions indicates she will surrender the property, the court will also waive FRBP 4001(a)(3) by minute order. There will be no further relief afforded. No appearance is necessary.

5. 14-31929-D-7 MEDICI LOGGING, INC. MOTION FOR ADMINISTRATIVE  
MPD-8 EXPENSES  
9-28-15 [73]

**Final ruling:**

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion for payment of administrative tax claim to the Franchise Tax Board is supported by the record. As such the court will grant the motion for payment of administrative tax claim to the Franchise Tax Board. Moving party is to submit an appropriate order. No appearance is necessary.

6. 15-24832-D-7 MICHAEL ROGERS CONTINUED ORDER TO SHOW CAUSE -  
FAILURE TO PAY FEES  
9-4-15 [28]

7. 13-23439-D-7 JUST/VICKIE WILLIS MOTION FOR COMPENSATION FOR  
BHS-5 BARRY H. SPITZER, TRUSTEE'S  
ATTORNEY  
10-5-15 [83]

8. 15-24140-D-7 DONALD/CONSTANCE MOTION TO COMPEL ABANDONMENT  
GW-1 SPAINHOWER  
10-6-15 [36]

**Final ruling:**

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

9. 15-27550-D-7 WILLIE WYNN MOTION FOR RELIEF FROM  
ADR-1 AUTOMATIC STAY AND/OR MOTION  
PETER GOLCHERT VS. FOR ADEQUATE PROTECTION  
10-8-15 [14]

10. 15-24362-D-7 SCOTT SMITH MOTION TO COMPROMISE  
DMW-1 CONTROVERSY/APPROVE SETTLEMENT  
AGREEMENT WITH SCOTT M. SMITH  
AND DEBTOR'S COUNSEL ED SMITH  
9-23-15 [15]

**Final ruling:**

The matter is resolved without oral argument. There is no timely opposition to the trustee's motion to approve compromise of controversy, and the trustee has demonstrated the compromise is in the best interest of the creditors and the estate. Specifically, the motion demonstrates that when the compromise is put up against the factors enumerated in In re Woodson, 839 F.2d 610 (9<sup>th</sup> Cir. 1988), the likelihood of success on the merits, the complexity of the litigation, the difficulty in collectability, and the paramount interests of creditors, the compromise should be approved. Accordingly, the motion is granted and the compromise approved. The moving party is to submit an appropriate order. No appearance is necessary.

11. 15-26964-D-7 JASMINE FUSON

MOTION FOR WAIVER OF THE  
CHAPTER 7 FILING FEE OR OTHER  
FEE  
9-2-15 [6]

12. 13-23371-D-11 JUAN/MARGARITA RAMIREZ  
UST-2

CONTINUED MOTION FOR REVIEW OF  
FEES  
9-22-15 [247]

**Tentative ruling:**

This is the United States Trustee's motion asking the court to review the legal services provided by the Law Offices of Timothy C. Springer and Nancy Klepac ("Counsel") in this case, to determine the reasonable value of those services, and to order any excessive payments disgorged to the debtors. The hearing was continued by stipulated order to give Counsel additional time to file opposition, which Counsel has now done. For the following reasons, the court will consider continuing the hearing one last time to permit Counsel to file a motion for approval of compensation in this case.

The order authorizing the debtors to employ Counsel provided that no compensation would be permitted except upon court order following application pursuant to § 330(a) of the Bankruptcy Code, that all funds received for post-petition services were deemed to be an advance payment of fees and deemed to be property of the estate, and that all such funds were to be maintained in a trust account pending court approval of compensation. In response to the United States Trustee's motion, Counsel acknowledges it holds \$43,961 in its trust account, adding: "The Law Offices of Timothy C. Springer performed substantial work on the case for Juan and Margarita Ramirez for several years. [¶] The Law Offices of Timothy C. Springer has not been paid for any services to date relating to this case." N. Klepac Decl., filed Oct. 21, 2015, at 2:8-12. That is virtually the entire response, and no motion for approval of compensation has been filed.

The order authorizing Counsel's employment was clear that no compensation would be permitted except upon application pursuant to § 330(a). That section requires a professional employed on behalf of a trustee (or, by operation of §§ 327(a) and 1107(a), a debtor-in-possession such as the debtors in this case) to obtain court approval of his or her compensation upon noticed motion. Here, Counsel has made no such motion, not even in response to the United States Trustee's motion. In the event Counsel wishes to retain any portion of the funds it holds in trust in this case, it must file an appropriate motion for approval of its compensation and notice the motion in accordance with Fed. R. Bankr. P. 2002(a)(6). The court will hear the matter.

13. 10-36676-D-7 SUNDANCE SELF-STORAGE-EL MOTION FOR ADMINISTRATIVE  
TAA-3 DORADO LP EXPENSES  
9-30-15 [582]

**Final ruling:**

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

14. 14-31685-D-7 CATHERINE PALPAL-LATOC MOTION TO SELL AND/OR MOTION  
DNL-11 FOR COMPENSATION FOR LYON REAL  
ESTATE, BROKER(S)  
10-7-15 [133]

15. 14-31685-D-7 CATHERINE PALPAL-LATOC MOTION TO SELL AND/OR MOTION  
DNL-12 FOR COMPENSATION FOR LYON REAL  
ESTATE, BROKER(S)  
10-7-15 [140]

16. 14-28694-D-11 RICHARD/JENNIFER GARCIA CONTINUED MOTION FOR FINAL  
CAH-6 DECREE AND ORDER CLOSING CASE  
8-3-15 [96]

17. 14-21028-D-7 DANNY CAAMAL MOTION FOR COMPENSATION BY THE  
SSA-4 LAW OFFICE OF STEVEN ALTMAN, PC  
TRUSTEE'S ATTORNEY(S)  
10-14-15 [47]

**Final ruling:**

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

18. 11-46032-D-11 CROSS CHECK SERVICES, MOTION TO REOPEN CHAPTER 11  
JGD-13 LLC BANKRUPTCY CASE  
9-29-15 [231]

**CLOSED: 07/15/2014**

19. 11-46032-D-11 CROSS CHECK SERVICES, MOTION FOR ENTRY OF DISCHARGE  
JGD-14 LLC 10-14-15 [234]

**CLOSED: 07/15/2014**

**Tentative ruling:**

This is the debtor's motion for entry of a discharge. The motion was noticed pursuant to LBR 9014-1(f)(2); thus, the court would ordinarily entertain opposition, if any, at the hearing. However, the court has a preliminary concern with service of this motion. Specifically, (1) the moving party failed to serve several creditors who filed claims in this case at the addresses on their proofs of claim and failed to serve two of them at all; (2) the moving party failed to serve the party requesting special notice at DN 106 at its designated address; and (3) the moving party served the Franchise Tax Board at an incomplete address (counsel should refer to the Board's proof of claim).

The court intends to continue the hearing to allow the moving party to file a notice of continued hearing and serve it, along with the motion and supporting declaration, on the creditors not previously served or not previously served correctly, as described above. The court will hear the matter.

20. 11-46032-D-11 CROSS CHECK SERVICES,  
JGD-15 LLC MOTION FOR ORDER SETTING  
EFFECTIVE DATE OF ORDER  
10-21-15 [238]  
**CLOSED: 07/15/2014**
21. 13-32489-D-7 DENNIS GALLAGHER AND JANE  
HCS-3 DUTRA GALLAGHER MOTION TO COMPROMISE  
CONTROVERSY/APPROVE SETTLEMENT  
AGREEMENT WITH WING ENTERPRISES  
ET AL AND/OR MOTION FOR  
COMPENSATION FOR ERIC J.  
RATINOFF, SPECIAL COUNSEL(S)  
10-14-15 [82]
22. 15-25795-D-7 EVANGELINA HERNANDEZ  
DJD-1 MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
SETERUS, INC. VS. 10-12-15 [13]
23. 15-25098-D-7 NESTOR ROCES  
BLG-1 CONTINUED MOTION TO CONVERT  
CASE FROM CHAPTER 7 TO CHAPTER  
13  
9-28-15 [21]