

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable René Lastreto II  
Hearing Date: Wednesday, November 14, 2018  
Place: Department B - Courtroom #13  
Fresno, California

**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.**

9:30 AM

1. [18-13218](#)-B-7    **IN RE: VAN LAI**  
[SSA-3](#)

MOTION FOR COMPENSATION FOR STEVEN S. ALTMAN, CREDITORS  
ATTORNEY(S)  
10-10-2018    [[111](#)]

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 the 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 Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The court is aware of debtor's late filed opposition, has reviewed it and discusses it below.

11 U.S.C. § 506(b) states that an over secured creditor is "allowed . . . interest on such claim, and any reasonable fees, costs, or charges provided for under the agreement or State statute under which such claim arose."

The Ninth Circuit in Kord Enters. II v. California Commerce Bank (In re Kord Enters. II), 139 F.3d 684 (9th Cir. 1998) stated that an over secured creditor under § 506(b) "is entitled to attorneys' fees if (1) the claim is an allowed secured claim; (2) the creditor is

over secured; (3) the fees are reasonable; and (4) the fees are provided for under the agreement" (citations omitted).

Movant T2M Investments, LLC ("Movant") asks this court for fees of \$12,472.00 and expenses of \$750.33 for legal work to both enforce the settlement agreement executed between Movant and debtor, and also to enforce Movant's rights in the bankruptcy court. Doc. #111. Movant also asks for foreclosure costs of \$6,111.68 and a sum of \$10,000.00 agreed upon between Movant and debtor pursuant to a prior executed agreement. This \$10,000.00 was a "capped" amount for the attorney's fees expended by movant before the settlement agreement was signed and this bankruptcy case was filed. Debtor did file an earlier bankruptcy case which was dismissed.

First, in order for a claim to be an "allowed secured claim," claimant must file a claim secured by collateral.

Movant filed a secured claim, claim #5, on October 10, 2018. The proof of claim shows that the claim is secured by real estate. The filing of a claim is prima facie evidence of its validity and there has been no objection to the claim. See Federal Rule of Bankruptcy Procedure 3001(f).

Second, the creditor must be over secured. "In determining the secured status of a creditor under § 506(a), value is determined in light of the valuation's purpose, and the proposed disposition of the property. An allowed claim of a creditor secured by a lien on property in which the estate has an interest . . . is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property . . . . *Such value shall be determined in light of the purpose of the valuation and of the proposed disposition or use of such property*, and in conjunction with any hearing on such disposition or use or on a plan affecting such creditor's interest." See In re Alpine Group, Inc., 151 B.R. 931, 935 (9th Cir. BAP 1993); 11 U.S.C. § 506(a). In Alpine Group, the court found that the "offered price of \$1.9 million is conclusive evidence of the property's value."

Though there has been no proposed sale of the property in this case, Debtor has at numerous hearings stated that she wants to the sell the property, and movant has not objected to the value stated in debtor's schedules. Debtor's Schedule A values the subject property at \$250,000.00. Doc. #66. The total amount owed to Movant is \$165,399.58. Therefore there is an equity cushion of approximately \$84,000.00, and Movant is over secured. See doc. #115.

Third, the fees must be reasonable. The Bankruptcy Code does not define "reasonable," but the court, in its judgment, and in the absence of opposition from debtor, finds that the fees are reasonable for the following reasons.

(1) Mr. Altman's declaration states that the attorney's fees up to June 11, 2018 were capped "despite the fact they exceeded \$15,000 by counsel," and that he normally charges \$300.00 per hour, which "is either equal and quite possibly lower than other similarly situated legal practitioners with comparable experience and legal training in

my geographical area." Doc. #113. Exhibit 8 is Mr. Altman's invoice for fees details what tasks he performed and the time required for performance. The court finds that Mr. Altman's fees are reasonable for the work performed.

(2) Mr. Cory Chartrand's declaration states that his office "incurred fees of \$2,692 and costs of \$461.90 in connection with the legal work required to defend T2M Investments, LLC from various state court matters advanced" by debtor since June 12, 2018 to the present. Doc. #114. He further states that "over \$5,000 in fees were reduced." *Id.* Exhibit 9 is Mr. Chartrand's invoice for fees and details what tasks he performed and the time required for performance. The court finds that Mr. Chartrand's fees are reasonable for the work performed.

The court also finds that the costs requested are reasonable. Movant asks for foreclosure costs of \$6,111.68 and "capped attorney's fees" of \$10,000.00 agreed upon between Movant and debtor pursuant to a settlement agreement (Exhibit 1).

Fourth, the court finds that the costs and fees requested are provided for in the agreements.

Exhibit 1, the "Settlement and Release Agreement," states "{Debtor} agrees to pay T2M' [s] claim for attorney fees incurred in enforcing its note and deed of trust as part of its claim, during the foreclosure, state court and federal bankruptcy court proceedings, irrespective of whether or not the loan funds on T2M's secured claim. However the subject fees shall be capped at \$10,000."

Exhibit 2, the "Straight Promissory Note," states "[i]f action be instituted on this Note, I promise to pay such sum as the Court may fix as attorney's fees."

Exhibit 3, the "First Deed of Trust," states "[t]o appear in and defend any action or proceeding purporting to affect the security hereof or the rights and powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary to foreclose this Deed."

The court finds that the requested relief is reasonable and agreed upon under both the underlying loan documents and the pre-petition Settlement Agreement.

The court notes the late-filed opposition by debtor. Doc. #126. The court strikes the opposition under LBR 9014-1(1). But, even if the opposition was not late and therefore not stricken, the opposition does not raise any actual arguments against the motion. Debtor does not claim that movants' fees are unreasonable or excessive, does not dispute their over secured status, the validity of the claim, nor that the agreements do not provide for attorney's fees and costs.

In fact, Debtor admitted in the Recitals to the Settlement Agreement that as of the date of the agreement (June 11, 2018), the obligation

was valid and enforceable. Doc. #117. Movant performed the agreement and gave the debtor the additional time to pay off or re-finance the loan contemplated by the agreement. Debtor also agreed to the \$10,000.00 flat fee for fees through the settlement agreement was for enforcing the note and deed of trust. *Id.* Finally, the settlement agreement included a release whereby Debtor released Movant and the foreclosing trustee for anything up to the time of the settlement. Movant performed.

Debtor's opposition raises the substantially identical arguments that this court has previously decided against the debtor. Debtor mainly argues that the motion should be denied because movant committed fraud in various ways and at various times. Debtor also states that Movant engaged in "settlement fraud," which the court assumes to mean that Movant did not perform the settlement agreement or fraudulently induced her to sign. This motion is not the way to raise those arguments. Such claims should be the subject of an adversary proceeding. The debtor, however, is not the party in interest to bring such an action since this case is a Chapter 7 proceeding; the real party in interest is the trustee. Based on the record before the court at this time, the underlying loan documents and the Settlement Agreement are unambiguous. The documents provide for fees and costs. Debtor provides no evidence, in any form, to substantiate debtor's allegations.

The motion is GRANTED.

2. [14-11619](#)-B-7     **IN RE: DONALD ANGLE AND MARY HOLLAUER**  
[ICE-5](#)

MOTION FOR ADMINISTRATIVE EXPENSES  
10-4-2018    [[116](#)]

JAMES SALVEN/MV  
BENNY BARCO  
IRMA EDMONDS/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 the 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 Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. Trustee is authorized to file debtors' federal and state income tax returns and to pay the taxes on their behalf. The Federal Income Taxes for both debtors is \$12,770.00 each, and the California State Income Taxes for both debtors is \$4,152.00, each, for a total of \$33,844.00.

3. [14-11619](#)-B-7      **IN RE: DONALD ANGLE AND MARY HOLLAUER**  
[RTW-2](#)

MOTION FOR COMPENSATION FOR RATZLAFF TAMBERI & WONG,  
ACCOUNTANT(S)  
10-12-2018    [[120](#)]

RATZLAFF TAMBERI & WONG/MV  
BENNY BARCO

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 has been set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the 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.

The motion will be GRANTED. Trustee's accountants, Ratzlaff, Tamberini & Wong, requests fees of \$2,091.00 and costs of \$23.97 for a total of \$2,114.97 for services rendered from September 28, 2017 through September 27, 2018.

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." Movant's services included, without limitation: (1) Reviewing the bankruptcy petition, estate files, and current accounting information for tax issues, (2) Preparation of the state

and federal fiduciary income tax returns for debtors, and (3) Preparation of the fee application.

Movant shall be awarded \$2,091.00 in fees and \$23.97 in costs.

4. [18-13919](#)-B-7     **IN RE: ANTONIA HILLS**  
[CJC-4](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
10-12-2018    [[19](#)]

62 HUNDRED HOLLYWOOD NORTH  
L.P./MV  
CALVIN CLEMENTS/ATTY. FOR MV.

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

DISPOSITION:         Denied without prejudice.

ORDER:                The court will issue an order.

This motion is DENIED WITHOUT PREJUDICE for failure to comply with the Local Rules of Practice ("LBR").

The notice did not contain the language required under LBR 9014-1(d)(3)(B)(iii). LBR 9014-1(d)(3)(B), which is about noticing requirements, requires movants to notify respondents that they can determine whether the matter has been resolved without oral argument or if the court has issued a tentative ruling by checking the Court's website at [www.caeb.uscourts.gov](http://www.caeb.uscourts.gov) after 4:00 p.m. the day before the hearing.

5. [18-13823](#)-B-7     **IN RE: AMBER SALVESON**  
[JHW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
10-12-2018    [[12](#)]

SANTANDER CONSUMER USA INC./MV  
JERRY LOWE  
JENNIFER WANG/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 the 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 Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The movant, Santander Consumer USA Inc., seeks relief from the automatic stay under § 362(d)(1) and (d)(2) with respect to a 2016 Dodge Ram 1500.

11 U.S.C. § 362(d)(1) allows the court to grant relief from 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) allow the court to grant relief from stay if the debtor does not have equity in the property and the property is not necessary to an effective reorganization.

After review of the included evidence, the court concludes that "cause" exists to lift the stay because debtor has defaulted on his payments to movant, there is no equity in the vehicle, and no evidence exists that it is necessary to a reorganization because debtor is in chapter 7. The movant has produced evidence that the vehicle has a value of \$35,900.00 and debtor owes movant \$42,034.65. Doc. #14.

The court also notes that the trustee filed a report of no distribution on October 30, 2018.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) to permit the 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 due to the fact that the vehicle is depreciating in value.



6. [18-13224](#)-B-7     **IN RE: ANTHONY CORRAL**  
[JCW-1](#)

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY  
8-29-2018    [[11](#)]

JPMORGAN CHASE BANK, NATIONAL  
ASSOCIATION/MV  
DAVID JENKINS  
JENNIFER WONG/ATTY. FOR MV.  
RESPONSIVE PLEADING

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

DISPOSITION:         Continued to March 20, 2019 at 9:30 a.m.

ORDER:                The court will issue an order.

Pursuant to the parties' stipulation, this matter will be continued to March 20, 2019 at 9:30 a.m. in order for the trustee to list the property for sale, obtain an offer to purchase, and sell the property. Any sale of the collateral must be of benefit to the estate and must pay JPMorgan Chase in full.

7. [18-13531](#)-B-7     **IN RE: RALPH LOPEZ**  
[TMT-1](#)

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO  
APPEAR AT SEC. 341(A) MEETING OF CREDITORS  
10-3-2018    [[12](#)]

GRISELDA TORRES

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 debtors shall attend the meeting of creditors rescheduled for November 19, 2018 at 10:30 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.

8. [18-13733](#)-B-7     **IN RE: MIRETZA FLORES**  
[JHW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
10-2-2018    [11]

SANTANDER CONSUMER USA INC./MV  
ERIC ESCAMILLA  
JENNIFER WANG/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 the 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 Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The movant, Santander Consumer USA Inc., seeks relief from the automatic stay under § 362(d)(1) and (d)(2) with respect to a 2013 Chevrolet Malibu.

11 U.S.C. § 362(d)(1) allows the court to grant relief from 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) allow the court to grant relief from stay if the debtor does not have equity in the property and the property is not necessary to an effective reorganization.

After review of the included evidence, the court concludes that "cause" exists to lift the stay because debtor has defaulted on his payments to movant, there is no equity in the vehicle, and no evidence exists that it is necessary to a reorganization because debtor is in chapter 7. The movant has produced evidence that the vehicle has a value of \$9,075.00 and debtor owes movant \$16,003.40. Doc. #14.

The court also notes that the trustee filed a report of no distribution on October 11, 2018. Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) to permit the 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 due to the fact that the vehicle is depreciating in value and is to be surrendered.

9. [18-13234](#)-B-7     **IN RE: SKILLS CONSTRUCTION, INC.**  
[JES-1](#)

MOTION TO EMPLOY BAIRD'S AUCTIONS AS AUCTIONEER, AUTHORIZING SALE OF PROPERTY AT PUBLIC AUCTION AND AUTHORIZING PAYMENT OF AUCTIONEER FEES AND EXPENSES  
10-3-2018    [8]

JAMES SALVEN/MV  
THOMAS GILLIS

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 the 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 Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. The chapter 7 trustee ("Trustee") is authorized to employ Jeffrey S. Baird of Baird's Auctions as auctioneer ("Auctioneer"), to sell one small table saw, one small chop saw, and two Ford vans at an auction to be held on Tuesday, November 20, 2018 at 5:30 p.m. at Baird's Auctions located at 1328 N. Sierra Vista, Suite B, Fresno, California.

Trustee is authorized to pay a 15% commission of the gross sale price to Auctioneer, in addition of estimated expenses not to exceed \$250.00.

10. [18-13539](#)-B-7     **IN RE: JAVIER SARA**  
[RWR-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
10-2-2018    [\[13\]](#)

HUNGER FOUNDATION/MV  
BENNY BARCO  
RUSSELL REYNOLDS/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 the 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 Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The movant, Feed the Hunger Foundation, a California nonprofit corporation, seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to "debtor's personal property used in his business described generally as equipment, account, and general intangibles." Doc. #13.

11 U.S.C. § 362(d)(1) allows the court to grant relief from 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).

After review of the included evidence, the court concludes that "cause" exists to lift the stay because debtor has defaulted on his payments to movant. Doc. #15. Debtor owes movant \$60,665.23

The court also notes that the trustee filed a report of no distribution on October 11, 2018.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) to permit the 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 due to the fact that the property is depreciating in value.

11. [18-14144](#)-B-7 **IN RE: LUCAS/JENNIFER LEES**

MOTION FOR TEMPORARY WAIVER OF THE CREDIT COUNSELING  
REQUIREMENT  
10-12-2018 [[1](#)]

LUCAS LEES/MV  
GLEN GATES

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

DISPOSITION: Dropped from calendar.

ORDER: The court will issue the order.

The requirement for filing the credit counseling certificates pre-petition is waived because debtors filed credit counseling certificates four days after the petition was filed.

12. [18-13758](#)-B-7 **IN RE: DONNIE/KELLY BROOKS**  
[SL-3](#)

MOTION TO COMPEL ABANDONMENT  
11-1-2018 [[26](#)]

DONNIE BROOKS/MV  
STEPHEN LABIAK  
OST 11/1/18

TENTATIVE RULING: This matter will proceed as scheduled.

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 hearing.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(3) and an order shortening time (doc. #33) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the

court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

This motion is GRANTED. 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." In order to grant a motion to abandon property, the bankruptcy court must find either that: (1) the property is burdensome to the estate or (2) of inconsequential value and inconsequential benefit to the estate. In re Vu, 245 B.R. 644, 647 (9th Cir. B.A.P. 2000). As one court noted, "an order compelling abandonment is the exception, not the rule. Abandonment should only be compelled in order to help the creditors by assuring some benefit in the administration of each asset... Absent an attempt by the trustee to churn property worthless to the estate just to increase fees, abandonment should rarely be ordered." In re K.C. Mach. & Tool Co., 816 F.2d 238, 246 (6th Cir. 1987). And in evaluating a proposal to abandon property, it is the interests of the estate and the creditors that have primary consideration, not the interests of the debtor. In re Johnson, 49 F.3d 538, 541 (9th Cir. 1995) (noting that the debtor is not mentioned in § 554). In re Galloway, No. AZ-13-1085-PaKiTa, 2014 Bankr. LEXIS 3626, at 16-17 (B.A.P. 9th Cir. 2014).

After review of the evidence and record, the court finds that the property used in the debtors' business known as FARMERS INSURANCE, in addition to the personal property listed on Schedule A/B as "Furniture and Furnishings," "Retirement Account with American Funds," "Southern California Edison 401(k) Plan," "Retirement Account with CAL STRS," and "Pension Plan of Land O'Lakes" are of inconsequential value or benefit to the estate, and shall therefore be abandoned.

13. [18-13085](#)-B-7 **IN RE: JUAN CUEVAS GARCIA AND NORMA CUEVAS**  
[RPZ-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
9-28-2018 [[21](#)]

U.S. BANK NATIONAL  
ASSOCIATION/MV  
MARK ZIMMERMAN  
ROBERT ZAHRADKA/ATTY. FOR MV.  
RESPONSIVE PLEADING

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 the 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 Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The movant, U.S. Bank National Association, seeks relief from the automatic stay under § 362(d)(1) and (d)(2) with respect to a 2017 Chevrolet Traverse.

11 U.S.C. § 362(d)(1) allows the court to grant relief from 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 stay if the debtor does not have equity in the property and the property is not necessary to an effective reorganization.

After review of the included evidence, the court concludes that "cause" exists to lift the stay because debtor has defaulted on payments owed to Movant, there is no equity in the vehicle, and no evidence exists that it is necessary to a reorganization. The movant has produced evidence that the vehicle has a value of \$22,623.00 and debtor owes \$39,720.34. Doc. #23.

The court notes that the debtor filed a non-opposition to the granting of this motion. Docket #30.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) to permit the 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 due to the fact that the vehicle is depreciating in value.

14. [18-12796](#)-B-7    **IN RE: DEANNA QUIROZ**  
[JMP-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
10-1-2018    [\[14\]](#)

JPMORGAN CHASE BANK, N.A./MV  
JERRY LOWE  
JOSEPH PLEASANT/ATTY. FOR MV.  
DISCHARGED 10/23/18

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

DISPOSITION:        Denied without prejudice.

ORDER:                The court will issue an order.

This motion is DENIED WITHOUT PREJUDICE for failure to comply with the Federal Rules of Bankruptcy Procedure.

Fed. R. Bankr. P. 7004(g) states that if the debtor is represented by an attorney, then if the debtor is served with the moving papers, so must debtor's counsel.

The court notes that the certificate of service (doc. #19) shows only the debtors and the court were served with the moving papers. Neither the chapter 7 trustee, the United States Trustee, nor debtors' counsel were served.

Movant must properly serve the above parties before the court can review the substance of the motion.

15. [18-10097](#)-B-7    **IN RE: JAEGER PHOTO CORP.**  
[JES-3](#)

MOTION FOR ADMINISTRATIVE EXPENSES  
10-16-2018    [\[45\]](#)

JAMES SALVEN/MV  
HAGOP BEDOYAN  
JAMES SALVEN/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 the 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 Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

This motion is GRANTED. Trustee is authorized to make an interim distribution in payment of an Administrative Expense for California Corporate Franchise Tax is the amount of \$829.00.

16. [18-10097](#)-B-7     **IN RE: JAEGER PHOTO CORP.**  
[JES-4](#)

MOTION FOR COMPENSATION FOR JAMES SALVEN, ACCOUNTANT(S)  
10-16-2018     [50]

JAMES SALVEN/MV  
HAGOP BEDOYAN

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 has been set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the 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.

The motion will be GRANTED. Trustee's accountant, James E. Salven, requests fees of \$1,350.00 and costs of \$232.09 for a total of \$1,582.09 for services rendered from June 8, 2018 through October 15, 2018.

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." Movant's services included, without limitation: (1) Preparation of employment and fee applications, and (2) Preparing

tax returns. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded \$1,350.00 in fees and \$232.09 in costs.

17. [16-14199](#)-B-7 **IN RE: HARLAN/VIRGINIA TYLER**  
[JES-3](#)

MOTION FOR COMPENSATION FOR JAMES E. SALVEN, CHAPTER 7  
TRUSTEE(S)  
10-16-2018 [88]

JAMES SALVEN/MV  
RILEY WALTER  
PETER FEAR/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 has been set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the 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.

The motion will be GRANTED. The chapter 7 Trustee, James E. Salven, requests fees of \$10,807.58 and costs of \$224.92 for a total of \$11,032.50 for services rendered since November 21, 2016.

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." Movant's services included, without limitation: (1) Reviewing the petition and conducting the § 341 meeting, (2) Resolving tort settlement, (3) reviewing and approval of claims, (4) and general administrative tasks. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded \$1,350.00 in fees and \$232.09 in costs.

18. [18-13399](#)-B-7    **IN RE: ROBERTO SOSA URTIZ AND YANET DE SOSA**  
[DCF-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
11-2-2018    [\[37\]](#)

BMO HARRIS BANK N.A./MV  
REBECCA TOMILOWITZ  
DANIEL FLEMING/ATTY. FOR MV.

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

DISPOSITION:        Continued to December 4, 2018 at 9:30 a.m.

ORDER:                The court will issue an order.

This motion is Continued to December 4, 2018 at 9:30 a.m. The court notes movant's failure to comply with the Local Rules of Practice ("LBR").

First, LBR 9014-1(f) requires motions to be noticed at least 14 days' prior to the hearing, unless an order shortening time is submitted and signed by the court.

This motion was filed and served on November 2, 2018 and set for hearing on November 14, 2018. Doc. #38, 42. November 14, 2018 is 12 days after November 2, 2018, and therefore this hearing was set on less than 14 days' notice. No request for an order shortening time was submitted by movant.

Second, an amended notice of hearing was filed on November 7, 2018. Doc. #45. However, no proof of service has been filed as of November 8, 2018. LBR 9014-1(e)(2) requires that a proof of service be filed on or before November 13, 2018 or the motion will be denied without prejudice.

11:00

1. [18-13085](#)-B-7     **IN RE: JUAN CUEVAS GARCIA AND NORMA CUEVAS**

REAFFIRMATION AGREEMENT WITH FIFTH THIRD BANK  
10-11-2018   [\[29\]](#)

MARK ZIMMERMAN

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

DISPOSITION:     Denied.

ORDER:            The court will issue an order.

Debtors' counsel will inform debtors that no appearance is necessary.

Both the reaffirmation agreement and the bankruptcy schedules show that reaffirmation of this debt creates a presumption of undue hardship which has not been rebutted in the reaffirmation agreement. Although the debtor's attorney executed the agreement, the attorney could not affirm that, (a) the agreement was not a hardship and, (b) the debtor would be able to make the payments.

2. [18-13389](#)-B-7     **IN RE: JOSHUA RESENDEZ AND KRISTI REED**

REAFFIRMATION AGREEMENT WITH AMERICREDIT FINANCIAL SERVICES,  
INC.  
10-2-2018   [\[19\]](#)

TIMOTHY SPRINGER

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

DISPOSITION:     Denied.

ORDER:            The court will issue an order.

Debtors' counsel will inform debtors that no appearance is necessary.

Both the reaffirmation agreement and the bankruptcy schedules show that reaffirmation of this debt creates a presumption of undue hardship which has not been rebutted in the reaffirmation agreement. Although the debtor's attorney executed the agreement, the attorney could not affirm that, (a) the agreement was not a hardship and, (b) the debtor would be able to make the payments.

3. [18-13691](#)-B-7     **IN RE: NELS BLOOM**

REAFFIRMATION AGREEMENT WITH BANK OF THE WEST  
10-11-2018    [\[13\]](#)

TIMOTHY SPRINGER

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

DISPOSITION:         Denied.

ORDER:                The court will issue an order.

Debtors' counsel will inform debtors that no appearance is necessary.

Both the reaffirmation agreement and the bankruptcy schedules show that reaffirmation of this debt creates a presumption of undue hardship which has not been rebutted in the reaffirmation agreement. Although the debtor's attorney executed the agreement, the attorney could not affirm that, (a) the agreement was not a hardship and, (b) the debtor would be able to make the payments.

4. [18-13697](#)-B-7     **IN RE: JOHN/PA MELIKIAN**

PRO SE REAFFIRMATION AGREEMENT WITH NOBLE CREDIT UNION  
10-24-2018    [\[13\]](#)

NO RULING.

1:30 PM

1. [18-12011](#)-B-7    **IN RE: ARSHAD HUSSAIN**  
[18-1054](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
8-24-2018    [[1](#)]

RASUL V. HUSSAIN  
ALICIA HINTON/ATTY. FOR PL.

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

DISPOSITION:        Continued to January 16, 2019 at 1:30 p.m.

ORDER:                The court will issue an order.

Plaintiff shall file a motion for entry of default and judgment or dismissal before the continued hearing. If such a motion is filed, the status conference will be dropped and the court will hear the motion when scheduled. If no motion for default and judgment or dismissal is filed prior to the continued hearing, the court will issue an order to show cause on why this case should not be dismissed for failure to prosecute.

2. [18-13218](#)-B-7    **IN RE: VAN LAI**  
[18-1056](#)

STATUS CONFERENCE RE: COMPLAINT  
8-30-2018    [[1](#)]

LAI V. T2M INVESTMENTS, LLC ET  
AL  
VAN LAI/ATTY. FOR PL.  
RESPONSIVE PLEADING

NO RULING.

3. [18-10973](#)-B-13    **IN RE: GLENN BEVER**  
[18-1034](#)    [LL-3](#)

MOTION TO EXPUNGE  
10-10-2018    [[69](#)]

BEVER ET AL V. CITIMORTGAGE,  
INC.  
REGINA MCCLENDON/ATTY. FOR MV.  
DISMISSED 10/17/18

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            Movant withdrew the motion. Doc. #82.

4. [18-10376](#)-B-7    **IN RE: AMMANDO/MARIA MORALEZ**  
[18-1060](#)

STATUS CONFERENCE RE: COMPLAINT  
9-12-2018    [[1](#)]

FEAR V. THE UNITED STATES OF  
AMERICA DEPARTMENT OF TREASUR  
TRUDI MANFREDO/ATTY. FOR PL.

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            The case has already been dismissed. Doc. #10.

5. [18-10376](#)-B-7    **IN RE: AMMANDO/MARIA MORALEZ**  
[18-1061](#)

STATUS CONFERENCE RE: COMPLAINT  
9-12-2018    [[1](#)]

FEAR V. STATE OF CALIFORNIA  
FRANCHISE TAX BOARD  
TRUDI MANFREDO/ATTY. FOR PL.

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

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED:            The case has already been dismissed. Doc. #10,  
11.

6. [17-13797](#)-B-9    **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**  
[18-1022](#)

STATUS CONFERENCE RE: COMPLAINT  
4-30-2018    [[1](#)]

TULARE LOCAL HEALTHCARE  
DISTRICT V. LAVERS ET AL  
RILEY WALTER/ATTY. FOR PL.  
ECF ORDER #37 CONTINUING TO 12/19/18

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

DISPOSITION:                    Continued to December 19, 2018 at 1:30 p.m.

NO ORDER REQUIRED:        An order has already been issued. Doc. #37.