UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Michael S. McManus
Bankruptcy Judge
Sacramento, California

December 29, 2014 at 10:00 a.m.

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

2, 4, 5, 6, 11

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

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

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

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

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

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

TO DEVELOP THE WRITTEN RECORD FURTHER.

IF THE COURT SETS A FINAL HEARING, UNLESS THE PARTIES REQUEST A DIFFERENT SCHEDULE THAT IS APPROVED BY THE COURT, THE FINAL HEARING WILL TAKE PLACE ON JANUARY 26, 2015 AT 10:00 A.M. OPPOSITION MUST BE FILED AND SERVED BY JANUARY 12, 2015, AND ANY REPLY MUST BE FILED AND SERVED BY JANUARY 20, 2015. THE MOVING/OBJECTING PARTY IS TO GIVE NOTICE OF THESE DATES.

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

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

MATTERS FOR ARGUMENT

1. 14-29102-A-7 GWENDOLYN SHEPPHARD — TRUSTEE'S MOTION TO DISMISS
MDM-1 — 11-19-14 [9]

Tentative Ruling: The motion will be denied.

The trustee moves for dismissal because the debtor did not attend the meeting of creditors held on November 18, 2014.

The debtor responds that she missed the meeting because she had fallen and had her leg placed in a cast that is to be removed on December 23, 2014. She says that her attorney was notified.

Given that the debtor was unable to attend the November 18 meeting due to her fall and necessary recovery, the motion will be denied and the case will not be dismissed. However, because the meeting of creditors was continued to January 20, 2015 at 10:30 a.m., the court will order that the deadlines for filing complaints under 11 U.S.C. §§ 523 and 727, and motions to dismiss under 11 U.S.C. § 707 be extended by 60 days. The deadlines will be extended from January 5, 2015 to March 6, 2015.

2. 14-31111-A-7 DONALD/JESICA WELLS — MOTION FOR RELIEF FROM AUTOMATIC STAY
SW-1 — 12-3-14 [9]
ALLY BANK VS.

Tentative Ruling: The motion will be dismissed as moot.

The movant, Ally Bank, seeks relief from the automatic stay with respect to a 2011 Dodge Ram vehicle.

11 U.S.C. § 521(a)(2)(A) requires an individual chapter 7 debtor to file a statement of intention with reference to property that secures a debt. The statement must be filed within 30 days of the filing of the petition (or within 30 days of a conversion order, when applicable) or by the date of the meeting of creditors, whichever is earlier. The debtor must disclose in the statement whether he or she intends to retain or surrender the property, whether the property is claimed as exempt, and whether the debtor intends to redeem such property or reaffirm the debt it secures. See 11 U.S.C. § 521(a)(2)(A); Fed. R. Bankr. P. 1019(1)(B).

The petition here was filed on November 11, 2014 and a meeting of creditors was first convened on December 18, 2014. Therefore, a statement of intention that refers to the movant's property and debt was due no later than December 11. The debtor filed a statement of intention on the petition date, but the debtor did not list the vehicle in the statement.

If the property securing the debt is personal property and an individual chapter 7 debtor fails to file a statement of intention, or fails to indicate in the statement that he or she either will redeem the property or enter into a reaffirmation agreement, or fails to timely surrender, redeem, or reaffirm, the automatic stay is automatically terminated and the property is no longer property of the bankruptcy estate. See 11 U.S.C. § 362(h).

Here, although the debtor filed a statement of intention on the petition, the debtor did not list the vehicle in the statement. And, no reaffirmation

agreement or motion to redeem has been filed, nor has the debtor requested an extension of the 30-day period. As a result, the automatic stay automatically terminated on December 11, 2014, 30 days after the petition date.

The trustee may avoid automatic termination of the automatic stay by filing a motion within whichever of the two 30-day periods set by section 521(a)(2) is applicable, and proving that such property is of consequential value or benefit to the estate. If proven, the court must order appropriate adequate protection of the creditor's interest in its collateral and order the debtor to deliver possession of the property to the trustee. If not proven, the automatic stay terminates upon the conclusion of the hearing on the trustee's motion. See 11 U.S.C. § 362(h)(2).

The trustee in this case has filed no such motion and the time to do so has expired. The court also notes that the trustee filed a "no-asset" report on December 18, 2014, indicating an intent not to administer the vehicle or any other assets.

Therefore, without this motion being filed, the automatic stay terminated on December 11, 2014.

Nothing in section 362(h)(1), however, permits the court to issue an order confirming the automatic stay's termination. 11 U.S.C. § 362(j) authorizes the court to issue an order confirming that the automatic stay has terminated under 11 U.S.C. § 362(c). See also 11 U.S.C. § 362(c)(4)(A)(ii). But, this case does not implicate section 362(c). Section 362(h) is applicable and it does not provide for the issuance of an order confirming the termination of the automatic stay. Therefore, if the movant needs a declaration of rights under section 362(h), an adversary proceeding seeking such declaration is necessary. See Fed. R. Bankr. P. 7001.

3. 13-30013-A-7 JON/FAITH PARMER — MOTION TO COMPEL ABANDONMENT 11-18-14 [61]
BB-3

Tentative Ruling: The motion will be granted in part and denied in part.

The debtors request an order compelling the trustee to abandon the estate's interest in their:

- commercial real property in Redding, California (307 and 333) Park Marina Drive);
- residential real property in Redding, California;
- blade sharpening business, consisting of tools of trade personal property;

- 2012 Mini Cooper; and
- personal property assets, consisting of bank accounts, household and personal items, vehicles and a promissory note.

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.

The commercial real property has a value of $1.2 million, whereas it is encumbered by a first deed of trust held by North Valley Bank in the amount of $1,280,621. Dockets 1 & 22.

The residential real property has a value of $435,000, whereas it is encumbered by a first deed of trust held by Ocwen Loan Servicing in the amount of $435,706. Docket 22.

The tools of trade for the blade sharpening business consist of miscellaneous sharpening equipment with a value of $1,000 and two sharpening machines with a value of $300. The debtors have exempted the tools of trade in their entirety, pursuant to Cal. Civ. Proc. Code § 703.140(b)(6). Docket 38.

The 2012 Mini Cooper vehicle has a value of $20,054, whereas it is encumbered by a claim held by BMW Bank of North America in the amount of $22,021. Dockets 1 & 22.

Given the above encumbrances and exemptions, the commercial real property, the residential real property, the miscellaneous sharpening equipment, the sharpening machines, and the 2012 Mini Cooper are of inconsequential value to the estate. Accordingly, abandonment of these assets is warranted. The court will order these assets abandoned.

However, the court will not permit abandonment as to the other personal property items, described in the motion as, "bank accounts, household and personal items, vehicles and a promissory note." These assets have not been itemized. For instance, the motion does not outline each bank account held by the debtors, listing its value and corresponding exemption claim or encumbrance. The motion also does not list any other vehicles besides the 2012 Mini Cooper.

Also, even though the motion lists the balance owed on the promissory note and lists the debtors' exemption in the note, the note has been sold by the trustee. The court approved its sale on December 3, 2014. Dockets 70 & 71.

4. 13-30013-A-7 JON/FAITH PARMER — MOTION TO APPROVE COMPENSATION OF ACCOUNTANT
MPD-6 — 12-8-14 [72]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the trustee's accountant, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the creditors, the debtor, the trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted.

Wayne Brown, accountant for the estate, has filed his first and final application for approval of compensation. The requested compensation consists of $1,200 in fees and $0.00 in expenses. This motion covers the period from September 15, 2013 through the present. The court approved the movant's employment as the estate's accountant on October 14, 2013. In performing its services, the movant charged an hourly rate of $150.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant's services included the preparation of estate tax returns.

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

5. 13-30013-A-7 JON/FAITH PARMER — MOTION TO APPROVE COMPENSATION OF TRUSTEE
MPD-7 — 12-8-14 [78]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the trustee's counsel, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the creditors, the debtor, the trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted.

Michael Dacquisto, attorney for the trustee, has filed his first and final motion for approval of compensation. The requested compensation consists of $12,250 in fees and $784.90 in expenses, for a total of $13,034.90. This motion covers the period from August 23, 2013 through December 29, 2014. The court approved the movant's employment as the trustee's attorney on September 12, 2013. In performing its services, the movant charged an hourly rate of $350.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant's services included, without limitation: (1) preparing and prosecuting a motion for approval of the administrative claim of Mike Boban Construction, (2) preparing and prosecuting an objection to the debtor's exemption claim in a promissory note, (3) preparing and prosecuting a motion for the sale of the note, (4) advising the trustee about various issues, and (5) preparing and filing employment and compensation motions.

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

To the extent applicable, the movant shall deduct from the allowed compensation any fees or costs that have been estimated but not incurred.

6. 11-44616-A-7 LOYD/VERNA HOSTETTER — MOTION TO ABANDON
DNL-6 — 12-15-14 [97]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the trustee, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the creditors, the debtor, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted.

The trustee wishes to abandon the estate's leasehold interest in a real property in Grass Valley, California. The debtors leased the property from the owner and then subleased it.

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

In March 2014, the court granted authority to the trustee to operate the property by paying necessary expenses and collecting the $3,600 a month in sublease payments from the sublessee. The net monthly benefit to the estate, after making the $2,628 lease payment to the owner, is $972. Although the trustee has collected some of the sublease payments, she has been unable to liquidate the estate's leasehold interest in the property. The sublessee has stopped making payments to the estate, claiming that the property is in need of repairs.

Given this, the court concludes that the estate's leasehold interest in the property is of inconsequential value to the estate. The motion will be granted.

7. 14-30320-A-7 PETER WOLK — MOTION FOR RELIEF FROM AUTOMATIC STAY
PJR-1 — 12-1-14 [52]
TRI COUNTIES BANK VS.

Tentative Ruling: The motion will be granted in part.

The movant, Tri-Counties Bank, seeks relief from the automatic stay as to a real property in Chico, California. The movant purchased the property at a pre-petition foreclosure sale, on September 24, 2014. Although the movant's supporting declaration (Docket 54 at 2) states that the foreclosure sale was set for October 28, 2014, after the October 17, 2014 petition date, the motion (Docket 52 at 2) states that the foreclosure sale actually took place pre-petition, on September 24, 2014.

As the debtor confirms in his statement of financial affairs (item 5) and his non-opposition to this motion that he lost the property to a pre-petition foreclosure sale conducted on September 24, 2014, the court deems the October 28 sale date in the movant's supporting declaration to be an error.

The debtor filed this case on October 17, 2014.

This is a liquidation proceeding and the debtor has no interest in the property as the movant purchased it pre-petition. This is cause for the granting of relief from stay. Accordingly, the motion will be granted for cause pursuant to 11 U.S.C. § 362(d)(1) in order to permit the movant to proceed with its unlawful detainer action against the debtor in state court. The movant may go to state court in order to determine who is entitled to possession of the property. If the movant prevails, no monetary claim may be collected from the debtor. The movant is limited to recovering possession of the property if such is permitted by the state court. No other relief will be awarded.

Even though the movant asks "to exercise any of its lawful non-bankruptcy remedies to recover any insurance or other proceeds of its Collateral," there is no basis for such relief in the motion. Docket 52 at 2. The motion discloses no insurance coverage or other proceeds from which the movant could benefit. Such relief is also puzzling when one considers that the movant has owned the property since three weeks before this case was filed.

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

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

8. 14-30833-A-11 SHASTA ENTERPRISES
DBJ-3

MOTION TO USE CASH COLLATERAL AND TO MAKE ADEQUATE PROTECTION PAYMENTS
11-25-14 [43]

Tentative Ruling: The motion will be denied without prejudice.

The debtor seeks approval to use cash collateral of some of its secured creditors. Secured creditors Joe Curto and Lavone Curto, as co-trustees of the Curto Family Trust, have filed a limited objection to the motion. Redding Bank of Commerce opposes the motion, seeking denial of any use of cash collateral.

11 U.S.C. § 1107(a) provides that a debtor-in-possession shall have all rights, powers, and shall perform all functions and duties, subject to certain exceptions, of a trustee, "[s]ubject to any limitations on [that] trustee." This includes the trustee's rights under 11 U.S.C. § 363. 11 U.S.C. § 363(c)(2)(B), (c)(3), (e) provides that, when the secured claimants with interest in the cash collateral do not consent, after notice and a hearing, "the court . . . shall prohibit or condition such use [of cash collateral] . . . as is necessary to provide adequate protection of such interest."

The motion will be denied.

The debtor has not carried its burden of persuasion that the interests of the creditors in the cash collateral the debtor is seeking to use are adequately protected. The motion is short on information and evidence.

First, the motion makes virtually no effort to brief the standard for the allowance of use of cash collateral. While the motion mentions 11 U.S.C. § 363, it does not discuss the standard for allowance of use of cash collateral.

Second, while the court sees the list of properties generating monthly rental income for the debtor in Exhibit A, there is nothing in the motion itemizing

the monthly maintenance expenses assigned to each property.

For instance, in Exhibit A, the 345 Hemsted property apparently generates rental income of $2,475 a month, while the monthly payment to the secured creditor is $3,567 and the monthly expenses for that property are $1,448. Docket 46, Ex. A at 1.

But, the court cannot tell what the monthly expenses encompass. While the motion refers to the declaration of Antonio Rodriguez and the two attached exhibits, Exhibit A and Exhibit B, for a description of the expenses, those documents are not helpful. The declaration, barely one and one-half pages long, merely refers to Exhibit A for all information. It makes no effort to itemize the expenses and it contains no dollar figures. Exhibit A lists expenses for each property, but it does not itemize them. Exhibit B, on the other hand, does not list property-specific expenses. It lists what appear to be other expenses for the debtor, such as salaries, membership dues, phones, and payments to secured creditors.

Neither the property-specific expenses in Exhibit A, nor the other expenses in Exhibit B are itemized. The salaries, for example, total $25,068 in Exhibit B, yet there is no breakdown for who receives how much in salary. The salaries also include "(taxes, insurance, etc.)." Those items are not identified, itemized or explained either.

Third, while the motion states that the debtor wants to make adequate protection payments to each of the creditors whose cash collateral it is seeking to use, the proposed adequate protection payment to each creditor cannot be determined. While Exhibit A contains a column for "MONTHLY PAYMENT," the court cannot tell whether the figures in that column represent the monthly payment required under the debtor's pre-petition obligation to each creditor, or represent the proposed adequate protection payment to each creditor. Docket 46, Ex. A.

Fourth, even if the court had the adequate protection payment figure for each creditor, it still cannot determine whether each of the creditors whose cash collateral is to be used is adequately protected. The motion has no information about whether each of the creditors whose cash collateral is to be used is adequately protected.

For example, the court has no information about the specific collateral for each creditor. The court then cannot tell whether and to what extent each of those creditors' interests in the cash collateral is adequately protected.

Asking the court to look to the schedules is unhelpful. The schedules are not evidence. They are statements made the debtor out of court. Such statements are hearsay. While they can be admitted against the debtor, as an admission by a party opponent, they are inadmissible when proffered by the debtor. See Fed. R. Evid. 802, 801(d)(2)(A).

Fifth, the motion fails to indicate the cash collateral the debtor was holding as of the petition date and the interests in it of each secured creditor.

Sixth, the motion is seeking use of cash collateral from November 1, 2014 until February 1, 2015. Yet, it does not say why the court should award the debtor retroactive use of cash collateral. The motion states that the debtor already used cash collateral without court approval, but it does not state why the debtor did not request permission for cash collateral use upon the filing of

the petition on October 31, 2014 and does not account for cash collateral already used by the debtor.

Seventh, the court has no evidence with the motion of each of the creditors' interests in the cash collateral the debtor is seeking to use. For example, there are no deeds of trust with the motion.

Given the foregoing, the motion will be denied.

9. 14-30833-A-11 SHASTA ENTERPRISES
DL-5

MOTION TO ASSUME LEASE OR EXECUTORY CONTRACT AND FOR POST-PETITION BORROWING
12-15-14 [97]

Tentative Ruling: The motion will be denied.

Redding Bank of Commerce, a first deed holder on the debtor's real property at 250 Hemsted Drive, Redding, California, asks the court to authorize the assumption of three pre-petition agreements to which the debtor is a party.

The debtor entered into a lease agreement with the State of California pre-petition for California's lease of the second floor of the property. The lease however is contingent on the debtor making some improvements to the property, including some Americans with Disabilities Act work. Under the lease agreement, California will not take possession of the premises until those improvements are complete. The cost of the improvements is estimated to be at between $300,000 to $350,000.

In connection with the lease, the debtor entered into a separate agreement with the movant for funding of the improvements. Also, the debtor entered into a construction agreement with J&T Williams Construction Company for construction of the improvements. Construction work had been ongoing as of the October 31, 2014 petition date, but because J&T did not receive payment post-petition, it stopped working. The construction was to be completed by December 1, 2014, when the State of California was to take possession of the property under the lease agreement. California has agreed to push its occupancy date to February 10, 2015, provided the construction of the improvements is completed by then. J&T has stated that it can complete the improvements construction by February 10, 2015, provided that it resumes work immediately.

In an effort to salvage the debtor's lucrative lease agreement with the State of California, the movant is asking the court to approve the assumption of the debtor's financing agreement with the movant, to approve the assumption of the construction agreement with J&T, and to approve the assumption of the lease agreement with the State of California.

11 U.S.C. § 1107(a) provides that a debtor-in-possession shall have all rights, powers, and shall perform all functions and duties, subject to certain exceptions, of a trustee, "[s]ubject to any limitations on [that] trustee." This includes the trustee's right to sell property of the estate pursuant to section 363 and assume an executory contract under section 365.

11 U.S.C. § 365(a) provides: "Except as provided in sections 765 and 766 of this title and in subsections (b), (c), and (d) of this section, the trustee, subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor."

The standard for determining whether to approve the assumption of unexpired leases and/or executory contracts is the business judgment rule. Group of Institutional Investors v. Chicago, Milwaukee, St. Paul & Pacific R. Co., 318 U.S. 523 (1943); Robertson v. Pierce (In re Chi-Feng Huang), 23 B.R. 798, 800-01 (B.A.P. 9th Cir. 1982) (holding that the primary issue is whether rejection or assumption would benefit the general unsecured creditors, which may also involve a balancing of interests).

The court "should approve the rejection [or assumption] of an executory contract under § 365(a) unless it finds that the debtor-in-possession's conclusion that rejection would be 'advantageous is so manifestly unreasonable that it could not be based on sound business judgment, but only on bad faith, or whim or caprice.' [. . . .] Such determinations, clearly, involve questions of fact . . . which we review for clear error." Agarwal v. Pomona Valley Medical Group, Inc. (In re Pomona Valley Medical Group, Inc.), 476 F.3d 665, 670 (9th Cir. 2007).

"The Bankruptcy Court, in evaluating the debtor's decision, 'should presume that the debtor-in-possession acted prudently, on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the bankruptcy estate.' It should approve the decision to reject an executory contract 'unless it finds that the debtor-in-possession's conclusion that rejection would be advantageous is so manifestly unreasonable that it could not be based on sound business judgment, but only on bad faith, or whim or caprice.'" In re Yellowstone Mountain Club, L.L.C., Case Nos. 08-61570-11, 0861571-11, 08-61572-11, 08-61573-11, CV-09-48-BU-SEH, 2010 WL 5071354, at *2 (D. Mont. Dec. 7, 2010) (quoting and citing to Pomona Valley Medical Group at 670).

The debtor's lease with the State of California is expected to generate monthly rental income for the debtor's estate in the amount of $21,266.27.

The court does not have sufficient information to determine whether the financing and construction agreements are executory contracts within the meaning of 11 U.S.C. § 365. Indeed, contracts for loans and financial accommodations are expressly made not assumable by 11 U.S.C. § 365(c)(2).

And, while the court is sympathetic to the debtor's situation of potentially losing the lease agreement with the State of California, the court cannot permit assumption of the financing agreement because the motion says nothing about the borrowing terms of that agreement.

The court has no information about the financial status of the financing and construction agreements.

For instance, the court has no information about the repayment terms under the financing agreement, what has been paid by the movant thus far, to whom it was paid, what remains to be paid, etc. The court does not have information about the interest rate and repayment term under the financing agreement with the movant, and it does not have information about how much of the improvement work has been completed by J&T, how much of the work is remaining to be completed, and how much more in compensation is J&T owed by the debtor.

As a result, the court cannot determine whether the agreements are executory contracts and cannot determine whether assumption of the agreements will benefit the creditors and the estate. The motion will be denied.

10. 14-30833-A-11 SHASTA ENTERPRISES — STATUS CONFERENCE
10-31-14 [1]

Tentative Ruling: None.

11. 13-33744-A-7 GERASSIMOS VERTEOURI — MOTION TO
PA-7 — APPROVE COMPENSATION OF TRUSTEE'S ATTORNEY
12-8-14 [66]

Tentative Ruling: Because less than 28 days' notice of the hearing was given by the trustee's counsel, this motion is deemed brought pursuant to Local Bankruptcy Rule 9014-1(f)(2). Consequently, the creditors, the debtor, the trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. Obviously, if there is opposition, the court may reconsider this tentative ruling.

The motion will be granted.

Pino & Associates, attorney for the trustee, has filed its first and final motion for approval of compensation. The requested compensation consists of $18,990 in fees and $667.60 in expenses, for a total of $19,657.60. This motion covers the period from December 16, 2013 through December 8, 2014. The court approved the movant's employment as the trustee's attorney on January 7, 2014. In performing its services, the movant charged hourly rates of $125, $250 and $350.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant's services included, without limitation: (1) communicating with the trustee about various issues, (2) preparing list of documents to be requested from the debtor, (3) reviewing proofs of claim, (4) preparing stipulation for extension of the time to object to the debtor's discharge, (5) assisting the estate with opposition to the debtor's two chapter 13 conversion motions, (6) communicating with counsel for the debtor, (7) preparing for discovery as pertaining to the conversion motions, (8) assisting the estate with the negotiation for the sale of a receivable and personal injury claim, (9) preparing and prosecuting the sales motion, and (10) preparing and filing employment and compensation motions.

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

12. 14-28793-A-7 NICOLE WHEELER — MOTION TO
LBG-3 — AVOID JUDICIAL LIEN
VS. MICHAEL J. HALL — 11-26-14 [25]

Tentative Ruling: The motion will be denied.

The debtor is seeking the avoidance of a judicial lien held by Michael J. Hall on two real properties, both in Roseville, California, owned by the debtor (2054 Blackheath Ln. & 3005 Acton Way).

The motion will be denied. The judgment pursuant to which the lien was created on the two properties, was not entered against the debtor. The abstract of judgment attached to the motion states that the judgment giving rise to the lien was entered against Jesse Wheeler, the debtor's former spouse. Docket 28 at 6.

A judgment was entered against Jesse Wheeler in favor of Michael J. Hall for the sum of $2,630 on January 8, 2010. The abstract of judgment was recorded with Placer County on April 22, 2010. That lien allegedly attached to two residential real properties in Roseville, California (2054 Blackheath Ln. & 3005 Acton Way).

This bankruptcy case, on the other hand, was filed solely by Nicole Wheeler.

While California law provides that community debt may be satisfied from community property, the court has no evidence from the debtor that the debt giving rise to the judgment against Jesse Wheeler was a community debt and has no evidence that the debtor held her interest in the two properties as community property when the liens against the properties were created, upon recordation of the abstract of judgment on December 1, 2010.

Even though the debtor states in her supporting declaration that Jesse Wheeler is her "ex-husband," nothing in the record identifies the date when the couple divorced, the basis for the debt giving rise to the judgment, and who owned what interest in each of the two properties as of the lien creation date. Docket 27 at 1.

Hence, the debtor has not carried her burden of persuasion that the judicial liens attached to her interest in the two properties, when the liens were created. Accordingly, the motion will be denied.

13. 14-31684-A-7 HUGO/CLAUDIA LOPEZ — ORDER TO SHOW CAUSE 12-10-14 [11]

Tentative Ruling: The petition will be dismissed.

The debtor did not pay its petition filing fee and did not apply to pay the fee in installments. The filing fee of $335 was due on November 26, 2014 and has not been paid yet.

14. 14-28793-A-7 NICOLE WHEELER — MOTION TO AVOID JUDICIAL LIEN 11-26-14 [15]
LBG-1
VS. FORD MOTOR CREDIT COMPANY, L.L.C.
DBA LAND ROVER CAPITAL GROUP

Tentative Ruling: The motion will be denied.

The debtor is seeking the avoidance of a judicial lien held by Ford Motor Credit Company on two real properties, both in Roseville, California, owned by the debtor (2054 Blackheath Ln. & 3005 Acton Way).

The motion will be denied. The judgment pursuant to which the lien was created

on the two properties, was not entered against the debtor. The abstract of judgment attached to the motion states that the judgment giving rise to the lien was entered against Jesse Wheeler, the debtor's former spouse. Docket 18 at 7.

A judgment was entered against Jesse Wheeler in favor of Ford Motor Credit Company for the sum of $68,531.17 on April 22, 2010. The abstract of judgment was recorded with Placer County on December 1, 2010. That lien allegedly attached to two residential real properties in Roseville, California (2054 Blackheath Ln. & 3005 Acton Way).

This bankruptcy case, on the other hand, was filed solely by Nicole Wheeler.

While California law provides that community debt may be satisfied from community property, the court has no evidence from the debtor that the debt giving rise to the judgment against Jesse Wheeler was community debt and has no evidence that the debtor held her interest in the two properties as community property when the liens against the properties were created, upon recordation of the abstract of judgment on December 1, 2010.

Even though the debtor states in her supporting declaration that Jesse Wheeler is her "ex-husband," nothing in the record identifies the date when the couple divorced, the basis for the debt giving rise to the judgment, and who owned what interest in each of the two properties as of the lien creation date. Docket 17 at 1.

Hence, the debtor has not carried her burden of persuasion that the judicial liens attached to her interest in the two properties, when the liens were created. Accordingly, the motion will be denied.

15. 14-28793-A-7 NICOLE WHEELER — MOTION TO AVOID JUDICIAL LIEN
LBG-2
VS. JAN AND BLAIR HOMES — 11-26-14 [20]

Tentative Ruling: The motion will be denied without prejudice.

The debtor is seeking the avoidance of a judicial lien held by Jan and Blair Holmes on two real properties, both in Roseville, California, owned by the debtor (2054 Blackheath Ln. & 3005 Acton Way).

The motion will be denied. The judgment pursuant to which the lien was created on the two properties, was not entered against the debtor. The abstract of judgment attached to the motion states that the judgment giving rise to the lien was entered against JW Financial Solutions and Jesse Wheeler, the debtor's former spouse. Docket 23 at 6.

A judgment was entered against JW Financial Solutions and Jesse Wheeler in favor of Jan and Blair Holmes for the sum of $5,100 on March 16, 2010. The abstract of judgment was recorded with Placer County on August 19, 2010. That lien allegedly attached to two residential real properties in Roseville, California (2054 Blackheath Ln. & 3005 Acton Way).

This bankruptcy case, on the other hand, was filed solely by Nicole Wheeler.

While California law provides that community debt may be satisfied from community property, the court has no evidence from the debtor that the debt giving rise to the judgment against JW Financial Solutions and Jesse Wheeler

was community debt and has no evidence that the debtor held her interest in the two properties as community property when the liens against the properties were created, upon recordation of the abstract of judgment on August 19, 2010.

Even though the debtor states in her supporting declaration that Jesse Wheeler is her "ex-husband," nothing in the record identifies the date when the couple divorced, the basis for the debt giving rise to the judgment, and who owned what interest in each of the two properties as of the lien creation date. Docket 22 at 1.

Hence, the debtor has not carried her burden of persuasion that the judicial liens attached to her interest in the two properties, when the liens were created. Accordingly, the motion will be denied.

THE FINAL RULINGS BEGIN HERE

16. 14-26307-A-7 STEVEN PASCAL — MOTION TO COMPEL AND TO EXTEND DEADLINE 12-2-14 [99]
BHS-2

Final Ruling: This motion has been resolved by stipulation. Dockets 106 & 108.

17. 12-28413-A-7 F. RODGERS CORPORATION — MOTION FOR RELIEF FROM AUTOMATIC STAY 12-1-14 [744]
AMS-2
CASTLE PRINCIPLES, L.L.C. VS.

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

The motion will be granted.

The movant, Castle Principles, L.L.C. and St. Thomas Construction Company, Inc., seeks relief from the automatic stay to proceed in state court (Contra Costa County Superior Court, Case No. MSC13-01929) with its construction defect cross-claims against the debtor. Recovery will be limited to available insurance coverage, if any.

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

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

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

18. 12-28413-A-7 F. RODGERS CORPORATION — MOTION FOR RELIEF FROM AUTOMATIC STAY 12-1-14 [750]
AMS-3
CASTLE PRINCIPLES, L.L.C. VS.

Final Ruling: This motion for relief from the automatic stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the debtor and the trustee, to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is

unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument

The motion will be granted.

The movant, Castle Principles, L.L.C. and St. Thomas Construction Company, Inc., seeks relief from the automatic stay to proceed in state court (Contra Costa County Superior Court, Case No. MSC13-02621) with its construction defect cross-claims against the debtor. Recovery will be limited to available insurance coverage, if any.

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

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

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

19. 12-28413-A-7 F. RODGERS CORPORATION — MOTION FOR RELIEF FROM AUTOMATIC STAY
AMS-4
CASTLE PRINCIPLES, L.L.C. VS. — 12-1-14 [765]

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

The motion will be granted.

The movant, Castle Principles, L.L.C. and St. Thomas Construction Company, Inc., seeks relief from the automatic stay to proceed in state court (Contra Costa County Superior Court, Case No. MSC13-02465) with its construction defect cross-claims against the debtor. Recovery will be limited to available insurance coverage, if any.

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

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

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

20. 12-28413-A-7 F. RODGERS CORPORATION — MOTION TO APPROVE COMPROMISE
CWC-19 — 12-1-14 [755]

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

The motion will be granted.

The trustee requests approval of a settlement agreement between the estate and Wells Fargo Bank, on one hand, and Frank Rodgers, Kim Rodgers and Bear Properties, on the other hand, resolving pending state court claims against Frank Rodgers, Kim Rodgers and Bear Properties.

Pursuant to a court-approved agreement between the trustee and Wells Fargo Bank, the claims are being prosecuted by Wells Fargo Bank for the benefit of both the estate and the bank. The causes of action include, breach of contract, possession of personal property-security agreement and financing agreement, common count, breach of guaranty, conversion, fraud, fraud by concealment, fraudulent transfer, conspiracy, unjust enrichment, constructive trust, and injunctive relief, seeking the appointment of a receiver.

Under the terms of the settlement:

- a stipulated judgment will be entered in favor of Wells Fargo Bank and against Frank Rodgers, Kim Rodgers and Bear Properties, and each of them shall be jointly and severally liable under the judgment;

- Wells Fargo Bank will forbear collection on the judgment until September 1, 2015 and interest will not begin to accrue on the judgment until that date;

- if Frank Rodgers, Kim Rodgers and/or Bear Properties pay $2,750,000 in immediately available funds before January 1, 2015, the judgment shall be satisfied in full;

- if Frank Rodgers, Kim Rodgers and/or Bear Properties pay $2,850,000 in immediately available funds after January 1, 2015 but before September 1, 2015, the judgment shall be satisfied in full;

- after September 1, 2015, the judgment shall be satisfied only if Frank Rodgers, Kim Rodgers and/or Bear Properties pay the full amount of the judgment, with any interest that has accrued at the time of payment;

- Frank Rodgers, Kim Rodgers and Bear Properties shall cooperate fully with Wells Fargo Bank in the recordation and execution of liens based on the judgment, with respect to two real properties, one is a 964-acre ranch in Whitmore, Shasta County, California and the other is a 294-acre ranch in Bella Vista, Shasta County, California;

- Frank Rodgers, Kim Rodgers and Bear Properties will commence the marketing and sale of the two real properties, from which satisfaction of the judgment is anticipated, and they will provide Wells Fargo Bank and the trustee with monthly reports of their efforts to sell the properties;

- any amounts received from the sale of the properties, shall be paid to Wells Fargo Bank in immediately available funds, which shall be applied to satisfy the judgment;

- Frank Rodgers, Kim Rodgers and Bear Properties shall cooperate with Wells Fargo Bank in the recording and execution of the following instruments: a note from the sale of a real property in Brentwood, California, also known as the Bostard Note, and a note from the sale of a real property in Byron, California, also known as the Garcia Note;

- to secure the judgment, Frank Rodgers, Kim Rodgers and Bear Properties will grant and transfer to Wells Fargo Bank a continuing security interest in their right, title and interest in the two promissory notes and any proceeds from the notes;

- Frank Rodgers, Kim Rodgers and Bear Properties may continue until September 1, 2015 to receive the interest payments on the Garcia Note and the amortized principal and interest payments on the Bostard Note;

- prior to September 1, 2015, any payments of principal on the Garcia Note (except the first $50,000 due under the Garcia Note, which may be paid to GE Commercial Finance Business Property Corporation) and any accelerated payments of principal on the Bostard Note, shall be paid directly to Wells Fargo Bank;

- Wells Fargo Bank is permitted to contact the payers under the notes at any time to ascertain the amounts due and actually paid, to advise the payers about the terms of the settlement, and to advise the payers of the payments that must be made directly to Wells Fargo Bank;

- in the event Frank Rodgers, Kim Rodgers and Bear Properties receive any payments before September 1, 2015 from the payers that should have been made directly to Wells Fargo Bank under the settlement, such payments shall be immediately remitted to Wells Fargo Bank;

- payments of principal under the notes paid to Wells Fargo Bank before September 1, 2015 shall reduce the judgment;

- if the judgment has not been satisfied by September 1, 2015, Wells Fargo Bank shall be entitled to retain all payments made under the notes, including, without limitation, all payments of principal and interest, up to the amount of the judgment;

- Frank Rodgers, Kim Rodgers and Bear Properties shall cooperate to make certain that all payments due to Wells Fargo Bank are made to the bank;

- if the judgment has not been satisfied by September 1, 2015, Frank Rodgers,

Kim Rodgers and Bear Properties agree to produce to Wells Fargo Bank the original notes, along with an allonge as to each note and: Wells Fargo Bank may notify the payers on the notes to make payments directly to Wells Fargo Bank; Wells Fargo Bank may enforce the notes; Wells Fargo Bank may exercise the rights of Frank Rodgers, Kim Rodgers and Bear Properties under the notes, including rights against any collateral securing the notes;

- payments under the notes after September 1, 2015 shall reduce the judgment;

- Wells Fargo Bank's security interest in the two real properties shall not be limited in any way by the instant settlement agreement;

- the parties will execute mutual releases, but Wells Fargo Bank's release is limited to the pending state court action and the bank's credit agreement to Frank Rodgers, Kim Rodgers and/or Bear Properties.

On a motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Fed. R. Bankr. P. 9019. Approval of a compromise must be based upon considerations of fairness and equity. In re A & C Properties, 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).

Based on investigation conducted by Wells Fargo Bank, the trustee believes that the assets of Frank and Kim Rodgers available for satisfaction of the judgment "barely exceed" $3 million. Docket 757 at 14. After payment of the substantial attorney's fees and costs incurred by Wells Fargo Bank in litigating against Frank and Kim Rodgers - approximately $1,707,490.16 - the estate will receive 50% of the net recovery after deduction of those legal expenses, ranging between $521,254 and $646,254.

The court concludes that the Woodson factors balance in favor of approving the compromise. That is, given the limited assets of Frank Rodgers and Kim Rodgers available for satisfaction of the judgment, given the extraordinary attorney's fees and costs incurred already, in litigating against Frank and Kim Rodgers, and given the further costs, inherent risks, delay and inconvenience of further litigation, the settlement is equitable and fair.

Therefore, the court concludes the compromise to be in the best interests of the creditors and the estate. 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). Furthermore, the law favors compromise and not litigation for its own sake. Id. Accordingly, the motion will be granted.

21. 12-28413-A-7 F. RODGERS CORPORATION — MOTION TO APPROVE STIPULATION 12-1-14 [760]
CWC-20

Final Ruling: This motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the creditors, the debtor, the trustee, the U.S. Trustee, and any other party in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered as consent to the granting of

the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument.

The motion will be granted.

The trustee requests approval of a stipulation and settlement agreement between the estate and Wells Fargo Bank, confirming and resolving the amount of Wells Fargo Bank's reimbursable litigation expenses, with respect to litigation started by the bank pre-petition and continued by both the bank and the estate post-petition, against Frank Rodgers, Kim Rodgers and Bear Properties, which litigation has been now settled.

Pursuant to a court-approved agreement between the trustee and Wells Fargo Bank, the claims were prosecuted by Wells Fargo Bank for the benefit of both the estate and the bank. The causes of action included, breach of contract, possession of personal property-security agreement and financing agreement, common count, breach of guaranty, conversion, fraud, fraud by concealment, fraudulent transfer, conspiracy, unjust enrichment, constructive trust, and injunctive relief, seeking the appointment of a receiver.

Under the terms of the subject stipulation and settlement, the estate agrees that, as of November 18, 2014, the litigation expenses are as follows: $1,037,512 in attorney's fees and $669,978.16 in reimbursable expenses (including expert and consulting fees), totaling $1,707,490.16.

The original fees and expenses submitted with the trustee were $1,162,512 in attorney's fees and $669,978.16 in reimbursable expenses (including expert and consulting fees), totaling $1,832,490.16. The trustee reviewed the narrative description of the fees and expenses and reviewed the actual time records kept by the litigation professionals, leading to his objection to fees incurred for services that did not benefit the estate, including: seeking appointment of a state court receiver, preparing and prosecuting a stay relief motion, negotiating and seeking approval of the compromise between the bank and the estate, and negotiating and seeking approval of the subject stipulation. This resulted in a $125,000 reduction of the attorney's fees, from $1,162,512 to $1,037,512.

The funds recovered from the litigation will be disbursed pursuant to the terms of the existing settlement agreement between the estate and Wells Fargo Bank, with the estate receiving 50% of the proceeds, net of the litigation expenses.

On a motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Fed. R. Bankr. P. 9019. Approval of a compromise must be based upon considerations of fairness and equity. In re A & C Properties, 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).

The court concludes that the Woodson factors balance in favor of approving the

compromise. That is, given the trustee's review of the attorney's fees and costs, and their reduction by $125,000, and given the inherent costs, risks, delay and inconvenience of further litigation, the stipulation and settlement is equitable and fair.

Therefore, the court concludes the compromise to be in the best interests of the creditors and the estate. 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). Furthermore, the law favors compromise and not litigation for its own sake. Id. Accordingly, the motion will be granted.

22. 14-29322-A-7 ROFF CARTER — MOTION TO AVOID JUDICIAL LIEN
CBC-1
VS. C. ALAAN — 11-28-14 [12]

Final Ruling: The motion will be dismissed without prejudice because it was not served on the respondent creditor, C. Alaan. Docket 17. And, while the debtor served C. Alaan's state court attorney, M. Brooks Houghton, unless the attorney agreed to accept service, service was improper. See, e.g., Beneficial California, Inc. v. Villar (In re Villar), 317 B.R. 88, 92-94 (B.A.P. 9th Cir. 2004). Docket 16, Ex. B at 1; Docket 17 at 4.

Further, even absent the above service deficiency, the court cannot grant the motion. The motion contains no analysis of the impairment of the debtor's exemption in the real property.

And, while the motion claims that the judicial lien attached also to the debtor's personal property - "which consists of IRA and bank accounts, security deposits, household furnishings, clothing, jewelry, tools of trade and work trade, appliances, sports equipment, automobile and motorcycle, and 5th wheel trailer which are held primarily for the family and household use of the debtor and his dependants and/or for use by debtor as tools of his trade and all other property listed in debtor's Schedule C" - the court sees no evidence in the record of a lien held by the respondent creditor on the debtor's personal property. Docket 15 at 2.

In California, personal property judgment liens are created by the filing of a notice of judgment lien with the California Secretary of State in a manner similar to filing a UCC-1 financing statement.

Cal. Civ. Proc. Code § 697.520 provides: "A judgment lien on personal property may be created pursuant to this article as an alternative or in addition to a lien created by levy under a writ of execution pursuant to Chapter 3 (commencing with Section 699.010) or by use of an enforcement procedure provided by Chapter 6 (commencing with Section 708.010)."

Cal. Civ. Proc. Code § 697.510(a) provides: "A judgment lien on personal property described in Section 697.530 is created by filing a notice of judgment lien in the office of the Secretary of State pursuant to this article."

There is no evidence with the motion that the respondent ever filed a notice of judgment lien with the California Secretary of State, giving rise to a judgment lien against any of the debtor's personal property. The evidence with the motion indicates only that the respondent recorded an abstract of the judgment with Nevada County, which created a judgment lien only against real property of the debtor located in Nevada County. This did not create a judgment lien against any personal property of the debtor. See 11 U.S.C. § 522(f)(1)(A)

(permitting the avoidance only of judicial liens).

Because the debtor has not established that the respondent holds a judgment lien on the personal property of the debtor, there is no lien for the court to avoid. The motion will be denied as to the debtor's personal property.

23. 14-29442-A-7 SETH/MELINDA NAPEL — MOTION FOR RELIEF FROM AUTOMATIC STAY
MDE-1 — 11-20-14 [14]
DEUTSCHE BANK NATIONAL TRUST CO. VS.

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

The motion will be granted.

The movant, Deutsche Bank National Trust Company, seeks relief from the automatic stay as to a real property in Grass Valley, California. The property has a value of $286,000 and it is encumbered by claims totaling approximately $559,441. The movant's deed is in first priority position and secures a claim of approximately $520,966.

The court concludes that there is no equity in the property and there is no evidence that it is necessary to a reorganization or that the trustee can administer it for the benefit of creditors. The court also notes that the trustee filed a report of no distribution on October 28, 2014.

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

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

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

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

24. 12-36347-A-7 MH-2 — ARNOLD THREETS AND TESSA BANUELOS-THREETS — AMENDED MOTION TO APPROVE COMPENSATION OF TRUSTEE'S ATTORNEY 11-20-14 [227]

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

The motion will be granted.

Mayall Hurley, PC, former counsel for the trustee, has filed its first and final motion for approval of compensation.

The requested compensation consists of $9,735 in fees and $138.33 in expenses, for a total of $9,873.33. The motion covers the period from September 11, 2012 through and including November 5, 2012. The court approved the movant's employment as the trustee's attorney on September 26, 2012. In performing its services, the movant charged an hourly rate of $275.

11 U.S.C. § 330(a)(1)(A)&(B) permits approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." The movant's services included, without limitation: (1) analyzing the estate's interest in the pending litigation involving the City of Richmond; (2) researching legal issues pertaining to the litigation, (3) preparing for and attending a full-day settlement conference; and (4) communicating with the trustee, other counsel and attending hearings and meetings.

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

25. 14-28262-A-7 TJS-1 — LATRESE WILLIAMS — MOTION FOR RELIEF FROM AUTOMATIC STAY 11-21-14 [14]
JPMORGAN CHASE BANK, N.A. VS.

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

The motion will be dismissed as moot.

The movant, JPMorgan Chase Bank, seeks relief from the automatic stay with respect to a 2007 GMC Yukon vehicle.

11 U.S.C. § 521(a)(2)(A) requires an individual chapter 7 debtor to file a statement of intention with reference to property that secures a debt. The statement must be filed within 30 days of the filing of the petition (or within 30 days of a conversion order, when applicable) or by the date of the meeting of creditors, whichever is earlier. The debtor must disclose in the statement whether he or she intends to retain or surrender the property, whether the property is claimed as exempt, and whether the debtor intends to redeem such property or reaffirm the debt it secures. See 11 U.S.C. § 521(a)(2)(A); Fed. R. Bankr. P. 1019(1)(B).

The petition here was filed on August 14, 2014 and a meeting of creditors was first convened on September 23, 2014. Therefore, a statement of intention that refers to the movant's property and debt was due no later than September 13. The debtor filed a statement of intention on the petition date, but the debtor did not list the vehicle in the statement.

If the property securing the debt is personal property and an individual chapter 7 debtor fails to file a statement of intention, or fails to indicate in the statement that he or she either will redeem the property or enter into a reaffirmation agreement, or fails to timely surrender, redeem, or reaffirm, the automatic stay is automatically terminated and the property is no longer property of the bankruptcy estate. See 11 U.S.C. § 362(h).

Here, although the debtor filed a statement of intention on the petition, the debtor did not list the vehicle in the statement. And, no reaffirmation agreement or motion to redeem has been filed, nor has the debtor requested an extension of the 30-day period. As a result, the automatic stay automatically terminated on September 13, 2014, 30 days after the petition date.

The trustee may avoid automatic termination of the automatic stay by filing a motion within whichever of the two 30-day periods set by section 521(a)(2) is applicable, and proving that such property is of consequential value or benefit to the estate. If proven, the court must order appropriate adequate protection of the creditor's interest in its collateral and order the debtor to deliver possession of the property to the trustee. If not proven, the automatic stay terminates upon the conclusion of the hearing on the trustee's motion. See 11 U.S.C. § 362(h)(2).

The trustee in this case has filed no such motion and the time to do so has expired. The court also notes that the trustee filed a "no-asset" report on September 24, 2014, indicating an intent not to administer the vehicle or any other assets.

Therefore, without this motion being filed, the automatic stay terminated on September 13, 2014.

Nothing in section 362(h)(1), however, permits the court to issue an order confirming the automatic stay's termination. 11 U.S.C. § 362(j) authorizes the court to issue an order confirming that the automatic stay has terminated under 11 U.S.C. § 362(c). See also 11 U.S.C. § 362(c)(4)(A)(ii). But, this case does not implicate section 362(c). Section 362(h) is applicable and it does not provide for the issuance of an order confirming the termination of the automatic stay. Therefore, if the movant needs a declaration of rights under section 362(h), an adversary proceeding seeking such declaration is necessary.

See Fed. R. Bankr. P. 7001.

26. 14-30682-A-7 FRANCISCO GARCIA — MOTION FOR RELIEF FROM AUTOMATIC STAY
JCW-1 — 11-25-14 [15]
DEUTSCHE BANK NATIONAL TRUST CO. VS.

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

The motion will be granted.

The movant, Deutsche Bank National Trust Company, seeks relief from the automatic stay as to a real property in Manteca, California. The property has a value of $198,000 and it is encumbered by claims totaling approximately $287,394. The movant's deed is in first priority position and secures a claim of approximately $210,089.

The court concludes that there is no equity in the property and there is no evidence that it is necessary to a reorganization or that the trustee can administer it for the benefit of creditors. The court also notes that the trustee filed a report of no distribution on November 26, 2014. And, in the statement of intention, the debtor has indicated an intent to surrender the property.

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

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

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

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

27. 14-28789-A-7 ANTHONY SHELL
RAC-1
VS. SMW 104 FEDERAL CREDIT UNION

MOTION TO
AVOID JUDICIAL LIEN
11-21-14 [17]

Final Ruling: The motion will be dismissed without prejudice because it was not served on the respondent creditor, SMW 104 Federal Credit Union, in accordance with Fed. R. Bankr. P. 7004(h), which requires service on insured depository institutions (as defined by section 3 of the Federal Deposit Insurance Act) to be made by certified mail and addressed to an officer of the institution.

Pursuant to 11 U.S.C. § 101(35)(B), the term "insured depository institution" includes an insured credit union. Thus, Fed. R. Bankr. P. 7004(h) required service to be made upon the respondent by certified mail addressed to an officer of the credit union.

The proof of service accompanying the motion indicates that the notice was not served by certified mail and was not addressed to an officer of the respondent. Docket 21 at 2. It was not addressed to anyone. The court does not have evidence that any of the exceptions of Rule 7004(h) are applicable. And, while the debtor served the respondent's attorney, Robert Bartlett, unless the attorney agreed to accept service, service was improper. See, e.g., Beneficial California, Inc. v. Villar (In re Villar), 317 B.R. 88, 92-94 (B.A.P. 9th Cir. 2004). Accordingly, the motion will be dismissed.

28. 14-26190-A-7 STEVE/MARY ARONS
MDE-2
ONEWEST BANK, N.A. VS.

MOTION FOR
RELIEF FROM AUTOMATIC STAY
12-1-14 [79]

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

The motion will be granted.

The movant, OneWest Bank, seeks relief from the automatic stay as to a real property in Fairfield, California. The property has a value of $500,000 and it is encumbered by claims totaling approximately $867,866. The movant's deed is the only encumbrance against the property.

The court concludes that there is no equity in the property and there is no evidence that it is necessary to a reorganization or that the trustee can administer it for the benefit of creditors.

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

The court determines that this bankruptcy proceeding has been finalized for purposes of Cal. Civil Code § 2923.5 and the enforcement of the note and deed

of trust described in the motion against the subject real property. Further, upon entry of the order granting relief from the automatic stay, the movant and its successors, assigns, principals, and agents shall comply with Cal. Civil Code § 2923.52 et seq., the California Foreclosure Prevention Act, to the extent it is otherwise applicable.

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

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

29. 14-28690-A-7 DONALD MCDONALD — MOTION TO AVOID JUDICIAL LIEN
JMC-3 — 11-26-14 [43]
VS. AMERICAN EXPRESS BANK, F.S.B.

Final Ruling: The motion will be dismissed without prejudice because it was not served on one of the creditors implicated by the motion, JPMorgan Chase Bank, in accordance with Fed. R. Bankr. P. 7004(h), which requires service on insured depository institutions (as defined by section 3 of the Federal Deposit Insurance Act) to be made by certified mail and addressed to an officer of the institution. The proof of service accompanying the motion indicates that although the notice was addressed solely to an officer of the creditor, it was not served by certified mail. Docket 47 at 2. This does not satisfy Rule 7004(h).

Further, the motion has not been served on the holder of the judgment that gave rise to the lien - also known as the lien holder - American Express Bank. Docket 47; Docket 46, Ex. C at 1. The lien holder must be served before this court will consider avoiding the subject lien.

30. 12-32093-A-7 DAVID/SUZANNE BURKHART — MOTION TO AVOID JUDICIAL LIEN
DRE-11 — 10-6-14 [126]
VS. OPERATING ENGINEERS HEALTH & WELFARE TRUST FUND

Final Ruling: The motion will be dismissed without prejudice.

The motion does not comply with Local Bankruptcy Rule 9014-1 because when it was filed it was not accompanied by a separate proof of service. See Local Bankruptcy Rule 9014-1(e)(3). Appending a proof of service to one of the supporting documents (assuming such was done) does not satisfy the local rule. The proof of service must be a separate document so that it will be docketed on the electronic record. This permits anyone examining the docket to determine if service has been accomplished without examining every document filed in support of the matter on calendar.

31. 12-41294-A-7 JERRY CHUCULATE — MOTION FOR RELIEF FROM AUTOMATIC STAY
PD-3 — 11-24-14 [60]
FEDERAL NATIONAL MORTGAGE ASSOC. VS.

Final Ruling: This motion for relief from the automatic stay has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The

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

The motion will be granted in part and dismissed as moot in part.

The movant, Federal National Mortgage Association, seeks relief from the automatic stay as to a real property in Folsom, California.

Given the entry of the debtor's discharge on March 18, 2013, the automatic stay has expired as to the debtor and any interest the debtor may have in the property. See 11 U.S.C. § 362(c). Hence, as to the debtor, the motion will be dismissed as moot.

As to the estate, the analysis is different. The property has a value of $275,000 and it is encumbered by claims totaling approximately $361,201. The movant's deed is in first priority position and secures a claim of approximately $340,826.

The court concludes that there is no equity in the property and there is no evidence that it is necessary to a reorganization or that the trustee can administer it for the benefit of creditors. The court also notes that the trustee filed a report of no distribution on December 4, 2014.

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

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

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

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