

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

Honorable Fredrick E. Clement
Sacramento Federal Courthouse
501 I Street, 7th Floor
Courtroom 28, Department A
Sacramento, California

DAY: MONDAY
DATE: JANUARY 4, 2021
CALENDAR: 1:30 P.M. CHAPTERS 9, 11 AND 12 CASES

RULINGS

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling.

"No Ruling" means the likely disposition of the matter will not be disclosed in advance of the hearing. The matter will be called; parties wishing to be heard should rise and be heard.

"Tentative Ruling" means the likely disposition, and the reasons therefor, are set forth herein. The matter will be called. Aggrieved parties or parties for whom written opposition was not required should rise and be heard. Parties favored by the tentative ruling need not appear. Non-appearing parties are advised that the court may adopt a ruling other than that set forth herein without further hearing or notice.

"Final Ruling" means that the matter will be resolved in the manner, and for the reasons, indicated below. The matter will not be called; parties and/or counsel need not appear and will not be heard on the matter.

CHANGES TO PREVIOUSLY PUBLISHED RULINGS

On occasion, the court will change its intended ruling on some of the matters to be called and will republish its rulings. The parties and counsel are advised to recheck the posted rulings after 3:00 p.m. on the next business day prior to the hearing. Any such changed ruling will be preceded by the following bold face text: **"[Since posting its original rulings, the court has changed its intended ruling on this matter]"**.

ERRORS IN RULINGS

Clerical errors of an insignificant nature, e.g. nomenclature ("2017 Honda Accord," rather than "2016 Honda Accord"), amounts, (" \$880," not "\$808"), may be corrected in (1) tentative rulings by appearance at the hearing; or (2) final rulings by appropriate ex parte application. Fed. R. Civ. P. 60(a) *incorporated by* Fed. R. Bankr. P. 9024. All other errors, including those occasioned by mistake, inadvertence, surprise or excusable neglect, must be corrected by noticed motion. Fed. R. Bankr. P. 60(b), *incorporated by* Fed. R. Bankr. P. 9023.

1. [20-23726](#)-A-11 **IN RE: AME ZION WESTERN EPISCOPAL DISTRICT
[BRL-1](#)**

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-19-2020 [[124](#)]

GABRIEL LIBERMAN/ATTY. FOR DBT.
BENJAMIN LEVINSON/ATTY. FOR MV.
JEFFREY SCOTT BLEECKER, AS TRUSTEE OF THE BLEECKER FAMILY TRUST
VS.

Final Ruling

Motion: Relief from Stay
Disposition: Denied without prejudice
Order: Civil minute order

Jeffrey Scott Bleecker, trustee of the Bleecker Family Trust, Lisa Motes and Church Capital Corporation move for stay relief with respect to 2535-2575 North Vine Street, Denver, Colorado.

DISCUSSION

As a contested matter, the motion for relief from stay is governed by Federal Rule of Bankruptcy Procedure 9014. Fed. R. Bankr. P. 4001(a)(1), 9014(a). A motion initiating a contested matter must be served pursuant to Rule 7004 on the parties against whom relief is sought. Fed. R. Bankr. P. 9014(b).

If the case is a chapter 11 reorganization case and a committee of unsecured creditors has not been appointed, then a motion for relief from stay must also be served on the creditors included on the list of the 20-largest creditors filed under Rule 1007(d). See Fed. R. Bankr. P. 4001(a)(1). Service must be made on each of these creditors according to Rule 7004. See *In re LSSR, LLC*, No. CC-12-1636-DKiTa, 2013 WL 2350853, *4 (B.A.P. 9th Cir. May 29, 2013) (unpublished decision). As the *LSSR* court explained:

It is true that Bank of America mailed the Motion to each and every creditor scheduled by the debtor. The problem lies in the fact that Bank of America did not serve these creditors pursuant to the Rules and the LBRs.

In a chapter 11 case, Rule 4001(a)(1) requires a motion for relief from stay to be served on the debtor and its attorney and any committee of unsecured creditors ("unsecured creditors committee") appointed by the UST pursuant to § 1102 or its authorized agent. If no unsecured creditors committee has been appointed, the motion for relief from stay must be served on the creditors holding the 20 largest unsecured claims as listed pursuant to Rule 1007(d).¹¹ LBR 4001-1(c)(1)(B)(v) also requires that the motion for relief from stay be served on any party entitled to notice under Rule 4001.

Additionally, because a motion for relief from stay is a contested matter under Rule 9014, it must be served pursuant to Rule 7004(b). See Rules 4001(a)(1) and 9014(b).¹² Rule 7004(b)(3) requires service on a domestic corporation or a partnership to be made by mailing a copy of the motion for relief from stay "to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process...." ...

*"Unless all of the specified entities are served properly under the rules, the court should decline to grant the relief requested." 9 Collier on Bankruptcy ¶ 4001.02[4](Alan N. Resnick & Henry J. Sommer, eds., 16th ed.2013)(citing *In re Safon Ochart*, 74 B.R. 131, 133 (Bankr.D.P.R.1986))...*

Id. (emphasis added).

While true that the debtor and the 20 largest creditors have been given notice of the motion, Certificate of Service, ECF 131, service has not been accomplished in the manner described in Rule 7004. As a result, the motion will be denied.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Jeffrey Scott Bleecker, trustee of the Bleecker Family Trust, Lisa Motes and Church Capital Corporation's motion has been presented to the court. Given the procedural deficiencies discussed by the court in its ruling,

IT IS ORDERED that the motion is denied without prejudice.

2. [20-24783](#)-A-11 **IN RE: GREGORY G. SMITH, M.D., A PROFESSIONAL CORPORATION**
[BJI-1](#)

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY
11-19-2020 [[66](#)]

ANTHONY ASEBEDO/ATTY. FOR DBT.
THOMAS MOUZES/ATTY. FOR MV.
GREGORY G. SMITH, M.D. AND CARMELITA YAMBALIA VS.;
RESPONSIVE PLEADING

No Ruling

3. [20-24691](#)-A-11 **IN RE: FREEDOM 123 LLC**

CONTINUED STATUS CONFERENCE RE: VOLUNTARY PETITION
10-7-2020 [[1](#)]

DAVID JOHNSTON/ATTY. FOR DBT.

No Ruling

4. [20-24783](#)-A-11 **IN RE: GREGORY G. SMITH, M.D., A
PROFESSIONAL CORPORATION**

ORDER SETTING APPLICATION FOR APPOINTMENT OF A JUDICIAL
MEDIATOR RE: CHAPTER 11 SUBCHAPTER V VOLUNTARY PETITION
NON-INDIVIDUAL.
12-30-2020 [[127](#)]

ANTHONY ASEBEDO/ATTY. FOR DBT.

No Ruling