

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

Honorable Robert S. Bardwil  
Bankruptcy Judge  
Sacramento, California

**January 9, 2019 at 10:00 a.m.**

---

**INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS**

**1. Matters resolved without oral argument:**

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

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

- 2. The court will not continue any short cause evidentiary hearings scheduled below.**
- 3. If a matter is denied or overruled without prejudice, the moving party may file a new motion or objection to claim with a new docket control number. The moving party may not simply re-notice the original motion.**
- 4. If no disposition is set forth below, the matter will be heard as scheduled.**

- 
- |    |              |                  |                                |
|----|--------------|------------------|--------------------------------|
| 1. | 14-25201-D-7 | RAM GOPAL        | MOTION TO COMPEL ABANDONMENT   |
|    | ULC-1        |                  | 11-30-18 [38]                  |
|    |              |                  |                                |
| 2. | 18-23405-D-7 | FRANK/ALICIA RUZ | MOTION TO COMPROMISE           |
|    | BHS-2        |                  | CONTROVERSY/APPROVE SETTLEMENT |
|    |              |                  | AGREEMENT WITH GOLDMAN SACHS   |
|    |              |                  | BANK USA                       |
|    |              |                  | 12-5-18 [22]                   |

**Final ruling:**

**The matter is resolved without oral argument. There is no timely opposition to the trustee's motion to approve compromise of controversy, and**

the trustee has demonstrated the compromise is in the best interest of the creditors and the estate. Specifically, the motion demonstrates that when the compromise is put up against the factors enumerated in In re Woodson, 839 F.2d 610 (9<sup>th</sup> Cir. 1988), the likelihood of success on the merits, the complexity of the litigation, the difficulty in collectability, and the paramount interests of creditors, the compromise should be approved. Accordingly, the motion is granted and the compromise approved. The moving party is to submit an appropriate order. No appearance is necessary.

- |    |  |  |
|----|--|--|
| 3. | 18-23919-D-7     TIFFIANY MCINTYRE<br>PE-1<br>ESA MANAGEMENT, LLC VS.  | MOTION FOR RELIEF FROM<br>AUTOMATIC STAY<br>12-12-18 [52]  |
|    |  |  |
| 4. | 14-25820-D-11     INTERNATIONAL<br>15-2122             MANUFACTURING GROUP, INC.<br>AND/OR<br>MCFARLAND V. CARTER ET AL<br>IWC-4 | CONTINUED STATUS CONFERENCE RE:<br>MOTION TO EXTEND TIME<br><br>MOTION FOR SANCTIONS<br>10-17-18 [153] |

**Final ruling:**

Pursuant to a stipulated order entered on December 28, 2018 this status conference hearing is continued to January 23, 2019 at 10:00 a.m. No appearance is necessary on January 9, 2019.

- |    |  |  |
|----|--|--|
| 5. | 18-20932-D-7     RICHARD SANDOVAL<br>NLL-2<br>M&T BANK VS. | CONTINUED AMENDED MOTION FOR<br>RELIEF FROM AUTOMATIC STAY<br>11-2-18 [83] |
|----|--|--|

6.	18-26838-D-7	BONGBONG/EMMA ALFARO	MOTION TO DISMISS EMMA MANDAPAT
	BLG-1		ALFARO
			12-4-18 [13]

**Final ruling:**

The matter is resolved without oral argument. The court's records indicate that the trustee has filed a report of no assets in this case. No timely opposition has been filed to the motion to dismiss Emma Mandapat Alfaro, and the relief requested is supported by the record. As such the court will grant the motion by minute. Moving party is to submit an appropriate order. No appearance is necessary.

7.	18-22453-D-7	ECS REFINING, INC.	MOTION TO DISMISS CASE
	DB-1		12-12-18 [867]

8.	18-22453-D-7	ECS REFINING, INC.	CONTINUED MOTION TO COMPEL
	DNL-3		ABANDONMENT
			10-30-18 [685]

9.	18-22453-D-7	ECS REFINING, INC.	CONTINUED MOTION TO COMPEL
	DNL-4		ABANDONMENT
			10-30-18 [690]

10. 18-22453-D-7 ECS REFINING, INC.  
DNL-5 CONTINUED MOTION FOR RELIEF  
FROM AUTOMATIC STAY  
10-30-18 [695]
11. 18-22453-D-7 ECS REFINING, INC.  
DNL-6 CONTINUED MOTION FOR RELIEF  
FROM AUTOMATIC STAY  
10-30-18 [701]
12. 16-21659-D-7 TRONG NGUYEN  
NOS-7 CONTINUED MOTION TO SELL,  
MOTION TO APPROVE OVERBIDDING  
PROCEDURES AND/OR MOTION TO PAY  
ADMINISTRATIVE EXPENSES  
11-21-18 [176]
13. 16-27672-D-7 DAVID LIND  
DNL-25 MOTION FOR AUTHORITY TO DISPOSE  
OF ESTATE PROPERTY  
12-6-18 [709]

**Final ruling:**

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

14. 18-20774-D-11 S360 RENTALS, LLC  
WSS-2

MOTION FOR COMPENSATION FOR W  
STEVEN SHUMWAY, DEBTOR'S  
ATTORNEY  
11-29-18 [219]

**Final ruling:**

This is the motion of counsel for the debtor-in-possession for a first interim allowance of compensation. The court has several initial concerns. First, the moving party failed to serve the debtor, as required by Fed. R. Bankr. P. 2002(a)(6), and failed to serve La Vida, Inc., which filed a claim for \$505,000 five months before the motion was filed, as required by the same rule. The rule makes no exception for the situation where, as here, the moving party serves the debtor's managing member or the CEO of the omitted corporate creditor, who has the same address as the managing member.

Second, the moving party filed his motion to be employed as counsel for the debtor six weeks after the petition was filed, but he has made no showing as to the two factors the court is to consider when determining whether a professional is entitled to retroactive approval of compensation under In re THC Fin. Corp., 837 F.2d 389, 392 (9th Cir. 1988). Third, pursuant to the motion, counsel seeks approval of \$15,307 in fees; he states he has subtracted the \$3,283 paid to him prior to the filing of the case in order to arrive at the \$15,307 figure. (And his billing statement shows a total of \$18,590 in fees, which is the sum of \$15,307 and \$3,283.) However, he has failed to demonstrate that the \$3,283 was received as the reasonable value of actual pre-petition services, as required by the order authorizing his employment, and according to his billing statement, it appears he would be unable to make such a showing: the total billed by counsel pre-petition was only \$910. Finally, the statement of financial affairs indicates counsel was paid the \$3,283 on the date of the petition. He will need to provide admissible evidence as to whether he was paid by way of a personal check or cash or certified funds; absent such a showing, the court cannot determine whether he was a creditor when the petition was filed.

The court will continue the hearing to February 13, 2019 at 10:00 a.m., the moving party to file and serve a notice of continued hearing on all creditors and to serve the notice of continued hearing, together with the motion, declaration, and exhibits on the debtor and La Vida, Inc. The moving party may supplement the record no later than January 30, 2019. The hearing will be continued by minute order. No appearance is necessary on January 9, 2019.

15. 18-27179-D-7 GLORIA RANGEL

MOTION TO RECONSIDER DISMISSAL  
OF CASE  
12-10-18 [28]

**DEBTOR DISMISSED: 12/03/2018**

16. 18-25294-D-7 GHAZI/FADWA RASHID  
FF-1

MOTION TO AVOID LIEN OF FORD  
MOTOR CREDIT COMPANY  
12-3-18 [23]

**Final ruling:**

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion is supported by the record. The court finds the judicial lien described in the motion impairs an exemption to which the debtors are entitled. As a result, the court will grant the debtors' motion to avoid the lien. Moving party is to submit an appropriate order, which order shall specifically identify the real property subject to the lien and specifically identify the lien to be avoided. No appearance is necessary.

17. 18-22453-D-7 ECS REFINING, INC.  
KJH-1

MOTION TO EMPLOY GABRIELSON AND  
COMPANY AS ACCOUNTANT(S)  
12-18-18 [893]

**Tentative ruling:**

This is the trustee's application to employ Gabrielson & Company as her accountants in this case. The motion was brought pursuant to LBR 9014-1(f)(2); thus, the court will entertain opposition, if any, at the hearing. However, before considering the motion, the court will require that declarant Michael Gabrielson submit a supplemental declaration. His present declaration states Gabrielson & Company "has no connections with the Successor Trustee, Predecessor Trustees, the debtor, their creditors, or with any parties in interest, or with their respective attorneys and accountants, the Office of the United States Trustee, or any person employed in the office of the United States Trustee which would preclude employment." By the last clause, "which would preclude employment," the declarant purports to take over the court's function of determining which connections would preclude employment. It is the declarant's duty to disclose all connections, not only those he believes would preclude employment. See In re Sundance Self Storage-El Dorado LP, 482 B.R. 613, 631 (Bankr. E.D. Cal. 2012).

The court will hear the matter.

18. 18-22453-D-7 ECS REFINING, INC.  
HSM-2

MOTION TO ABANDON  
12-26-18 [912]

19. 16-27672-D-7 DAVID LIND MOTION FOR ADMINISTRATIVE  
DNL-26 EXPENSES  
12-24-18 [715]
20. 18-27885-D-7 KAYLENE RICHARDS-EKEH MOTION TO EXTEND AUTOMATIC STAY  
FI-1 12-20-18 [7]
21. 17-20689-D-7 MONUMENT SECURITY, INC. MOTION FOR AUTHORITY TO USE  
DNL-7 ESTATE FUNDS  
12-18-18 [444]
22. 17-20689-D-7 MONUMENT SECURITY, INC. MOTION TO SET CHAPTER 11  
DNL-8 ADMINISTRATIVE EXPENSE CLAIMS  
BAR DATE  
12-18-18 [450]

**Final ruling:**

**Motion withdrawn by moving party. Matter removed from calendar.**

