UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable Jennifer E. Niemann
Hearing Date: Friday, January 10, 2025
Department A – 510 19th street
Bakersfield, California

At this time, when in-person hearings in Bakersfield will resume is to be determined. No persons are permitted to appear in court for the time being. All appearances of parties and attorneys shall be as instructed below.

Unless otherwise ordered, all matters before the Honorable Jennifer E. Niemann shall be simultaneously: (1) via **ZoomGov Video**, (2) via **ZoomGov Telephone**, and (3) via **CourtCall**. You may choose any of these options unless otherwise ordered or stated below.

All parties who wish to appear at a hearing remotely must sign up by 4:00 p.m. **one business day** prior to the hearing. Information regarding how to sign up can be found on the **Remote Appearances** page of our website at https://www.caeb.uscourts.gov/Calendar/CourtAppearances. Each party who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

If the deadline to sign up has passed, parties who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest may connect to the video or audio feed free of charge and should select which method they will use to appear when signing up.
- Members of the public and the press appearing by ZoomGov may only listen in to the hearing using the zoom telephone number. Video appearances are not permitted.
- Members of the public and the press may not listen in to trials or evidentiary hearings, though they may appear in person in most instances.

To appear remotely for law and motion or status conference proceedings, you must comply with the following guidelines and procedures:

1. Review the Pre-Hearing Dispositions prior to appearing at the hearing.
2. Parties appearing via CourtCall are encouraged to review the CourtCall Appearance Information.

If you are appearing by ZoomGov phone or video, please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

Unauthorized Recording is Prohibited: Any recording of a court proceeding held by video or teleconference, including "screen shots" or other audio or visual copying of a hearing is prohibited. Violation may result in sanctions, including removal of court-issued media credentials, denial of entry to future hearings, or any other sanctions deemed necessary by the court. For more information on photographing, recording, or broadcasting Judicial Proceedings, please refer to Local Rule 173(a) of the United States District Court for the Eastern District of California.

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

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

No Ruling: All parties will need to appear at the hearing unless otherwise ordered.

Tentative Ruling: If a matter has been designated as a tentative ruling it will be called, and all parties will need to appear at the hearing unless otherwise ordered. The court may continue the hearing on the matter, set a briefing schedule, or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

Final Ruling: Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

Orders: Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within 14 days of the final hearing on the matter.

THE COURT ENDEAVORS TO PUBLISH ITS RULINGS AS SOON AS POSSIBLE. HOWEVER, CALENDAR PREPARATION IS ONGOING AND THESE RULINGS MAY BE REVISED OR UPDATED AT ANY TIME PRIOR TO 4:00 P.M. THE DAY BEFORE THE SCHEDULED HEARINGS. PLEASE CHECK AT THAT TIME FOR POSSIBLE UPDATES.

9:00 AM

1. 24-12304-A-13 **IN RE: RAYLON ROBERTSON**
RSW-1

MOTION TO VALUE COLLATERAL OF CHASE AUTO FINANCE
11-7-2024 [12]

RAYLON ROBERTSON/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

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

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movants have done here.

As an informative matter, the movant incorrectly completed Section 6 of the court's mandatory Certificate of Service form. In Section 6, the declarant marked box 6.A.2. showing that service was effectuated by Federal Rule of Bankruptcy Procedure 7004. However, the declarant did not mark box 6.A. showing that service was accomplished by both Rule 7004 Service as well as Rule 5 and Rules 7005, 9036 Service. In the future, if service is accomplished by Rule 7004, both box 6.A. as well as the relevant box under 6.A. should be marked.

Raylon Marcus Robertson ("Debtor"), the debtor in this chapter 13 case, moves the court for an order valuing Debtor's 2016 Land Rover Range Rover HSE ("Vehicle"), which is the collateral of Chase Auto Finance ("Creditor"), at $22,125.00, as it was involved in an accident. Doc. #12. Per Creditor's proof of claim filed on September 12, 2024, Creditor values the Vehicle at $22,275.00. Claim 7.

11 U.S.C. § 1325(a)(*) (the hanging paragraph) permits the debtor to value a motor vehicle acquired for the personal use of the debtor at its current value, as opposed to the amount due on the loan, if the loan was a purchase money security interest secured by the property and the debt was not incurred within the 910-day period preceding the date of filing. 11 U.S.C. § 506(a)(1) limits a secured creditor's claim "to the extent of the value of such creditor's interest in the estate's interest in such property . . . and is an unsecured claim to the extent that the value of such creditor's interest . . . is less

than the amount of such allowed claim." Section 506(a)(2) of the Bankruptcy Code states that the value of personal property securing an allowed claim shall be determined based on the replacement value of such property as of the petition filing date. "Replacement value" where the personal property is "acquired for personal, family, or household purposes" means "the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined." 11 U.S.C. § 506(a)(2).

Debtor asserts the Vehicle was purchased more than 910 days before the filing of this case. Decl. of Raylon Robertson, Doc. #14. Debtor asserts a replacement value of the Vehicle of $22,125.00 because the Vehicle was involved in an accident and asks the court for an order valuing the Vehicle at $22,125.00. Doc. #12. Debtor is competent to testify as to the value of the Vehicle.

The motion is GRANTED. Creditor's secured claim will be fixed at $22,125.00. The proposed order shall specifically identify the collateral, and if applicable, the proof of claim to which it relates. The order will be effective upon confirmation of the chapter 13 plan.

2. 24-13217-A-13 **IN RE: MARIBEL MEJIA**
LGT-1

OBJECTION TO CONFIRMATION OF PLAN BY LILIAN G. TSANG
12-6-2024 [12]

LILIAN TSANG/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

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

DISPOSITION: Continued to February 6, 2025 at 9:00 a.m.

ORDER: The court will issue an order.

Maribel Mejia ("Debtor") filed a voluntary petition under chapter 13 along with a chapter 13 plan ("Plan") on November 1, 2024. Doc. ##1, 3. The chapter 13 trustee ("Trustee") objects to confirmation of the Plan because: (1) Trustee cannot determine whether Debtor's Plan is feasible because Debtor has failed to provide documentation requested by Trustee to support Debtor's assertion that her sole source of income is from room rental; and (2) a fee application will be required to be filed and set for hearing because no box has been checked in Section 3.05 of Debtor's Plan. Doc. #12.

This objection will be continued to February 6, 2025 at 9:00 a.m. Unless this case is voluntarily converted to chapter 7, dismissed, or Trustee's objection to confirmation is withdrawn, Debtor shall file and serve a written response no later than January 23, 2025. The response shall specifically address each issue raised in the objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support Debtor's position. Trustee shall file and serve a reply, if any, by January 30, 2025.

If Debtor elects to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than January 30, 2025. If Debtor does not timely file a modified plan or a written response, this objection to confirmation will be denied on the grounds stated in Trustee's opposition without a further hearing.

3. 24-12629-A-13 **IN RE: MICHAEL LOPEZ**
LGT-2

MOTION TO DISMISS CASE
12-4-2024 [41]

LILIAN TSANG/MV

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

DISPOSITION: Granted.

ORDER: The court will issue an order.

Unless the trustee's motion is withdrawn before the hearing, the motion will be granted without oral argument for cause shown.

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the debtor to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the default of the debtor is entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Here, the chapter 13 trustee asks the court to dismiss this case under 11 U.S.C. § 1307(c)(1) and (c)(4) for unreasonable delay by the debtor that is prejudicial to creditors. Doc. #41. Specifically, Trustee asks the court to dismiss this case for the debtor's failure to: (1) appear at the scheduled § 341 meeting of creditors; (2) provide Trustee with any requested documents; and (3) commence making payments due under the plan. The debtor is delinquent in plan payments in the amount of $5,047.22 and an additional plan payment of $2,523.61 will come due while the motion is pending. Doc. #41. The debtor did not oppose the motion.

Under 11 U.S.C. § 1307(c), the court may convert or dismiss a case, whichever is in the best interests of creditors and the estate, for cause. "A debtor's unjustified failure to expeditiously accomplish any task required either to propose or to confirm a chapter 13 plan may constitute cause for dismissal under § 1307(c)(1)." Ellsworth v. Lifescape Med. Assocs., P.C. (In re Ellsworth), 455 B.R. 904, 915 (B.A.P. 9th Cir. 2011). There is "cause" for dismissal under 11 U.S.C. § 1307(c)(1) for unreasonable delay by the debtor that is prejudicial to creditors because the debtor failed to appear at the scheduled 341 meeting of creditors and failed to provide Trustee with all of the documentation required by 11 U.S.C. § 521(a)(3) and (4). Cause also exists under 11 U.S.C. § 1307(c)(4) to dismiss this case as the debtor has failed to make all payments due under the plan.

A review of the debtor's Schedules A/B, C and D shows that the debtor's assets are fully exempt. Because there is no equity to be realized for the benefit of the estate, dismissal, rather than conversion to chapter 7, is in the best interests of creditors and the estate. Further, because the debtor has failed

to appear at the original and continued meetings of creditors (see court docket entries entered on October 22, 2024 and December 3, 2024), dismissal rather than conversion is appropriate.

Accordingly, the motion will be GRANTED, and the case dismissed.

4. 24-11841-A-13 **IN RE: HEATHER CORONADO**
RAS-1

OBJECTION TO CONFIRMATION OF PLAN BY U.S. BANK NATIONAL ASSOCIATION
12-23-2024 [52]

U.S. BANK NATIONAL ASSOCIATION/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
DAVID COATS/ATTY. FOR MV.

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

DISPOSITION: Consolidated with calendar matter #5 below [RSW-3].

ORDER: The court will issue an order.

On December 23, 2024, U.S. Bank National Association, as Trustee, For the C-Bass Mortgage Loan Asset Backed Certificates, Series 2006-CB4, by and through its authorized loan servicing agent, PHH Mortgage ("Creditor") filed an objection to confirmation of the chapter 13 plan of Heather Ann Coronado ("Debtor") and set its objection to confirmation for hearing on January 9, 2025. Doc. #52. This procedure would have been proper pursuant to Local Rule of Practice ("LBR") 3015-1(c) had Creditor's objection to confirmation been filed with respect to Debtor's original chapter 13 plan. However, that is not the case.

Here, Debtor filed an amended plan on November 6, 2024, and noticed a hearing on a motion to confirm that plan for January 9, 2025. Doc. ##41, 46. Therefore, this objection to confirmation should have been filed as a response/opposition to Debtor's motion to confirm her chapter 13 plan [RSW-3] and will be consolidated with that matter.

As a result of Creditor filing its objection to confirmation and noticing it as a separate hearing, the opposition filed by Creditor has the incorrect Docket Control Number. "Once a Docket Control Number is assigned, all related papers filed by any party, including motions for orders shortening the amount of notice and stipulations resolving that motion, shall include the same number." LBR 9014-1(c)(4). See LBR 9004-2(b)(6). Here, Debtor's motion to confirm her chapter 13 plan to which Creditor objects was assigned a Docket Control Number of RSW-3, while the objection and related documents have a Docket Control Number of RAS-1. The correct Docket Control Number for the objection and related documents should have been RSW-3.

Accordingly, this objection to confirmation is consolidated with calendar matter #5 below [RSW-3].

5. 24-11841-A-13 **IN RE: HEATHER CORONADO**
RSW-3

MOTION TO CONFIRM PLAN
11-5-2024 [40]

HEATHER CORONADO/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to February 6, 2025 at 9:00 a.m.

ORDER: The court will issue an order.

This motion was set for hearing on at least 35 days' notice as required by Local Rule of Practice 3015-1(d)(1). The chapter 13 trustee ("Trustee") and U.S. Bank National Association, as Trustee, For the C-Bass Mortgage Loan Asset Backed Certificates, Series 2006-CB4, by and through its authorized loan servicing agent, PHH Mortgage ("Creditor") both filed oppositions to the debtor's motion to confirm the chapter 13 plan. Doc. ##50, 52. Unless this case is voluntarily converted to chapter 7, dismissed, or Creditor and/or Trustee's opposition(s) to confirmation are withdrawn, the debtor shall file and serve a written response to each opposition no later than January 23, 2025. The responses shall specifically address each issue raised in the respective opposition to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the debtor's position. Trustee and/or Creditor shall file and serve a reply, if any, by January 30, 2025.

If the debtor elects to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than January 30, 2025. If the debtor does not timely file a modified plan or a written response, this motion will be denied on the grounds stated in Creditor and/or Trustee's opposition(s) without a further hearing.

6. 24-11342-A-13 **IN RE: MIGUEL/MARIA DE LEON**
RSW-2

MOTION TO MODIFY PLAN
12-4-2024 [23]

MARIA DE LEON/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
NEIL SCHWARTZ/ATTY. FOR MV.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to February 6, 2025 at 9:00 a.m.

ORDER: The court will issue an order.

This motion was set for hearing on at least 35 days' notice prior to the hearing date as required by Local Rule of Practice 3015-1(d)(2). The chapter 13 trustee ("Trustee") filed an opposition to the debtors' motion to confirm the

chapter 13 plan. Tr.'s Opp'n, Doc. #35. Unless this case is voluntarily converted to chapter 7, dismissed, or Trustee's opposition to confirmation is withdrawn, the debtors shall file and serve a written response no later than January 23, 2025. The response shall specifically address each issue raised in the opposition to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the debtors' position. Trustee shall file and serve a reply, if any, by January 30, 2025.

If the debtors elect to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than January 30, 2025. If the debtors do not timely file a modified plan or a written response, this motion will be denied on the grounds stated in Trustee's opposition without a further hearing.

7. 24-11564-A-13 **IN RE: JALAINE BEEMS**
APD-2

MOTION TO CONFIRM PLAN
12-4-2024 [47]

JALAINE BEEMS/MV
ANTHONY DIEHL/ATTY. FOR DBT.
RESPONSIVE PLEADING

NO RULING.

8. 24-12881-A-13 **IN RE: HILDA JIMENEZ**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
12-9-2024 [71]

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

DISPOSITION: Dropped as moot.

ORDER: The court will issue an order.

The court is granting the trustee's motion to dismiss [LGT-1] below, therefore this order to show cause will be DROPPED AS MOOT.

9. 24-12881-A-13 **IN RE: HILDA JIMENEZ**
LGT-1

MOTION TO DISMISS CASE
12-4-2024 [63]

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

DISPOSITION: Granted.

ORDER: The court will issue an order.

Unless the trustee's motion is withdrawn before the hearing, the motion will be granted without oral argument for cause shown.

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the debtor to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the default of the debtor is entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Here, the chapter 13 trustee asks the court to dismiss this case under 11 U.S.C. § 1307(c)(1) and (c)(4) for unreasonable delay by the debtor that is prejudicial to creditors. Doc. #63. Specifically, Trustee asks the court to dismiss this case for the debtor's failure to: (1) appear at the scheduled § 341 meeting of creditors; (2) set a plan for hearing with notice to creditors; (3) provide Trustee with any requested documents; (4) file a complete plan; (5) accurately file schedules and/or statements; and (6) make all payments due under the plan. The debtor is delinquent in plan payments in the amount of $400.00 and an additional plan payment of $400.00 will come due while the motion is pending. Doc. #63. The debtor did not oppose the motion.

Under 11 U.S.C. § 1307(c), the court may convert or dismiss a case, whichever is in the best interests of creditors and the estate, for cause. "A debtor's unjustified failure to expeditiously accomplish any task required either to propose or to confirm a chapter 13 plan may constitute cause for dismissal under § 1307(c)(1)." Ellsworth v. Lifescape Med. Assocs., P.C. (In re Ellsworth), 455 B.R. 904, 915 (B.A.P. 9th Cir. 2011). There is "cause" for dismissal under 11 U.S.C. § 1307(c)(1) for unreasonable delay by debtor that is prejudicial to creditors because the debtor failed to appear at the scheduled 341 meeting of creditors and failed to provide Trustee with all of the documentation required by 11 U.S.C. § 521(a)(3) and (4). Cause also exists under 11 U.S.C. § 1307(c)(4) to dismiss this case as the debtor has failed to make all payments due under the plan.

Because the debtor has failed to appear at the meeting of creditors (see court docket entry entered on November 19, 2024), dismissal rather than conversion is appropriate.

Accordingly, the motion will be GRANTED, and the case dismissed.

10. 24-12783-A-13 **IN RE: EMANUEL/KAREN DOZIER**
LGT-2

MOTION TO DISMISS CASE
12-6-2024 [20]

ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

NO RULING.

11. 24-12384-A-13 **IN RE: CRYSTAL JOHNSON**
LGT-1

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY LILIAN G. TSANG
9-26-2024 [13]

LILIAN TSANG/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Dropped as moot.

ORDER: The court will issue an order.

The court is granting the trustee's motion to dismiss [LGT-2] below, therefore this objection to confirmation will be DROPPED AS MOOT.

12. 24-12384-A-13 **IN RE: CRYSTAL JOHNSON**
LGT-2

MOTION TO DISMISS CASE
12-5-2024 [24]

ROBERT WILLIAMS/ATTY. FOR DBT.

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

DISPOSITION: Granted.

ORDER: The court will issue the order.

Unless the trustee's motion is withdrawn before the hearing, the motion will be granted without oral argument for cause shown.

This motion was set for hearing on at least 28 days' notice prior to the hearing date as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Here, the chapter 13 trustee asks the court to dismiss this case for unreasonable delay by the debtor that is prejudicial to creditors (11 U.S.C. § 1307(c)(1)) and because the debtor has failed to make all payments due under the plan (11 U.S.C. § 1307(c)(4)). The debtor is delinquent in plan payments in the amount of $900.00. Doc. #24. Before this hearing, an additional plan

payment in the amount of $450.00 will also come due. Id. The debtor did not oppose the motion.

Under 11 U.S.C. § 1307(c), the court may convert or dismiss a case, whichever is in the best interests of creditors and the estate, for cause. "A debtor's unjustified failure to expeditiously accomplish any task required either to propose or to confirm a chapter 13 plan may constitute cause for dismissal under § 1307(c)(1)." Ellsworth v. Lifescape Med. Assocs., P.C. (In re Ellsworth), 455 B.R. 904, 915 (B.A.P. 9th Cir. 2011). There is "cause" for dismissal under 11 U.S.C. § 1307(c)(1) for unreasonable delay by debtor that is prejudicial to creditors and 11 U.S.C. § 1307(c)(4) for failing to timely make payments due under the plan.

A review of the debtor's Schedules A/B, C and D shows the debtor's vehicle is overencumbered and all other assets are fully exempt. Doc. #1. Because there appears to be no non-exempt equity in the debtor's assets to be realized for the benefit of the estate, dismissal, rather than conversion, is in the best interests of creditors and the estate.

Accordingly, this motion will be GRANTED. The case will be dismissed.

13. 24-13289-A-13 **IN RE: JORGE PERALES**
JCW-1

OBJECTION TO CONFIRMATION OF PLAN BY ALLY BANK
12-13-2024 [17]

ALLY BANK/MV
D. GARDNER/ATTY. FOR DBT.
JENNIFER WONG/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Sustained.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The court will issue an order after the hearing.

This objection was filed and served pursuant to Local Rule of Practice ("LBR") 3015-1(c)(4) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and sustain the objection. If opposition is presented at the hearing, the court will consider the opposition and whether a further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Jorge Perales ("Debtor") filed this chapter 13 plan ("Plan") on November 12, 2024. Doc. #7. Ally Bank ("Creditor") objects to confirmation of the Plan on the ground that the Plan does not provide for an appropriate interest rate on Creditor's secured claim. Doc. #17. The Plan proposes an interest rate of 4%. Doc. #7. Creditor contends that under the Supreme Court decision of Till v. SCS Credit Corp., 541 U.S. 465, 480 (2004), the interest rate should be at least 9.75%. Doc. #17.

The party moving to confirm the chapter 13 plan bears the burden of proof to show facts supporting the proposed plan. Max Recovery v. Than (In re Than), 215 B.R. 430, 434 (B.A.P. 9th Cir. 1997).

The Till "formula approach" requires an interest rate "high enough to compensate the creditor for its risk but not so high as to doom the plan." Till, 541 U.S. at 480. This is referred to as the "formula" or "prime-plus" rate, which the Supreme Court held best comports with the purposes of the Bankruptcy Code in the chapter 13 context. Id. at 479-80.

It is generally acknowledged that this approach starts with the national prime rate, which is then adjusted based on a number of factors. While the Supreme Court enunciated some factors to consider in adjusting the "prime-plus" rate upward, the Supreme Court also acknowledged some factors contribute to a reduction in risk (though not necessarily a rate less than prime). Till, 541 U.S. at 475 n.12. The Supreme Court in Till also noted that "if the court could somehow be certain a debtor would complete his plan, the prime rate would be adequate to compensate any secured creditors forced to accept cram down loans." Till, 541 U.S. at 479 n.18.

Creditor argues that 7.75% plus at least 2.00% is the appropriate rate because the national prime rate of interest as of December 13, 2024, was 7.75%. Doc. #17. Based on the evidence currently before the court, the court agrees that Debtor has not met his burden of proof to establish that setting the interest rate below the current prime rate of interest satisfies Till. Creditor's objection to confirmation is sustained.

Accordingly, pending any opposition at hearing, the objection will be SUSTAINED.

14. 24-13289-A-13 **IN RE: JORGE PERALES**
RAS-1

OBJECTION TO CONFIRMATION OF PLAN BY SELENE FINANCE, LP
12-26-2024 [22]

SELENE FINANCE, LP/MV
D. GARDNER/ATTY. FOR DBT.
DAVID COATS/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Overruled.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The court will issue an order after the hearing.

This objection was filed and served pursuant to Local Rule of Practice ("LBR") 3015-1(c)(4) and will proceed as scheduled. Opposition may be presented at the hearing. However, irrespective of whether opposition is raised at the hearing, the court intends to overrule the objection for lack of evidence.

Jorge Perales ("Debtor") filed this chapter 13 plan ("Plan") on November 12, 2024. Doc. #7. Selene Finance, LP ("Creditor") objects to confirmation of the Plan on the ground that the Plan fails to provide for the full cure amount of pre-petition arrears owed to Creditor in accordance with 11 U.S.C. § 1322(b)(5). Doc. #22.

However, Creditor has not filed any evidence in support of its objection and has not filed a proof of claim in Debtor's case. Had Creditor filed a proof of claim, the requisite evidence would have been provided pursuant to Federal Rule

of Bankruptcy Procedure 3001(f) and 11 U.S.C. § 502(a). Federal Rule of Bankruptcy Procedure 3001(f) provides that "[a] proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim." 11 U.S.C. § 502(a) states that a claim or interest, evidenced by a proof of claim filed under section 501, is deemed allowed unless a party in interest objects.

Because there is no evidence in support of Creditor's objection to confirmation, this objection will be OVERRULED.

15. 24-13289-A-13 **IN RE: JORGE PERALES**
SKI-1

OBJECTION TO CONFIRMATION OF PLAN BY CARMAX BUSINESS SERVICES, LLC
11-25-2024 [12]

CARMAX BUSINESS SERVICES, LLC/MV
D. GARDNER/ATTY. FOR DBT.
SHERYL ITH/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Sustained.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The court will issue an order after the hearing.

This objection was filed and served pursuant to Local Rule of Practice ("LBR") 3015-1(c)(4) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and sustain the objection. If opposition is presented at the hearing, the court will consider the opposition and whether a further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Jorge Perales ("Debtor") filed this chapter 13 plan ("Plan") on November 12, 2024. Doc. #7. Carmax Business Services, LLC ("Creditor") objects to confirmation of the Plan on the ground that the Plan does not provide for an appropriate interest rate on Creditor's secured claim. Doc. #12. The Plan proposes an interest rate of 4%. Doc. #7. Creditor contends that under the Supreme Court decision of Till v. SCS Credit Corp., 541 U.S. 465, 480 (2004), the interest rate should be at least 9.75%. Doc. #12.

The party moving to confirm the chapter 13 plan bears the burden of proof to show facts supporting the proposed plan. Max Recovery v. Than (In re Than), 215 B.R. 430, 434 (B.A.P. 9th Cir. 1997).

The Till "formula approach" requires an interest rate "high enough to compensate the creditor for its risk but not so high as to doom the plan." Till, 541 U.S. at 480. This is referred to as the "formula" or "prime-plus" rate, which the Supreme Court held best comports with the purposes of the Bankruptcy Code in the chapter 13 context. Id. at 479-80.

It is generally acknowledged that this approach starts with the national prime rate, which is then adjusted based on a number of factors. While the Supreme Court enunciated some factors to consider in adjusting the "prime-plus" rate upward, the Supreme Court also acknowledged some factors contribute to a

reduction in risk (though not necessarily a rate less than prime). Till, 541 U.S. at 475 n.12. The Supreme Court in Till also noted that "if the court could somehow be certain a debtor would complete his plan, the prime rate would be adequate to compensate any secured creditors forced to accept cram down loans." Till, 541 U.S. at 479 n.18.

Creditor argues that 7.75% plus at least 2.00% is the appropriate rate because the national prime rate of interest as of November 12, 2024, was 7.75%. Doc. #12; Decl. of John Eng, Doc. #14. Based on the evidence currently before the court, the court agrees that Debtor has not met his burden of proof to establish that setting the interest rate below the current prime rate of interest satisfies Till. Creditor's objection to confirmation is sustained.

Accordingly, pending any opposition at hearing, the objection will be SUSTAINED.

10:00 AM

1. 24-10200-A-7 **IN RE: DMW INDUSTRIES, INC.**
LNH-4

MOTION FOR ADMINISTRATIVE EXPENSES
12-5-2024 [40]

JEFFREY VETTER/MV
D. GARDNER/ATTY. FOR DBT.
LISA HOLDER/ATTY. FOR MV.

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

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Jeffrey M. Vetter ("Trustee"), the chapter 7 trustee of the bankruptcy estate of DMW Industries, Inc., moves the court for an order authorizing the payment of (1) $1,600.00 to the Franchise Tax Board for estimated state corporate taxes due for the 2024 and 2025 tax years plus any interest and penalties not exceeding $400.00, and (2) an additional amount not to exceed $1,000.00 for any future and/or other tax liability incurred by the estate that is not for a tax of a kind specified in 11 U.S.C. § 507(a)(8). Doc. #40.

11 U.S.C. § 503(b)(1)(B) states that, after notice and a hearing, administrative expenses shall be allowed for "any tax [] incurred by the estate, whether secured or unsecured, including property taxes . . . except a tax of a kind specified in section 507(a)(8) of this title[.]" "Pursuant to this subsection of § 503, a claim is entitled to allowance as an administrative expense if two requirements are satisfied: the tax must be incurred by the estate and the tax must not be a tax of a kind specified in § 507[(a)(8)]." Towers for Pacific-Atlantic Trading Co. v. United States (In re Pacific-Atlantic Trading Co.), 64 F.3d 1292, 1298 (9th Cir. 1995). Here, Trustee has shown that the tax was incurred by the estate, and the tax is not a tax of the kind specified in § 507(a)(8). Decl. of Jeffrey M. Vetter, Doc. #42.

Accordingly, this motion is GRANTED. The estate is authorized to pay as an administrative expense (a) $1,600.00 to pay the Franchise Tax Board for California state corporate taxes for the 2024 and 2025 tax years, plus any

interest and penalties not to exceed $400.00, owed to the State of California, and (b) an additional amount not to exceed $1,000.00 for any unexpected tax liability incurred by the estate and not for a tax of a kind specified in 11 U.S.C. § 507(a)(8).

2. 24-10200-A-7 **IN RE: DMW INDUSTRIES, INC.**
LNH-5

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT AGREEMENT WITH BELDEN BLAINE RAYTIS, LLP
12-5-2024 [45]

JEFFREY VETTER/MV
D. GARDNER/ATTY. FOR DBT.
LISA HOLDER/ATTY. FOR MV.

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

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Jeffrey M. Vetter ("Trustee"), the chapter 7 trustee of the bankruptcy estate of DMW Industries, Inc. ("Debtor"), moves the court for an order pursuant to Federal Rule of Bankruptcy Procedure 9019, approving the compromise of all claims and disputes between Debtor and Belden Blain Raytis, LLP ("BBR") regarding a potential legal malpractice claim against Debtor's former general business and litigation counsel. Doc. #45.

In 2015, a class action lawsuit was filed against Debtor and Debtor's principal, David Miller, by their employees for non-compensation or under compensation. Ex. B, Doc. #48. The underlying lawsuit was dismissed for failure to bring the case to trial within 5 years, but binding arbitrations were pending at the time the case was filed, which led Debtor to file for bankruptcy. Id. Debtor and Mr. Miller were dissatisfied with the representation of its business counsel, BBR. Id. Mr. Miller sent an offer letter to Trustee seeking to purchase Debtor's interest in the potential litigation claim against BBR for $5,000.00. Id.; Decl. of Jeffrey M. Vetter, Doc. #47. Trustee reached out to BBR to see if BBR was interested in settling the potential litigation claims. Vetter Decl., Doc. #47. BBR offered $7,500.00 to compromise the potential litigation claim, and Trustee accepted this offer. Vetter Decl.,

Doc. #47; Ex. C, Doc. #48. BBR shall pay the settlement sum no later than 7 days following the entry of a final order approving the compromise. Id. Upon approval and payment of BBR, Trustee will release the estate's claim against BBR. Id.

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. Martin v. Kane (In re A & C Props.), 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. Woodson v. Fireman's Fund Ins. Co. (In re Woodson), 839 F.2d 610, 620 (9th Cir. 1988).

It appears from the moving papers that Trustee has considered the standards of A & C Properties and Woodson. Doc. #45. Trustee believes that it will be difficult to prove actual damages were caused by Debtor's attorney because the underlying class action against Debtor was dismissed, which makes the probability of success on the legal malpractice claim against BBR low. Vetter Decl., Doc. #47. The settlement resolves the dispute with BBR without the expense of litigation costs or issue in the matter of collection. The settlement is fair, reasonable, and obtains an economically advantageous result. The court concludes that the Woodson factors balance in favor of approving the compromise, and the compromise is in the best interest of the creditors and the estate.

Accordingly, it appears that the compromise pursuant to Federal Rule of Bankruptcy Procedure 9019 is reasonable. 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). No opposition has been filed. Furthermore, the law favors compromise and not litigation for its own sake. Id.

Accordingly, the motion is GRANTED, and the settlement between Trustee and BBR is approved. Trustee is authorized, but not required, to execute any and all documents necessary to satisfy the terms of the proposed settlement.

3. 24-11507-A-7 **IN RE: JOHNNY DE LA GARZA**
UST-3

MOTION TO EXTEND TIME TO FILE A MOTION TO DISMISS CASE UNDER SEC. 707(B) AND/OR MOTION TO EXTEND DEADLINE TO FILE A COMPLAINT OBJECTING TO DISCHARGE OF THE DEBTOR
11-25-2024 [23]

TRACY DAVIS/MV
NEIL SCHWARTZ/ATTY. FOR DBT.
MICHAEL FLETCHER/ATTY. FOR MV.

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

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Tracy Hope Davis, the United States Trustee for Region 17 ("UST"), moves the court for an order further extending the time for filing a complaint objecting to the discharge of Johnny De La Garza Jr. ("Debtor"), the chapter 7 debtor in this bankruptcy case, under 11 U.S.C. § 727 and/or a motion to dismiss under § 707(b). Doc. #23.

Federal Rule of Bankruptcy Procedure ("Rule") 4004(b)(1) provides that, "[o]n a party in interest's motion and after notice and a hearing, the court may, for cause, extend the time to object to a discharge. The motion must be filed before the time has expired." Pursuant to Rule 4004(a)(1), a complaint or motion, where applicable, "objecting to a discharge must be filed within 60 days after the first date set for the § 341(a) meeting of creditors." Similarly, Rule 1017(e)(2) allows the court, "for cause" to extend the time for filing a motion to dismiss under 11 U.S.C. § 707(b) if the request is made within the 60-day period after the first date set for the initial meeting of creditors.

UST's first motion to extend time for filing a complaint objecting to the discharge was filed on September 24, 2024, the sixtieth day after the first date set for the meeting of creditors. Doc. #13. That motion was timely and an order granting that motion was entered on November 14, 2024, extending the deadline to file a motion to dismiss under 11 U.S.C. §§ 707(b)(1) and (3) and the deadline to file a complaint objecting to discharge under 11 U.S.C. § 727 from September 24, 2024, to December 3, 2024, for the UST. Order, Doc. #22. On November 25, 2024, this motion to further extend the deadline to file a motion to dismiss under 11 U.S.C. §§ 707(b)(1) and (3) to January 10, 2025 was filed and is timely. Doc. #23.

After review of the included evidence, the court finds that "cause" exists to further extend the filing deadlines. The court previously granted the UST's request for a 70-day extension to allow time for her to obtain the needed documents from Debtor, conduct a 2004 examination and complete her analysis of the bankruptcy case. Order, Doc. #22. However, Debtor has failed to produce any documents by the deadline of November 17, 2024, and UST continued the 2004 exam to wait for the documents to be produced. Decl. of Cecilia Jimenez, Doc. #25. Debtor's counsel has indicated that documents will be produced on or before December 3, 2024, and UST plans to conduct a 2004 exam in mid-December. Jimenez Decl., Doc. #25. UST requests a further 38-day extension to allow time for UST to obtain documents from Debtor and complete her analysis of the bankruptcy case. Id.

Accordingly, this motion is GRANTED. The time for UST to file a complaint objecting to the discharge of Debtor is extended to January 10, 2025, and the

time for UST to file a motion to dismiss or convert Debtor's case for abuse under § 707(b) is extended to January 10, 2025.

4. 24-13009-A-7 **IN RE: ALEJANDRO TOPETE**
CLB-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-5-2024 [12]

BANK OF AMERICA, N.A./MV
JOSEPH PEARL/ATTY. FOR DBT.
CHAD BUTLER/ATTY. FOR MV.

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

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on 28 days' notice prior to the hearing date as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The movant, Bank of America, N.A. ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2023 Acura Integra, VIN: 19UDE4G77PA008471 ("Vehicle"). Doc. #12.

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtor does not have any equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, the court finds that "cause" exists to lift the stay because the debtor has failed to make at least five complete pre-petition payments. Movant has produced evidence that the debtor is delinquent by at least $4,200.05. Decl. of Shanine Duviella, Doc. #16. According to the debtor's Statement of Intention, the Vehicle will be surrendered. Doc. #1.

The court also finds that the debtor does not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because the

debtor is in chapter 7. Doc. #12. The Vehicle is valued at $24,000.00 and the debtor owes $44,125.73. Duviella Decl., Doc. #16.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) to permit Movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the debtor has failed to make at least five pre-petition payments to Movant and the Vehicle is a depreciating asset.

5. 15-14425-A-7 **IN RE: DAVID/DEBBIE GUTIERREZ**
DMG-4

MOTION FOR COMPENSATION FOR D. MAX GARDNER, TRUSTEES ATTORNEY(S)
12-18-2024 [72]

R. BELL/ATTY. FOR DBT.
D. GARDNER/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The Moving Party shall submit a proposed order after the hearing.

This motion was filed and served on at least 21 days' notice prior to the hearing date pursuant to Federal Rule of Bankruptcy Procedure 2002 and Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

D. Max Gardner, Attorney as Law, ("Movant"), attorney for chapter 7 trustee Jeffrey M. Vetter ("Trustee"), requests allowance of final compensation and reimbursement for expenses for services rendered from February 5, 2021 through December 12, 2024. Doc. #72; Ex. A, Doc. #75. Movant provided legal services valued at $6,849.50, and requests compensation for that amount. Doc. #72. Movant requests reimbursement for expenses in the amount of $50.90. Doc. #72. This is Movant's first and final fee application. Trustee consents to the amount requested in Movant's application. Doc. #79.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a "professional person." 11 U.S.C. § 330(a)(1). In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Movant's services included, without limitation: (1) providing counsel to Trustee as to the administration of the chapter 7 case; (2) reviewing and preparing motion to compromise controversy; and (3) preparing and filing employment and fee applications. Decl. of D. Max Gardner, Doc. #74; Ex. A,

Doc. #75. The court finds the compensation and reimbursement sought are reasonable, actual, and necessary.

This motion will be GRANTED on a final basis. The court allows final compensation in the amount of $6,849.50 and reimbursement for expenses in the amount of $50.90. Trustee is authorized to make a combined payment of $6,900.40, representing compensation and reimbursement, to Movant. Trustee is authorized to pay the amount allowed by this order from available funds only if the estate is administratively solvent and such payment is consistent with the priorities of the Bankruptcy Code.

6. 24-11626-A-7 **IN RE: MANDIP GREWAL**
RSW-2

MOTION TO CONVERT CASE FROM CHAPTER 7 TO CHAPTER 13
12-4-2024 [60]

ROBERT WILLIAMS/ATTY. FOR DBT.

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

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Mandip Kaur Grewal ("Debtor"), the debtor in this chapter 7 case, moves pursuant to 11 U.S.C. § 706(a) to convert this chapter 7 case to a case under chapter 13. Doc. #60.

Bankruptcy Code § 706(a) authorizes a debtor to convert a case under chapter 7 to a case under chapter 11, 12, or 13 of this title at any time, if the case has not been converted under section 1112, 1208, or 1307 of this title. 11 U.S.C. § 706(a). Any waiver of the right to convert a case under this subsection is unenforceable. Id.

Debtor filed a voluntary petition under chapter 7 on June 13, 2024. Doc. #1. Debtor was previously pro se and is now represented by an attorney who has advised Debtor to convert this case to chapter 13. Doc. ##60, 62. On December 4, 2024, Debtor filed this motion to convert this case to chapter 13. Doc. #60. The United States Trustee and the chapter 7 trustee were duly,

timely, and properly served with the motion to convert. Doc. #64. Moreover, this case has not been previously converted under section 1112, 1208, or 1307.

Accordingly, this motion is GRANTED.

7. 24-11626-A-7 **IN RE: MANDIP GREWAL**
UST-2

CONTINUED MOTION TO DISMISS CASE PURSUANT TO 11 U.S.C. SECTION 707(B)
10-30-2024 [47]

TRACY DAVIS/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
MICHAEL FLETCHER/ATTY. FOR MV.
RESPONSIVE PLEADING

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

DISPOSITION: Denied as moot.

ORDER: The court will issue an order.

The court is granting the debtor's motion to convert this case from chapter 7 to chapter 13 [RSW-2], calendar matter #6 above, therefore this motion to dismiss will be DENIED AS MOOT.

8. 24-11733-A-7 **IN RE: HARJIT SINGH AND JASPREET KAUR**
RSW-2

MOTION TO AVOID LIEN OF FIRST FEDERAL LEASING
11-21-2024 [27]

JASPREET KAUR/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

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

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party

make a *prima facie* showing that they are entitled to the relief sought, which the movants have done here.

Harjit Singh and Jaspreet Kaur (together, "Debtors"), the debtors in this chapter 7 case, move pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014 to avoid the judicial lien of First Federal Leasing, a division of First Bank Richmond, an Indiana financial institution ("Creditor") on the residential real property commonly referred to as 9710 Metropolitan Way, Bakersfield, California 93311 (the "Property"). Doc. #27; Schedules C & D, Doc. #1.

In order to avoid a lien under 11 U.S.C. § 522(f)(1), the movant must establish four elements: (1) there must be an exemption to which the debtor would be entitled under § 522(b); (2) the property must be listed on the debtor's schedules as exempt; (3) the lien must impair the exemption; and (4) the lien must be either a judicial lien or a non-possessory, non-purchase money security interest in personal property listed in § 522(f)(1)(B). 11 U.S.C. § 522(f)(1); Goswami v. MTC Distrib. (In re Goswami), 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003) (quoting In re Mohring, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992)).

Debtors filed the bankruptcy petition on June 23, 2024. Doc. #1. A judgment was entered against H S Brothers Express Inc., a California corporation, as well as debtor Harjit Singh in the amount of $86,144.71 in favor of Creditor on December 8, 2023. Ex. 4, Doc. #29. The abstract of judgment was recorded pre-petition in Kern County on January 29, 2024, as document number 224010353. Ex. 4, Doc. #29. The lien attached to Debtors' interest in the Property located in Kern County. Id. The Property also is encumbered by a first deed of trust in favor of United Wholesale Mortgage in the amount $168,193.00. Schedule D, Doc. #1. Debtors claimed an exemption of $514,900.00 in the Property under California Code of Civil Procedure § 704.730. Schedule C, Doc. #1. Debtors assert a market value for the Property as of the petition date at $514,900.00. Schedule A/B, Doc. #1.

Applying the statutory formula:

Amount of Creditor's judicial lien		$86,144.71
Total amount of all other liens on the Property (excluding junior judicial liens)	+	$168,193.00
Amount of Debtors' claim of exemption in the Property	+	$514,900.00
		$769,237.71
Value of Debtors' interest in the Property absent liens	-	$514,900.00
Amount Creditor's lien impairs Debtor's exemption		$254,337.71

After application of the arithmetical formula required by § 522(f)(2)(A), the court finds there is insufficient equity to support Creditor's judicial lien. Therefore, the fixing of this judicial lien impairs Debtor's exemption in the Property and its fixing will be avoided.

Debtors have established the four elements necessary to avoid a lien under 11 U.S.C. § 522(f)(1). Accordingly, this motion is GRANTED. The proposed order shall state that Creditor's judicial lien is avoided on the subject Property only and include a copy of the abstract of judgment as an exhibit.

9. 22-10735-A-7 **IN RE: DOUGLAS/SAMANTHA RICE**
DMG-3

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT AGREEMENT WITH DOUGLAS PAUL RICE AND/OR MOTION FOR COMPENSATION FOR RAHUL SETHI, SPECIAL COUNSEL(S)
12-12-2024 [38]

JEFFREY VETTER/MV
NEIL SCHWARTZ/ATTY. FOR DBT.
RAHUL SETHI/ATTY. FOR MV.

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

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

As a procedural matter, the notice of hearing filed in connection with this motion does not comply with LBR 9014-1(d)(3)(B)(i), which requires the notice include the names and addresses of persons who must be served with any opposition. The court encourages counsel to review the local rules to ensure compliance in future matters or those matters may be denied without prejudice for failure to comply with the local rules.

Jeffrey M. Vetter ("Trustee"), the chapter 7 trustee of the bankruptcy estate of Douglas Rice and Samantha Marie Rice (collectively, "Debtors"), moves the court for an order pursuant to Federal Rule of Bankruptcy Procedure 9019, approving the compromise to settle a civil lawsuit against Mr. Rice's former employers Daifuku America Corporation, Elite Line Service, Inc., Amazon, and others (collectively, "Defendants") for work-related injuries arising out of discrimination and harassment. Doc. #38. The civil lawsuit was filed shortly before Debtors filed their chapter 7 bankruptcy petition. Id. Rahul Sethi ("Special Counsel") was previously authorized to represent Trustee with respect to all claims held by Debtors against Defendants. See Order, Doc. #25. Trustee also requests authorization of final compensation for Special Counsel pursuant to 11 U.S.C. § 330(a) as required by the order employing special Counsel. Doc. #38; Order, Doc. #25.

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SETTLEMENT AGREEMENT

Among the assets of the estate is a claim that debtor Douglas Rice asserts against Defendants related to injuries arising out of discrimination and harassment ("Lawsuit"). Decl. of Jeffrey M. Vetter, Doc. #41. This Lawsuit was filed in Kern County Superior Court on March 21, 2022 as Case No. BCV-22-100658. Id. A settlement has been reached in the Lawsuit by which Defendants are to pay $250,000.00 within 30 days in return for the release of all claims against Defendants. Id., Ex. A, Doc. #40. Of the $250,000.00 settlement, $25,000.00 is attributed to wage sums to debtor Douglas Rice, and $225,000.00 is attributed to non-wage sums. Id.

By this motion, Trustee seeks court approval authorizing Trustee, on behalf of the estate, to settle the Lawsuit on behalf of the estate. Trustee believes debtor Douglas Rice is entitled to 75% of the $25,000.00 allocated settlement payments for the wage sum, in the amount of $18,750.00, and the estate is entitled to $6,250.00 of the wage sum as well as what remains of $225,000.00 attributed to non-wage sums after the payment of attorney fees and exemptions. Based on Trustee's analysis, the $250,000.00 settlement will be distributed as follows:

Description	Amount
Gross settlement	$250,000.00
40% contingency fee	- $100,000.00
Costs	- $6,830.15
SUBTOTAL	$143,196.85
Wage claim allocation to Debtors	$18,750.00
Wildcard exemption available to Debtors	$29,275.00
Wage claim allocation to chapter 7 estate	$6,250.00
Balance to chapter 7 estate	$88,894.00
TOTAL TO CHAPTER 7 ESTATE	$95,144.00

Vetter Decl., Doc. #41. Trustee currently estimates that administrative claims and allowed creditor claims of the estate total approximately $65,000.00. Id.

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. Martin v. Kane (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. Woodson v. Fireman's Fund Ins. Co. (In re Woodson), 839 F.2d 610, 620 (9th Cir. 1988).

It appears from the moving papers that Trustee has considered the standards of A & C Properties and Woodson. Doc. #38. Trustee believes the proposed settlement is appropriate because the facts giving rise to the Lawsuit are complicated and span several years in time. Vetter Decl., Doc. #41. Further, locating witnesses, having them testify in court and incurring further litigation costs outweigh the risk of seeking a higher award at trial. Id. As for the settlement allocated for wages, a 25% recovery is the best that Trustee and the bankruptcy estate can receive from Debtors' wage claims against Defendants based on the exemption laws, which are favorable to Debtors. Id. Trustee believes that the difficulty of collection is not a factor here and difficulty of litigation is high because litigation would involve multiple witnesses, timelines, and documentation to present at the time of trial. Id. Lastly, Trustee believes that the settlement serves in the interest of

creditors because the settlement offers a sum certain for the estate Id. The court concludes that the Woodson factors balance in favor of approving the compromise, and the compromise is in the best interests of the creditors and the estate.

Accordingly, it appears that the compromise pursuant to Federal Rule of Bankruptcy Procedure 9019 is a reasonable exercise of Trustee's business judgment. 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). No opposition has been filed. Furthermore, the law favors compromise and not litigation for its own sake. Id.

FINAL COMPENSATION

Trustee also requests confirmation of final compensation and reimbursement for expenses payable to Special Counsel for services rendered in connection with Debtors' claims against Defendants. Doc. #38. Through the retainer agreement, Special Counsel is entitled to 40% of the gross recovery and entitled to reimbursement for costs. Ex. B, Doc. #23. Therefore, from the $250,000.00 settlement, Special Counsel is entitled to the 40% contingency fee in the amount of $100,000.00 and costs in the amount of $6,830.15. Vetter Decl., Doc. #41.

The trustee may, with the court's approval, employ a professional person on any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, on a fixed or percentage fee basis, or on a contingent fee basis. 11 U.S.C. § 328(a). An application to employ a professional on terms and conditions to be pre-approved by the court must unambiguously request approval under § 328. See Circle K Corp. v. Houlihan, Lokey, Howard & Zukin, Inc., 279 F.3d 669, 671 (9th Cir. 2002).

Here, the court previously authorized the employment of Special Counsel expressly under 11 U.S.C. §§ 327(e) and 328. Order, Doc. #25. Trustee was authorized to employ Special Counsel as of June 6, 2022, and any compensation or expense reimbursement is subject to approval by the court under § 330(a) and/or § 331. Order, Doc. #25; Doc. #38.

Trustee is authorized to pay Special Counsel in a manner consistent with Trustee's motion and the court's Order Granting Trustee's Motion for Order Authorizing Employment of Special Counsel to the Estate Pursuant to 11 U.S.C. § 328(a).

Accordingly, Trustee's motion is GRANTED. The settlement is approved, Trustee is authorized to enter into, execute, and deliver any releases and other documents as may be required to effectuate the settlement, and Trustee is authorized to receive the sum for distribution as required by the settlement. In addition, payment to Special Counsel in the amount of $106,830.15 is authorized.

10. 24-13263-A-7 **IN RE: DAVID PADILLA TREVINO AND ADILENE TREVINO**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
12-9-2024 [28]

$34.00 FILING FEE PAID 12/20/24

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

DISPOSITION: The order to show cause will be vacated.

ORDER: The court will issue an order.

The record shows that the filing fee for the amended master address list has been paid.

11. 24-13290-A-7 **IN RE: LUCERO CORDOVA**

NOTICE OF INCOMPLETE FILING AND NOTICE OF INTENT TO DISMISS
11-12-2024 [4]

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

DISPOSITION: Overruled as moot.

ORDER: The court will issue an order.

This objection is OVERRULED AS MOOT. On November 12, 2024, the clerk filed a Notice of Incomplete Filing and Intent to Dismiss (the "Notice") due to the debtor's failure to submit the following documents: Statement of Monthly Income; Schedule A/B; Schedule C; Schedule D; Schedule E/F; Schedule G; Schedule H; Schedule I; Schedule J; and Summary of Assets and Liabilities. Doc. #4. The Notice stated that the documents must be received by November 26, 2024, or else the bankruptcy case would be dismissed. Doc. #4. Lucero Cordova ("Debtor") filed an opposition to the Notice asserting that all required documents had been submitted in compliance with the court's deadlines. Doc. #13. The court confirms that all documents required by the Notice were filed on November 12, 2024, before the deadline set forth in the Notice. Doc. ##8, 9.

Accordingly, the debtor's objection to the Notice is overruled as moot because the debtor properly complied with the Notice. No hearing is necessary.

12. 24-12899-A-7 **IN RE: BRIAN HAIR**
SKI-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
11-18-2024 [16]

AMERICREDIT FINANCIAL SERVICES, INC./MV
JENNY DOLING/ATTY. FOR DBT.
SHERYL ITH/ATTY. FOR MV.

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

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice prior to the hearing date as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The movant, Americredit Financial Services, Inc. dba GM Financial ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to a 2022 Chevrolet Blazer, VIN: 3GNKBFRS3NS176798 ("Vehicle"). Doc. #16.

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

After review of the included evidence, the court finds that "cause" exists to lift the stay because the debtor has failed to make at least two complete post-petition payments. Movant has produced evidence that the debtor is delinquent by at least $1,266.84. Decl. of Phillip Ford, Doc. #19. According to the debtor's Statement of Intention, the Vehicle will be surrendered. Doc. #14.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) to permit Movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the debtor has failed to make at least two post-petition payments to Movant and the Vehicle is a depreciating asset.

10:30 AM

1. 24-12709-A-11 **IN RE: KEWEL MUNGER**
CAE-1

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION
9-17-2024 [1]

RILEY WALTER/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Continue to February 6, 2025 at 10:30 a.m.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The court will issue an order after the hearing.

On January 7, 2025, the debtor's separated wife filed a motion to dismiss this bankruptcy case and set that motion for hearing on February 6, 2025 (Doc. ##211-219). Due to the filing of the motion to dismiss, the court intends to continue this status conference to February 6, 2025 at 10:30 a.m. to be held in conjunction with that motion.

2. 24-12709-A-11 **IN RE: KEWEL MUNGER**
WJH-13

MOTION TO EXTEND TIME
12-9-2024 [132]

KEWEL MUNGER/MV
RILEY WALTER/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Denied.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The court will issue an order after the hearing.

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the non-responding parties in interest are entered. Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has not done here.

Debtor in possession Kewel K. Munger dba Munger Investments ("DIP") moves pursuant to 11 U.S.C. § 365(d)(4) to extend for 90 days, to April 15, 2025, the time to assume or reject the following nonresidential real property leases (collectively, the "Leases"):

Real Property	Lessee
Lost Hills, CA - Farmland (998.48 Acres)	Munger Bros., LLC
Richgrove, CA - Farmland (278.9 Acres)	Munger Bros., LLC
550 Rd 188 Richgrove, CA (Winery)	Munger Bros., LLC
434 Rd 188 Delano, CA (Former Winery)	Munger Bros., LLC
606 Rd 188 Delano, CA (Dirt Parking)	Munger Bros., LLC
786 RD 188 Delano, CA (Cold Storage & Pistachio Processing)	Munger Bros., LLC
Delano, CA - Farmland (157.58 Acres)	Munger Bros., LLC
Delano, CA Nursery (19.32 Acres – Nursery)	Munger Bros., LLC

Doc. #132.

Pursuant to 11 U.S.C. § 365(d)(4), there is a time limit by which a debtor must assume or reject an unexpired lease in nonresidential real property under which the debtor is the lessee unless the court extends the time for cause. If the debtor is the lessor, then the limitations of 11 U.S.C. § 365(d)(4) do not apply to the unexpired lease. See John Hilsman Invs., LLC v. Quality Props., LLC (In re Quality Props., LLC), 500 B.R. 105, 111-12 (N.D. Ala. 2013), aff'd, 572 Fed. Appx. 768 (11th Cir. 2014).

Here, DIP is the lessor of the Leases. Decl. of Kewel K. Munger, Doc. #134. Because DIP is the lessor of the Leases, and not the lessee, the time limitations of 11 U.S.C. § 365(d)(4) do not apply to the Leases. Thus, there is no reason to extend any time to assume or reject the Leases pursuant to 11 U.S.C. § 365(d)(4)(B), and the motion is unnecessary.

Accordingly, the motion will be DENIED.

3. 24-12709-A-11 **IN RE: KEWEL MUNGER**
WJH-14

MOTION FOR TURNOVER OF PROPERTY UNDER SEC. 542(A)
12-11-2024 [140]

KEWEL MUNGER/MV
RILEY WALTER/ATTY. FOR DBT.
RESPONSIVE PLEADING
CONT'D TO 1/15/25 PER ECF ORDER #222

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

DISPOSITION: Continued to January 15, 2025 at 9:30 a.m.

NO ORDER REQUIRED.

On January 8, 2025, the court issued an order continuing the motion for preliminary injunction to January 15, 2025 at 9:30 a.m. Doc. #222.

4. 24-12709-A-11 **IN RE: KEWEL MUNGER**
WJH-16

MOTION TO EMPLOY PEARSON REALTY AS REALTOR(S)
12-16-2024 [149]

KEWEL MUNGER/MV
RILEY WALTER/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The Moving Party will submit a proposed order after the hearing.

This motion was filed and served on at least 14 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Debtor in possession Kewel K. Munger dba Munger Investments ("DIP") moves pursuant to 11 U.S.C. §§ 327(a) and 328 for authorization to employ Pearson Realty ("Broker") to serve as a real estate broker in connection with the sale of real property located at 1192 Driver Road, Delano, California 93215 (the "Property"). Doc. #149.

Section 1107 of the Bankruptcy Code gives DIP all the rights and powers of a trustee and requires DIP perform all the functions and duties of a trustee, subject to certain exceptions not applicable here. 11 U.S.C. § 1107. Section 327(a) of the Bankruptcy Code permits DIP to employ, with court approval, professionals "that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist" DIP in carrying out DIP's duties under the Bankruptcy Code. 11 U.S.C. § 327(a). DIP may, with the court's approval, employ a real estate broker on any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, on a fixed or percentage fee basis, or on a contingent fee basis. 11 U.S.C. § 328(a). An application to employ a professional on terms and conditions to be pre-approved by the court must unambiguously request approval under § 328. See Circle K. Corp. v. Houlihan, Lokey, Howard & Zukin, Inc., 279 F.3d 669, 671 (9th Cir. 2002).

DIP has selected Broker for employment because of Broker's experience and knowledge in selling high-end residential properties, which the Property is. Doc. #149. DIP needs to employ Broker because DIP seeks to sell the Property to generate revenue to retire debt and eliminate future expenses. Id. DIP and Broker have a proposed listing agreement (the "Agreement"), which establish, *inter alia*, Broker's engagement for an approximately 6-month listing period ending June 30, 2025, and Broker's fee of up to 5% of the sale price at closing. Ex. A, Doc. #152. DIP proposes to pay Broker from proceeds received from the sale of the Property and will be subject to approval by the bankruptcy court. Doc. #149; Decl. of Robb Stewart, Doc. #151.

Broker has verified that it has no connection with DIP, his creditors, attorneys, accountants, any other party in interest, or the United States

Trustee. Stewart Decl., Doc. #151. The court finds that Broker is a disinterested person as defined by 11 U.S.C. § 101(14) and does not hold or represent an interest adverse to the estate. The motion does not include a declaration of DIP testifying as to the need for DIP to employ Broker. Ideally, the motion would include a declaration of DIP testifying as to the need for the estate to employ Broker in addition to the declaration of Broker.

After review of the evidence, the court finds that Broker does not represent or hold an adverse interest to DIP or to the estate with respect to the matter on which Broker is to be employed. DIP requests payment to Broker pursuant to § 328. Doc. #149.

Accordingly, pending opposition being raised at the hearing, the court is inclined to GRANT DIP's motion to employ Broker in connection with the sale of the Property. The order authorizing employment of Broker shall specifically state that employment of Broker has been approved pursuant to 11 U.S.C. § 328.

5. 22-12016-A-11 **IN RE: FUTURE VALUE CONSTRUCTION, INC.**
CAE-1

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION
11-28-2022 [1]

D. GARDNER/ATTY. FOR DBT.

NO RULING.

6. 24-12873-A-11 **IN RE: GRIFFIN RESOURCES, LLC**
DM-1

MOTION TO APPROVE STIPULATION FOR RELIEF FROM THE AUTOMATIC STAY
12-4-2024 [85]

CITY OF BAKERSFIELD/MV
RILEY WALTER/ATTY. FOR DBT.
ARON OLINER/ATTY. FOR MV.

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

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice prior to the hearing date as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d

915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

As a procedural matter, the exhibits filed in connection with this motion do not comply with LBR 9004-2(c)(1) and (d)(1), which require motions and exhibits to be filed as separate documents. Here, the motion was filed as a single document that included the movant's exhibits. E.g., Doc. #85. The court encourages counsel to review the local rules to ensure compliance in future matters or those matters may be denied without prejudice for failure to comply with the local rules.

City of Bakersfield ("Movant") seeks an order approving a stipulation for relief from the automatic stay between Movant and Griffin Resources, LLC ("Debtor") to permit the Movant to proceed in prosecuting a lawsuit against Debtor in Kern County Superior Court, Case No. BCV-24-102479 ("State Court Action"), provided that any recoverable damages or other monetary recovery by Movant against Debtor in the State Court Action is limited to proceeds of one or more insurance policies held by Debtor that may be a source for payment of such recovery. Doc. #85.

The court will approve the proposed stipulation because there is no objection to the relief requested and it appears there are grounds to grant a motion for relief from the automatic stay if Movant had moved for such relief absent the stipulation with Debtor. See, e.g., LaPierre v. Advanced Med. SPA Inc. (In re Advanced Med. SPA Inc.), 2016 Bankr. LEXIS 4084, *15 (B.A.P 9th Cir. 2016).

Accordingly, the motion is granted pursuant to permit Movant to proceed in prosecuting the State Court Action in a manner consistent with the stipulation filed as Ex. A, Doc. #85.

7. 24-12873-A-11 **IN RE: GRIFFIN RESOURCES, LLC**
WJH-5

FINAL HEARING RE: MOTION TO BORROW
12-2-2024 [75]

GRIFFIN RESOURCES, LLC/MV
RILEY WALTER/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The Moving Party shall submit a proposed order after the hearing.

This motion was set for final hearing pursuant to an interim order authorizing the debtor to enter into a commercial insurance premium finance and security agreement ("Interim Order"). Doc. #118. The final hearing was set on at least 14 days' notice prior to the hearing date pursuant to Federal Rule of Bankruptcy Procedure 4001(c)(2) and Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion on a final basis. If opposition is presented at the hearing, the court will consider the opposition and whether a further hearing is proper pursuant to

LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Griffin Resources, LLC ("DIP" or "Debtor"), debtor and debtor-in-possession herein, filed this Subchapter V Chapter 11 bankruptcy case on October 2, 2024. Doc. #1. Debtor owns and operates numerous stripper oil wells in Kern and Kings Counties, California. Decl. of Stephen Griffin, Doc. #77. As part of its operations, Debtor is required to maintain adequate insurance coverage. Id. Without such coverage, Debtor would be forced to cease its operations. Id.

Post-petition, DIP has obtained insurance coverage that will require DIP to finance part of the insurance premium. Griffin Decl., Doc. #77. The total premium for the one-year period starting December 1, 2024 is $21,275.75 plus a finance charge of $812.99. Ex. A, Doc. #78. DIP moves the court for an order authorizing DIP to enter into an insurance premium finance agreement ("Agreement") with Ameris Bank ("Lender") similar to the agreement filed as Ex. A, Doc. #78. Under the Agreement, DIP will pay a down payment of $7,268.94, with ten monthly payments of $1,481.98 each beginning January 1, 2025. Id. The annual percentage rate for the financing is 12.47%. Id.

In order for Lender to provide the proposed financing, Lender requires that DIP assign to Lender all of DIP's "right, title and interest in the insurance policies listed in the Agreement, and all rights therein including all dividends, payments on claims, unearned premiums and unearned commissions." Agreement, ¶1, Ex. A, Doc. #78. The property to be secured is hereafter referred to as the "Insurance-Related Future Assets." DIP further "authorizes Lender to file a UCC financing statement to perfect Lender's security interest." Agreement, ¶2, Ex. A, Doc. #78. The motion was heard initially on December 11, 2024 and was granted on an interim basis by the Interim Order. Doc. #118. A final hearing was set for January 9, 2025 pursuant to the Interim Order. Id. Due to the National Day of Mourning for former President Jimmy Carter, the hearing originally set for January 9, 2025 was continued to January 10, 2025. Doc. #128.

In a chapter 11 case, the debtor in possession has the rights and powers of a trustee. 11 U.S.C. § 1107(a). With respect to obtaining credit on a secured basis, 11 U.S.C. § 364(c) provides:

> If the trustee is unable to obtain unsecured credit allowable under section 503(b)(1) of this title as an administrative expense, the court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt—
>
> . . .
>
> (2) secured by a lien on property of the estate that is not otherwise subject to a lien[.]; or
>
> (3) secured by a junior lien on property of the estate that is subject to a lien.

11 U.S.C. § 364(c). Debtors in possession must obtain the approval of the bankruptcy court when they wish to incur secured debt. 11 U.S.C. § 364(c)(2) and (3); In re Harbin, 486 F.3d 510, 521 (9th Cir. 2007). Section 364(c)(2) and (3) provide exceptions to the general prohibition against creating post-petition encumbrances on property of the bankruptcy estate. Harbin, 486 F.3d at 521.

Courts generally give debtors in possession considerable deference to determine, in their business judgment, the terms under which they obtain post-petition secured credit. See, e.g., In re Los Angeles Dodgers LLC, 457 B.R.

308, 313 (Bankr. D. Del. 2011) ("[C]ourts will almost always defer to the business judgment of a debtor in the selection of the lender."); In re Ames Dep't Stores, Inc., 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990) ("[C]ases consistently reflect that the court's discretion under section 364 is to be utilized on grounds that permit reasonable business judgment to be exercised so long as the financing agreement does not contain terms that leverage the bankruptcy process and powers or its purpose is not so much to benefit the estate as it is to benefit a party-in-interest.").

To determine whether a debtor in possession has met this business judgment standard, a court need only "examine whether a reasonable business person would make a similar decision under similar circumstances." In re Exide Techs., 340 B.R. 222, 239 (Bankr. D. Del. 2006); see also In re Curlew Valley Assocs., 14 B.R. 506, 513–14 (Bankr. D. Utah 1981) (recognizing the court should not entertain objections to a trustee's business decision when that decision involves "a business judgment made in good faith, upon a reasonable basis, and within the scope of his authority under the [Bankruptcy] Code").

Based on the evidence before this court, DIP requires insurance to operate its business. DIP is unable to obtain the necessary credit to obtain insurance coverage without granting Lender a first-priority security interest in the Insurance-Related Future Assets. Supp. Decl. of Stephen J. Griffin, Doc. #115. The security interest to be granted to Lender in the Insurance-Related Future Assets is a lien on property of the estate that is not otherwise subject to a lien or is a junior lien on property of the estate that is subject to a lien. Id. Thus, DIP has met its required showing under 11 U.S.C. § 364(c).

Accordingly, pending opposition being raised at the hearing, DIP's request for authority to enter into a commercial insurance premium finance and security agreement with Lender consistent with Ex. A, Doc. #78 will be GRANTED on a final basis.

11:00 AM

1. 24-13025-A-7 **IN RE: JESSE MAESTAS**
24-1040 CAE-1

STATUS CONFERENCE RE: COMPLAINT
10-18-2024 [1]

MAESTAS V. UNITED STATES DEPARTMENT OF EDUCATION
JESSE MAESTAS/ATTY. FOR PL.

NO RULING.

2. 23-12471-A-7 **IN RE: LIEN QUACH**
24-1018 CAE-1

CONTINUED STATUS CONFERENCE RE: COMPLAINT
7-2-2024 [1]

QUACH V. NELNET, INC. ET AL
D. GARDNER/ATTY. FOR PL.
RESPONSIVE PLEADING

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

DISPOSITION: Continued February 6, 2025 at 11:00 a.m.

ORDER: The court will issue an order.

Pursuant to the status report filed on January 2, 2025 (Doc. #22), the status conference will be continued to February 6, 2025 at 11:00 a.m.

If the adversary proceeding is not resolved by January 16, 2025, the parties shall comply with the requirements in the order to confer (Doc. #5) based on the new status conference date.

3. 24-12084-A-7 **IN RE: JANETTE MAPANAO**
24-1045 CAE-1

STATUS CONFERENCE RE: COMPLAINT
11-4-2024 [1]

JASSAR V. MAPANAO
D. GARDNER/ATTY. FOR PL.
RESPONSIVE PLEADING

NO RULING.

4. 24-12084-A-7 **IN RE: JANETTE MAPANAO**
24-1046 CAE-1

STATUS CONFERENCE RE: COMPLAINT
11-8-2024 [1]

BERRI CAPITAL GROUP, LLC V. MAPANAO
MARINA FINEMAN/ATTY. FOR PL.
RESPONSIVE PLEADING

NO RULING.

5. 24-12084-A-7 **IN RE: JANETTE MAPANAO**
24-1046 CAE-2

ORDER TO SHOW CAUSE
11-12-2024 [6]

BERRI CAPITAL GROUP, LLC V. MAPANAO

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

DISPOSITION: The order to show cause will be vacated.

ORDER: The court will issue an order.

The record shows that the missing corporate disclosure statement was filed on November 12, 2024. Doc. #9. Therefore, this order to show cause is VACATED.

6. 23-10394-A-7 **IN RE: JENNIFER NIX**
23-1050 CAE-1

PRE-TRIAL CONFERENCE RE: COMPLAINT
11-20-2023 [1]

NIX V. NAVIENT
JENNIFER NIX/ATTY. FOR PL.
DISMISSED 10/24/24; CLOSED 11/12/24

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

DISPOSITION: Dropped as moot.

NO ORDER REQUIRED.

This adversary proceeding was dismissed on October 24, 2024. Doc. #20.

11:30 AM

1. 24-12756-A-7 **IN RE: IVAN MEDINA**

PRO SE REAFFIRMATION AGREEMENT WITH LAKEVIEW LOAN SERVICING, LLC
12-16-2024 [37]

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

DISPOSITION: Dropped.

ORDER: The court will issue an order.

This matter is dropped from calendar. This matter was automatically set for a hearing because the reaffirmation agreement is not signed by an attorney. However, this reaffirmation agreement appears to relate to a consumer debt secured by real property. Pursuant to 11 U.S.C. § 524(c)(6)(B), the court is not required to hold a hearing and approve this agreement. The court will issue an order.