



**UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable René Lastreto II  
Tuesday, January 10, 2023  
Department B – Courtroom #13  
Fresno, California**

Unless otherwise ordered, all hearings before Judge Lastreto are simultaneously: (1) **IN PERSON** in Courtroom #13 (Fresno hearings only), (2) via **ZOOMGOV VIDEO**, (3) via **ZOOMGOV TELEPHONE**, and (4) via **COURTCALL**. You may choose any of these options unless otherwise ordered.

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## **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.

**Post-Publication Changes:** 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 any possible updates.

9:30 AM

1. [22-11907](#)-B-7     **IN RE: FREON LOGISTICS**  
[DW-1](#)

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY  
11-23-2022    [\[93\]](#)

TBK BANK, SSB/MV  
LEONARD WELSH/ATTY. FOR DBT.  
RACHEL STOIAN/ATTY. FOR MV.  
CONVERTED TO CHAPTER 7

TENTATIVE RULING:            This matter will be called as scheduled.

DISPOSITION:                 Dropped and taken off calendar or continued.

ORDER:                         The minutes of the hearing will be the court's  
findings and conclusions. Order preparation  
determined at the hearing.

First, the motion was heard on November 30, 2022 on shortened time and the court entered an order granting limited relief but required the movant to return if any sales were to occur. Doc. #141.

Second, the motion was heard on December 13, 2022 on shortened time, and the court entered an order granting the motion and permitting the movant to consummate the sale of identified assets that were part of movant's collateral. Doc. #293.

The motion was heard a third time on December 20, 2022, also on shortened time, and the court entered an order granting the motion and permitting the estate to consummate the sale of identified assets that were part of movant's collateral, but the movant was required to furnish to the chapter 7 trustee any notices of disposition issued with respect to the equipment and accountings with respect to any sales consummated. Doc. #359.

This motion will be called and proceed as scheduled. The court notes that no formal opposition to the motion has been filed. But, the Chapter 7 Trustee has been recently appointed. The court intends to drop the motion and take it off calendar if no further relief is required. If further relief is required, the court will consider the parties' positions and may continue the matter.

2. [22-11907](#)-B-7     **IN RE: FREON LOGISTICS**  
[JLJ-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
12-9-2022    [\[241\]](#)

WALLWORK FINANCIAL CORPORATION/MV  
LEONARD WELSH/ATTY. FOR DBT.  
JACQUELINE RODRIGUEZ/ATTY. FOR MV.  
CONVERTED TO CHAPTER 7

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 hearing.

Wallwork Financial Corporation ("Movant") seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to five agreements (collectively the "Agreements") secured by nine semi-tractors (collectively "Vehicles"). Doc. #241.

No party in interest timely filed written opposition. After the motion was filed, this case was converted to chapter 7 on December 14, 2022. Doc. #290. That same day, Jeffrey M. Vetter ("Trustee") was appointed as the chapter 7 trustee. Doc. #291. Movant served the motion and supporting documents on Trustee on December 15, 2022. Doc. #302. So, this motion will be called and proceed as scheduled because Trustee was served on less than 28 days' notice. The court intends to GRANT the motion if Trustee does not oppose. Otherwise, this motion may be CONTINUED to a date determined at the hearing for further briefing.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the U.S. Trustee, or any other party in interest except Trustee 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 above-mentioned parties in interest except Trustee are entered. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987).

As a preliminary matter, the certificates of service filed with this motion do not comply with the local rules. Docs. #247; #302. General Order 22-04 makes LBR 7005-1 effective as of November 1, 2022. See Gen. Order 22-04 (Oct. 6, 2022).

LBR 7005-1 requires service of pleadings and other documents in adversary proceedings, contested matters in the bankruptcy case, and all other pleadings in the Eastern District of California Bankruptcy Court by attorneys, trustees, or other Registered Electronic Filing System Users using the *Official Certificate of Service Form*, EDC 007-005. Unless six or fewer parties in interest are served, the form shall have attached to it the Clerk of the Court's official matrix, as appropriate: (1) for the case or adversary proceeding; (2) list of ECF Registered Users; (3) list of persons who have filed Requests for Special Notice; and/or (4) list of Equity Security Holders. LBR 7005-1(a). The Clerk's Matrix of Creditors shall be downloaded not more than seven days prior to the date of serving the pleadings and other documents and shall reflect the date of download. LBR 7005-1(d).

Here, Movant's certificates of service do use the correct Form EDC 007-005, but Movant did not attach true and correct copies of the Clerk of the Court's Matrices of Creditors. Instead, Movant generated its own creditor matrix for the first certificate. Doc. #247. Replications of the Clerk's Matrix of Creditors are not permitted. The official Clerk's Matrices of Creditors are obligatory in contested matters and are available on the court's website and through PACER. Since Movant did not use an official Clerk's Matrix downloaded within seven days, the motion fails to comply with LBR 7005-1.

The second certificate interposes Trustee's name and address within the official form, rather than attaching it as a separate service list. Doc. #302. Since fewer than six parties were served, Movant could have generated its own address list and appended it to the certificate of service form. Instead, no service list was used, and the official form was impermissibly modified.

The court has temporarily delayed enforcement of LBR 7005-1 and Gen. Order 22-04 for a short period of time. Motions filed after January 1, 2023 will be required to attach a copy of the official Clerk's Matrices of Creditors downloaded within seven days of the filing of the motion. Counsel is advised to review the local rules and ensure procedural compliance in subsequent matters.

Freon Logistics ("Debtor") executed five cross-collateralized Agreements for the financing of Vehicles between August 23, 2019 and November 18, 2020. The Agreements and their collateral—the Vehicles—are summarized as follows:

<b>Contract</b>	<b>Collateral</b>	<b>Past due payments</b>
First Agreement	Two 2019 Peterbilt 579 Semi-Tractors	\$21,202.50
Second Agreement	One 2021 Volvo T760 Semi-Tractor	\$9,765.84
Third Agreement	Two 2021 Volvo T760 Semi-Tractors	\$19,518.30
Fourth Agreement	One 2021 Volvo VNL64T760 Semi-Tractor	\$6,510.56
Fifth Agreement	Three Volvo T760 Semi-Tractors	\$19,494.26
<b>Total pre- and post-petition past due payments</b>		<b>\$76,491.46</b>

Docs. ##244-46. Copies of the Agreements and their Certificates of Title are included as exhibits. *Exs. 1-10*, Doc. #245

Debtor defaulted under the terms of each of the Agreements as follows:

First Agreement: Debtor defaulted on or about September 23, 2022. Doc. #244. Debtor has missed two pre-petition payments totaling \$14,135.00, and as of the date of this motion, has missed one post-petition payment in the amount of \$7,067.50, for a total of \$21,202.50 in past due payments. Doc. #246. As of the petition date, the balance due under the First Agreement is \$83,348.96, not including potential fees. Doc. #244.

Second Agreement: Debtor defaulted on or about October 6, 2022. *Id.* Debtor has missed two pre-petition payments totaling \$6,510.56, and as of the date of this motion, has missed one post-petition payment in the amount of \$3,255.28, for a total of \$9,765.84 in past due payments. Doc. #246. As of the petition date, the balance due under the Second Agreement is \$77,446.77, not including potential fees. Doc. #244.

Third Agreement: Debtor defaulted on or about October 1, 2022. *Id.* Debtor has missed two pre-petition payments totaling \$13,012.20, and as of the date of this motion, has missed one post-petition payment in the amount of \$6,506.10, for a total of \$19,518.30 in past due payments. Doc. #246. As of the petition date, the balance due under the Third Agreement is \$161,915.02, not including potential fees. Doc. #244.

Fourth Agreement: Debtor defaulted on or about October 9, 2022. *Id.* Debtor has missed one pre-petition payment in the amount of \$3,255.28 and one post-petition payment in the same amount, for a total of \$6,510.56 in past due payments. Doc. #246. As of the petition date, the balance due under the Fourth Agreement is \$80,931.38, not including potential fees. Doc. #244.

Fifth Agreement: Debtor defaulted on or about October 18, 2022. *Id.* Debtor has missed one pre-petition payment in the amount of \$9,747.13, and one post-petition payment in the same amount, for a total of \$19,494.26 in past due payments. Doc. #246. As of the petition date, the balance due under the Fifth Agreement is \$241,845.54, not including potential fees. Doc. #244.

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 Debtor has missed pre- and post-

petition payments on the Vehicles totaling \$76,491.46. Doc. #246. Movant has produced evidence that Debtor owes a total of \$645,487.67 under the Agreements. Docs. #244; #246. Additionally, Debtor has failed to maintain insurance on the Vehicles. *Id.*

This motion will be called as scheduled to inquire about Trustee's position. If Movant obtains Trustee's written consent before the hearing, or if Trustee does not oppose at the hearing, the court intends to GRANT this motion pursuant 11 U.S.C. § 362(d)(1). Otherwise, this motion may be CONTINUED to a date and time to be determined at the hearing.

If granted, the 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because Debtor has failed to make post-petition payments, failed to maintain insurance coverage on the Vehicles, and the Vehicles are depreciating assets.

3. [22-11907](#)-B-7     **IN RE: FREON LOGISTICS**  
[JWC-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
12-8-2022    [[218](#)]

VOLVO FINANCIAL SERVICES/MV  
LEONARD WELSH/ATTY. FOR DBT.  
JENNIFER CRASTZ/ATTY. FOR MV.  
CONVERTED TO CHAPTER 7

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 hearing.

Volvo Financial Services, a division of VFS US LLC ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to six agreements (collectively the "Agreements") secured by twelve 2020 Volvo VNL 64T760 semi-tractors (collectively "Vehicles"). Doc. #218.

No party in interest timely filed written opposition. After the motion was filed, this case was converted to chapter 7 on December 14, 2022. Doc. #290. That same day, Jeffrey M. Vetter ("Trustee") was appointed as the chapter 7 trustee. Doc. #291. Movant served the motion and supporting documents on Trustee on December 15, 2022. Doc. #303. So, this motion will be called and proceed as scheduled because Trustee was served on less than 28 days' notice. The court intends to GRANT the motion if Trustee does not oppose. Otherwise, this motion may be CONTINUED to a date determined at the hearing for further briefing.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the U.S. Trustee, or any other party in interest except Trustee 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 above-mentioned parties in interest except Trustee are entered. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987).

As a preliminary matter, the certificates of service filed with this motion do not comply with the local rules. Docs. #225; #303. General Order 22-04 makes LBR 7005-1 effective as of November 1, 2022. See Gen. Order 22-04 (Oct. 6, 2022).

LBR 7005-1 requires service of pleadings and other documents in adversary proceedings, contested matters in the bankruptcy case, and all other pleadings in the Eastern District of California Bankruptcy Court by attorneys, trustees, or other Registered Electronic Filing System Users using the *Official Certificate of Service Form*, EDC 007-005. Unless six or fewer parties in interest are served, the form shall have attached to it the Clerk of the Court's official matrix, as appropriate: (1) for the case or adversary proceeding; (2) list of ECF Registered Users; (3) list of persons who have filed Requests for Special Notice; and/or (4) list of Equity Security Holders. LBR 7005-1(a). The Clerk's Matrix of Creditors shall be downloaded not more than seven days prior to the date of serving the pleadings and other documents and shall reflect the date of downloaded. LBR 7005-1(d).

Here, Movant's certificates of service do use the correct Form EDC 007-005, but Movant did not attach true and correct copies of the Clerk of the Court's Matrices of Creditors. Instead, Movant generated its own creditor matrix for the first certificate. Doc. #225. Replications of the Clerk's Matrix of Creditors are not permitted. The official Clerk's Matrices of Creditors are obligatory in contested matters and are available on the court's website and through PACER. Since Movant did not use an official Clerk's Matrix downloaded within seven days, the motion fails to comply with LBR 7005-1.

The second certificate interposes Trustee's name and address within the official form, rather than attaching it as a separate service list. Doc. #303. Since fewer than six parties were served, Movant could have generated its own address list and appended it to the certificate of service form. Instead, no service list was used, and the official form was impermissibly modified.

The court has temporarily delayed enforcement of LBR 7005-1 and Gen. Order 22-04 for a short period of time. Motions filed after January 1, 2023 will be required to attach a copy of the official Clerk's



Matrices of Creditors downloaded within seven days of the filing of the motion. Counsel is advised to review the local rules and ensure procedural compliance in subsequent matters.

Freon Logistics ("Debtor") executed six cross-collateralized Agreements for the financing of the Vehicles between January 23, 2020 and June 9, 2020. The Agreements and their collateral—the Vehicles—are summarized as follows:

<b>Contract</b>	<b>Collateral</b>	<b>Past due payments</b>
First Agreement	Two 2020 Volvo VNL64T760 Semi-tractors	\$26,108.64
Second Agreement	Two 2020 Volvo VNL64T760 Semi-tractors	\$26,101.44
Third Agreement	One 2020 Volvo VNL64T760 Semi-tractor	\$12,997.44
Fourth Agreement	Three 2020 Volvo VNL64T760 Semi-tractors	\$38,547.60
Fifth Agreement	Three 2020 Volvo VNL64T760 Semi-tractors	\$38,547.60
Sixth Agreement	One 2020 Volvo VNL64T760 Semi-tractor	\$9,662.10
<b>Total pre- and post-petition past due payments</b>		<b>\$151,964.82</b>

Docs. ##222-24. Copies of the Agreements and their Certificates of Title are included as exhibits. Exs. 1-12, Doc. #223.

Debtor defaulted under the terms of each of the Agreements as follows:

First Agreement: Debtor defaulted on or about September 9, 2022. Doc. #222. Debtor has missed two pre-petition payments totaling \$13,054.32, and as of the date of this motion, has missed two post-petition payments in the same amount, for a total of \$26,108.64 in past due payments. Doc. #224. As of the petition date, the balance due under the First Agreement is \$112,244.32. Doc. #222.

Second Agreement: Debtor defaulted on or about September 18, 2022. *Id.* Debtor has missed two pre-petition payments totaling \$13,050.72, and as of the date of this motion, has missed two post-petition payments in the same amount, for a total of \$26,101.44 in past due payments. Doc. #224. As of the petition date, the balance due under the Second Agreement is \$111,646.73. Doc. #222.

Third Agreement: Debtor defaulted on or about September 20, 2022. *Id.* Debtor has missed two pre-petition payments totaling \$6,498.72, and as of the date of this motion, has missed two post-petition payment in the same amount, for a total of \$12,997.44 in past due payments. Doc. #224. As of the petition date, the balance due under the Third Agreement is \$58,413.84. Doc. #222.

Fourth Agreement: Debtor defaulted on or about September 4, 2022. *Id.* Debtor has missed two pre-petition payments totaling \$19,273.80, and two post-petition payments in the same amount, for a total of \$38,547.60 in past due payments. Doc. #224. As of the petition date, the balance due under the Fourth Agreement is \$199,329.86. Doc. #222.

Fifth Agreement: Debtor defaulted on or about September 6, 2022. *Id.* Debtor has missed two pre-petition payments totaling \$19,273.80, and two post-petition payments in the same amount, for a total of \$38,547.60 in past due payments. Doc. #224. As of the petition date, the balance due under the Fifth Agreement is \$199,249.07. Doc. #222.

Sixth Agreement: Debtor defaulted on or about October 24, 2022. *Id.* Debtor has missed one pre-petition payment in the amount of \$3,220.70, and two post-petition payments totaling \$6,441.40, for a total of \$9,662.10 in past due payments. Doc. #224. As of the petition date, the balance due under the Sixth Agreement is \$62,763.26. Doc. #222.

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 Debtor has missed pre- and post-petition payments on the Vehicles totaling \$151,964.82. Doc. #224. Movant has produced evidence that Debtor owes a total of \$743,647.08 under the Agreements. Docs. #222; #224. Additionally, Debtor has failed to maintain insurance on the Vehicles. *Id.*

This motion will be called as scheduled to inquire about Trustee's position. If Movant obtains Trustee's written consent before the hearing, or if Trustee does not oppose at the hearing, the court intends to GRANT this motion pursuant 11 U.S.C. § 362(d)(1). Otherwise, this motion may be CONTINUED to a date and time to be determined at the hearing.

If granted, the 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because Debtor has failed to make post-petition payments, failed to maintain insurance coverage on the Vehicles, and the Vehicles are depreciating assets.

4. [22-11907](#)-B-7     **IN RE: FREON LOGISTICS**  
[JWC-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR  
ADEQUATE PROTECTION  
12-5-2022    [\[186\]](#)

VERDANT COMMERCIAL CAPITAL, LLC/MV  
LEONARD WELSH/ATTY. FOR DBT.  
JENNIFER CRASTZ/ATTY. FOR MV.  
CONVERTED TO CHAPTER 7

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 hearing.

Verdant Commercial Capital, LLC ("Movant"), seeks relief from the  
automatic stay under 11 U.S.C. § 362(d)(1) with respect to three  
agreements (collectively the "Agreements") secured by six 2022  
Kenworth T680 Tractors (collectively "Vehicles"). Doc. #186.

No party in interest timely filed written opposition. After the motion  
was filed, this case was converted to chapter 7 on December 14, 2022.  
Doc. #290. That same day, Jeffrey M. Vetter ("Trustee") was appointed  
as the chapter 7 trustee. Doc. #291. Movant served the motion and  
supporting documents on Trustee on December 15, 2022. Doc. #304. So,  
this motion will be called and proceed as scheduled because Trustee  
was served on less than 28 days' notice. The court intends to GRANT  
the motion if Trustee does not oppose. Otherwise, this motion may be  
CONTINUED to a date determined at the hearing for further briefing.

This motion was set for hearing on 28 days' notice as required by  
Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the  
creditors, the U.S. Trustee, or any other party in interest except  
Trustee 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 above-  
mentioned parties in interest except Trustee are entered. Upon  
default, factual allegations will be taken as true (except those  
relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*,  
826 F.2d 915, 917 (9th Cir. 1987).

As a preliminary matter, the certificates of service filed with this  
motion do not comply with the local rules. Docs. #192; #304. General  
Order 22-04 makes LBR 7005-1 effective as of November 1, 2022. See  
Gen. Order 22-04 (Oct. 6, 2022).

LBR 7005-1 requires service of pleadings and other documents in adversary proceedings, contested matters in the bankruptcy case, and all other pleadings in the Eastern District of California Bankruptcy Court by attorneys, trustees, or other Registered Electronic Filing System Users using the *Official Certificate of Service Form*, EDC 007-005. Unless six or fewer parties in interest are served, the form shall have attached to it the Clerk of the Court's official matrix, as appropriate: (1) for the case or adversary proceeding; (2) list of ECF Registered Users; (3) list of persons who have filed Requests for Special Notice; and/or (4) list of Equity Security Holders. LBR 7005-1(a). The Clerk's Matrix of Creditors shall be downloaded not more than seven days prior to the date of serving the pleadings and other documents and shall reflect the date of download. LBR 7005-1(d).

Here, Movant's certificates of service do use the correct Form EDC 007-005, but Movant did not attach true and correct copies of the Clerk of the Court's Matrices of Creditors. Instead, Movant generated its own creditor matrix for the first certificate. Doc. #192. Replications of the Clerk's Matrix of Creditors are not permitted. The official Clerk's Matrices of Creditors are obligatory in contested matters and are available on the court's website and through PACER. Since Movant did not use an official Clerk's Matrix downloaded within seven days, the motion fails to comply with LBR 7005-1.

The second certificate interposes Trustee's name and address within the official form, rather than attaching it as a separate service list. Doc. #304. Since fewer than six parties were served, Movant could have generated its own address list and appended it to the certificate of service form. Instead, no service list was used, and the official form was impermissibly modified.

The court has temporarily delayed enforcement of LBR 7005-1 and Gen. Order 22-04 for a short period of time. Motions filed after January 1, 2023 will be required to attach a copy of the official Clerk's Matrices of Creditors downloaded within seven days of the filing of the motion. Counsel is advised to review the local rules and ensure procedural compliance in subsequent matters.

Freon Logistics ("Debtor") executed three cross-collateralized Agreements for the financing of the Vehicles between January 15, 2022 and March 7, 2022. The Agreements and their collateral—the Vehicles—are summarized as follows:

<b>Contract</b>	<b>Collateral</b>	<b>Past due payments</b>
First Agreement	One 2022 Kenworth T680 Tractor	\$3,517.95
Second Agreement	Two 2022 Kenworth T680 Tractors	\$7,021.87
Third Agreement	Three 2022 Kenworth Tractors	\$10,525.78
<b>Total pre- and post-petition past due payments</b>		<b>\$21,065.60</b>

Docs. #188; ##189-91. Copies of the Agreements and their Certificates of Title are included as exhibits. *Exs. 1-6*, Doc. #191.

Debtor defaulted under the terms of each of the Agreements as follows:

First Agreement: Debtor has made no post-petition payments and is currently delinquent at least \$3,517.95 under the First Agreement. Doc. #188; #190. As of December 1, 2022, the balance due under the First Agreement is \$130,459.93. Doc. #188.

Second Agreement: Debtor has made no post-petition payments and is currently delinquent at least \$7,021.87 under the Second Agreement. *Id.*; Doc. #190. As of December 1, 2022, the balance due under the Second Agreement is \$265,141.83. Doc. #188.

Third Agreement: Debtor has made no post-petition payments and is currently delinquent at least \$10,525.78 under the Third Agreement. *Id.*; Doc. #190. As of December 1, 2022, the balance due under the Third Agreement is \$395,509.23. Doc. #188.

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 Debtor has missed post-petition payments on the Vehicles totaling \$21,065.60. Doc. #190. Movant has produced evidence that Debtor owes a total of \$791,110.99 under the Agreements. *Id.*; Doc. #188. Additionally, Debtor has failed to maintain insurance on the Vehicles. *Id.*

This motion will be called as scheduled to inquire about Trustee's position. If Movant obtains Trustee's written consent before the hearing, or if Trustee does not oppose at the hearing, the court intends to GRANT this motion pursuant 11 U.S.C. § 362(d)(1). Otherwise, this motion may be CONTINUED to a date and time to be determined at the hearing.

If granted, the 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because Debtor has failed to make post-petition payments, failed to maintain insurance coverage on the Vehicles, and the Vehicles are depreciating assets.

5. [22-11907](#)-B-7     **IN RE: FREON LOGISTICS**  
[JWC-3](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY, MOTION/APPLICATION  
FOR ADEQUATE PROTECTION  
12-8-2022    [[234](#)]

DE LAGE LANDEN FINANCIAL SERVICES, INC./MV  
LEONARD WELSH/ATTY. FOR DBT.  
JENNIFER CRASTZ/ATTY. FOR MV.  
CONVERTED TO CHAPTER 7

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 hearing.

De Lage Landen Financial Services, Inc. ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to four agreements (collectively the "Agreements") secured by six trucks (collectively "Vehicles"). Doc. #234.

No party in interest timely filed written opposition. After the motion was filed, this case was converted to chapter 7 on December 14, 2022. Doc. #290. That same day, Jeffrey M. Vetter ("Trustee") was appointed as the chapter 7 trustee. Doc. #291. Movant served the motion and supporting documents on Trustee on December 15, 2022. Doc. #305. So, this motion will be called and proceed as scheduled because Trustee was served on less than 28 days' notice. The court intends to GRANT the motion if Trustee does not oppose. Otherwise, this motion may be CONTINUED to a date determined at the hearing for further briefing.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the U.S. Trustee, or any other party in interest except Trustee 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 above-mentioned parties in interest except Trustee are entered. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987).

As a preliminary matter, the certificates of service filed with this motion do not comply with the local rules. Docs. #240; #305. General Order 22-04 makes LBR 7005-1 effective as of November 1, 2022. See Gen. Order 22-04 (Oct. 6, 2022).

LBR 7005-1 requires service of pleadings and other documents in adversary proceedings, contested matters in the bankruptcy case, and all other pleadings in the Eastern District of California Bankruptcy Court by attorneys, trustees, or other Registered Electronic Filing System Users using the *Official Certificate of Service Form*, EDC 007-005. Unless six or fewer parties in interest are served, the form shall have attached to it the Clerk of the Court's official matrix, as appropriate: (1) for the case or adversary proceeding; (2) list of ECF Registered Users; (3) list of persons who have filed Requests for Special Notice; and/or (4) list of Equity Security Holders. LBR 7005-1(a). The Clerk's Matrix of Creditors shall be downloaded not more than seven days prior to the date of serving the pleadings and other documents and shall reflect the date of download. LBR 7005-1(d).

Here, Movant's certificates of service do use the correct Form EDC 007-005, but Movant did not attach true and correct copies of the Clerk of the Court's Matrices of Creditors. Instead, Movant generated its own creditor matrix for the first certificate. Doc. #240. Replications of the Clerk's Matrix of Creditors are not permitted. The official Clerk's Matrices of Creditors are obligatory in contested matters and are available on the court's website and through PACER. Since Movant did not use an official Clerk's Matrix downloaded within seven days, the motion fails to comply with LBR 7005-1.

The second certificate interposes Trustee's name and address within the official form, rather than attaching it as a separate service list. Doc. #305. Since fewer than six parties were served, Movant could have generated its own address list and appended it to the certificate of service form. Instead, no service list was used, and the official form was impermissibly modified.

The court has temporarily delayed enforcement of LBR 7005-1 and Gen. Order 22-04 for a short period of time. Motions filed after January 1, 2023 will be required to attach a copy of the official Clerk's Matrices of Creditors downloaded within seven days of the filing of the motion. Counsel is advised to review the local rules and ensure procedural compliance in subsequent matters.

Freon Logistics ("Debtor") executed four cross-collateralized Agreements for the financing of the Vehicles between March 11, 2019 and August 9, 2022. The Agreements and their collateral—the Vehicles—are summarized as follows:

<b>Contract</b>	<b>Collateral</b>	<b>Past due payments</b>
First Agreement	One 2019 Freightliner Cascadia Heavy Truck	\$11,365.20
Second Agreement	One 2019 Freightliner Cascadia Heavy Truck	\$11,365.20
Third Agreement	One 2020 Freightliner PT126SLP Truck	\$10,864.56
Fourth Agreement	Three 2023 Kenworth T680 Trucks	\$30,180.42
<b>Total pre- and post-petition past due payments</b>		<b>\$63,775.38</b>

Docs. #236; ##238-39. Copies of the Agreements and their Certificates of Title are included as exhibits. *Exs. 1-8*, Doc. #238.

Debtor defaulted under the terms of each of the Agreements as follows:

First Agreement: Debtor defaulted on or about October 1, 2022.

Doc. #236. Debtor has missed two pre-petition payments totaling \$7,576.80, and as of the date of this motion, one post-petition payment in the amount of \$3,788.40, for a total of \$11,365.20 in past due payments. Doc. #239. As of the petition date, the balance due under the First Agreement is \$23,016.80. Doc. #236.

Second Agreement: Debtor defaulted on or about October 1, 2022.

Doc. #236. Debtor has missed two pre-petition payments totaling \$7,576.80, and as of the date of this motion, one post-petition payment in the amount of \$3,788.40, for a total of \$11,365.20 in past due payments. Doc. #239. As of the petition date, the balance due under the First Agreement is \$22,991.80. Doc. #236.

Third Agreement: Debtor defaulted on or about October 1, 2022.

Doc. #236. Debtor has missed two pre-petition payments totaling \$7,243.04, and as of the date of this motion, one post-petition payment in the amount of \$3,621.52, for a total of \$10,864.56 in past due payments. Doc. #239. As of the petition date, the balance due under the First Agreement is \$32,843.57. Doc. #236.

Fourth Agreement: Debtor defaulted on or about October 1, 2022.

Doc. #236. Debtor has missed two pre-petition payments totaling \$20,120.28, and as of the date of this motion, one post-petition payment in the amount of \$10,060.14, for a total of \$30,180.42 in past due payments. Doc. #239. As of the petition date, the balance due under the First Agreement is \$604,229.55. Doc. #236.

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 Debtor has missed pre- and post-petition payments on the Vehicles totaling \$63,775.38 Doc. #239. Movant has produced evidence that Debtor owes a total of \$683,081.72 under the Agreements. *Id.*; Doc. #236. Additionally, Debtor has failed to maintain insurance on the Vehicles. *Id.*

This motion will be called as scheduled to inquire about Trustee's position. If Movant obtains Trustee's written consent before the hearing, or if Trustee does not oppose at the hearing, the court intends to GRANT this motion pursuant 11 U.S.C. § 362(d)(1). Otherwise, this motion may be CONTINUED to a date and time to be determined at the hearing.



If granted, the 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because Debtor has failed to make post-petition payments, failed to maintain insurance coverage on the Vehicles, and the Vehicles are depreciating assets.

6. [22-11907](#)-B-7     **IN RE: FREON LOGISTICS**  
[RK-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
12-12-2022    [\[252\]](#)

PNC BANK, NATIONAL ASSOCIATION/MV  
LEONARD WELSH/ATTY. FOR DBT.  
RAFFI KHATCHADOURIAN/ATTY. FOR MV.  
CONVERTED TO CHAPTER 7

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 hearing.

PNC Bank, National Association ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to two agreements (collectively the "Agreements") secured by three trucks (collectively "Vehicles"). Doc. #252.

No party in interest timely filed written opposition. After the motion was filed, this case was converted to chapter 7 on December 14, 2022. Doc. #290. That same day, Jeffrey M. Vetter ("Trustee") was appointed as the chapter 7 trustee. Doc. #291. Movant served the motion and supporting documents on Trustee on December 16, 2022. Doc. #323. So, this motion will be called and proceed as scheduled because Trustee was served on less than 28 days' notice. The court intends to GRANT the motion if Trustee does not oppose. Otherwise, this motion may be CONTINUED to a date determined at the hearing for further briefing.

As a preliminary matter, the certificates of service filed with this motion do not comply with the local rules. Docs. #258; #323. General Order 22-04 makes LBR 7005-1 effective as of November 1, 2022. See Gen. Order 22-04 (Oct. 6, 2022).

LBR 7005-1 requires service of pleadings and other documents in adversary proceedings, contested matters in the bankruptcy case, and all other pleadings in the Eastern District of California Bankruptcy Court by attorneys, trustees, or other Registered Electronic Filing System Users using the *Official Certificate of Service Form*, EDC 007-005. Unless six or fewer parties in interest are served, the form

shall have attached to it the Clerk of the Court's official matrix, as appropriate: (1) for the case or adversary proceeding; (2) list of ECF Registered Users; (3) list of persons who have filed Requests for Special Notice; and/or (4) list of Equity Security Holders. LBR 7005-1(a). The Clerk's Matrix of Creditors shall be downloaded not more than seven days prior to the date of serving the pleadings and other documents and shall reflect the date of downloaded. LBR 7005-1(d).

Here, Movant's certificates of service do use the correct Form EDC 007-005, but Movant did not attach true and correct copies of the Clerk of the Court's Matrices of Creditors. Instead, Movant generated its own creditor matrix for the first certificate. Doc. #258. Replications of the Clerk's Matrix of Creditors are not permitted. The official Clerk's Matrices of Creditors are obligatory in contested matters and are available on the court's website and through PACER. Since Movant did not use an official Clerk's Matrix downloaded within seven days, the motion fails to comply with LBR 7005-1.

The second certificate interposes Trustee's name and address within the official form, rather than attaching it as a separate service list. Doc. #323. Since fewer than six parties were served, Movant could have generated its own address list and appended it to the certificate of service form. Instead, no service list was used, and the official form was impermissibly modified.

The court has temporarily delayed enforcement of LBR 7005-1 and Gen. Order 22-04 for a short period of time. Motions filed after January 1, 2023 will be required to attach a copy of the official Clerk's Matrices of Creditors downloaded within seven days of the filing of the motion. Counsel is advised to review the local rules and ensure procedural compliance in subsequent matters.

Freon Logistics ("Debtor") executed two cross-collateralized Agreements for the financing of the Vehicles on February 25, 2019 and August 10, 2022:

<b>Contract</b>	<b>Collateral</b>
First Agreement	One 2019 Peterbilt 567 Series tractor truck
Second Agreement	Two 2023 Kenworth T680 Series tractor trucks

Docs. #254; #257. The First Agreement was executed in favor Western Truck Parts & Equipment Company, LLC, and was assigned to Movant. The Second Agreement was executed in favor of Movant. Copies of the Agreements, Assignments, and their Certificates of Title are included as exhibits. Exs. 1-6, Doc. #255. Movant indicates that Debtor defaulted under the First Agreement on September 9, 2022 and under the Second Agreement on October 15, 2022. Doc. #254. Debtor missed one and two pre-petition payments under the Agreements, respectively, in the combined sum of \$12,848.96, and one post-petition payment for each Agreement in the combined sum of \$9,722.49. Doc. #257. As of November

16, 2022, Debtor owes a total of \$54,718.42 under the First Agreement and a total of \$321,883.62 under the Second Agreement. Doc. #254.

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 Debtor has missed pre- and post-petition payments on the Vehicles totaling \$22,571.45 Doc. #257. Movant has produced evidence that Debtor owes an approximate total of \$376,647.04 under the Agreements. *Id.*; Doc. #254. Additionally, Debtor has failed to maintain insurance on the Vehicles. *Id.*

This motion will be called as scheduled to inquire about Trustee's position. If Movant obtains Trustee's written consent before the hearing, or if Trustee does not oppose at the hearing, the court intends to GRANT this motion pursuant 11 U.S.C. § 362(d)(1). Otherwise, this motion may be CONTINUED to a date and time to be determined at the hearing.

If granted, the 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because Debtor has failed to make post-petition payments, failed to maintain insurance coverage on the Vehicles, and the Vehicles are depreciating assets.

7. [22-11907](#)-B-7     **IN RE: FREON LOGISTICS**  
[RK-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
12-12-2022    [[259](#)]

NORTH MILL CREDIT TRUST/MV  
LEONARD WELSH/ATTY. FOR DBT.  
RAFFI KHATCHADOURIAN/ATTY. FOR MV.  
CONVERTED TO CHAPTER 7

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 hearing.

North Mill Credit Trust ("Movant") seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to three agreements (collectively the "Agreements") secured by nineteen (19) refrigerated Trailers (collectively "Trailers"). Doc. #259.

No party in interest timely filed written opposition. After the motion was filed, this case was converted to chapter 7 on December 14, 2022. Doc. #290. That same day, Jeffrey M. Vetter ("Trustee") was appointed as the chapter 7 trustee. Doc. #291. Movant served the motion and supporting documents on Trustee on December 16, 2022. Doc. #320. So, this motion will be called and proceed as scheduled because Trustee was served on less than 28 days' notice. The court intends to GRANT the motion if Trustee does not oppose. Otherwise, this motion may be CONTINUED to a date determined at the hearing for further briefing.

As a preliminary matter, the certificates of service filed with this motion do not comply with the local rules. Docs. #265; #320. General Order 22-04 makes LBR 7005-1 effective as of November 1, 2022. See Gen. Order 22-04 (Oct. 6, 2022).

LBR 7005-1 requires service of pleadings and other documents in adversary proceedings, contested matters in the bankruptcy case, and all other pleadings in the Eastern District of California Bankruptcy Court by attorneys, trustees, or other Registered Electronic Filing System Users using the *Official Certificate of Service Form*, EDC 007-005. Unless six or fewer parties in interest are served, the form shall have attached to it the Clerk of the Court's official matrix, as appropriate: (1) for the case or adversary proceeding; (2) list of ECF Registered Users; (3) list of persons who have filed Requests for Special Notice; and/or (4) list of Equity Security Holders. LBR 7005-1(a). The Clerk's Matrix of Creditors shall be downloaded not more than seven days prior to the date of serving the pleadings and other documents and shall reflect the date of downloaded. LBR 7005-1(d).

Here, Movant's certificates of service do use the correct Form EDC 007-005, but Movant did not attach true and correct copies of the Clerk of the Court's Matrices of Creditors. Instead, Movant generated its own creditor matrix for the first certificate. Doc. #265. Replications of the Clerk's Matrix of Creditors are not permitted. The official Clerk's Matrices of Creditors are obligatory in contested matters and are available on the court's website and through PACER. Since Movant did not use an official Clerk's Matrix downloaded within seven days, the motion fails to comply with LBR 7005-1.

The second certificate interposes Trustee's name and address within the official form, rather than attaching it as a separate service list. Doc. #320. Since fewer than six parties were served, Movant could have generated its own address list and appended it to the certificate of service form. Instead, no service list was used, and the official form was impermissibly modified.

The court has temporarily delayed enforcement of LBR 7005-1 and Gen. Order 22-04 for a short period of time. Motions filed after January 1, 2023 will be required to attach a copy of the official Clerk's Matrices of Creditors downloaded within seven days of the filing of

the motion. Counsel is advised to review the local rules and ensure procedural compliance in subsequent matters.

Freon Logistics ("Debtor") executed three cross-collateralized Agreements for the financing of the Trailers between July 11, 2019 and August 16, 2022:

Contract	Collateral
First Agreement	Five 2020 Utility Model 3003R 53ft Refrigerated Trailers
Second Agreement	Three 2021 Utility Model VS3RA 53ft Refrigerated Trailers
Third Agreement	One 2022 and Ten 2023 Utility Model VS2RDX 53ft Refrigerated Trailers

Docs. ##261-62; #264. The First Agreement was executed in favor of Movant, and the Second and Third Agreements were executed in favor of Top Mark Funding, LLC, and subsequently assigned to Movant. Copies of the Agreements, Assignments, and their Certificates of Title are included as exhibits. *Exs. 1-8*, Doc. #262. Movant indicates that Debtor defaulted under the First Agreement on November 11, 2022, the Second Agreement on November 15, 2022, and the Third Agreement on September 1, 2022. Doc. #261. Debtor missed two pre-petition payments each on the First and Second Agreements, and three pre-petition payments on the Third Agreement, in the combined sum of \$43,496.70. Doc. #264. Debtor also missed one post-petition payment for each of the three Agreements in the combined sum of \$25,157.07. *Id.* As of December 5, 2022, Debtor owes Movant \$134,015.87 under the First Agreement and \$140,045.04 under the Second Agreement. Doc. #261. As of November 18, 2022, Debtor owes Movant \$816,178.40 under the Third Agreement. *Id.*

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 Debtor has missed pre- and post-petition payments on the Trailers totaling \$68,653.77. Doc. #264. Movant has produced evidence that Debtor owes a total of \$1,009,239.31 under the Agreements. *Id.*; Doc. #261. Additionally, Debtor has failed to maintain insurance on the Trailers. *Id.*

This motion will be called as scheduled to inquire about Trustee's position. If Movant obtains Trustee's written consent before the hearing, or if Trustee does not oppose at the hearing, the court intends to GRANT this motion pursuant 11 U.S.C. § 362(d)(1). Otherwise, this motion may be CONTINUED to a date and time to be determined at the hearing.

If granted, the 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because Debtor has failed to make post-petition payments, failed to maintain insurance coverage on the Trailers, and the Trailers are depreciating assets.

8. [22-11907](#)-B-7     **IN RE: FREON LOGISTICS**  
[RK-3](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
12-12-2022    [\[268\]](#)

MERCHANTS BANK EQUIPMENT FINANCE/MV  
LEONARD WELSH/ATTY. FOR DBT.  
RAFFI KHATCHADOURIAN/ATTY. FOR MV.  
CONVERTED TO CHAPTER 7

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 hearing.

Merchants Bank Equipment Finance ("Movant") seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to an agreement secured by one 2019 and one 2020 Peterbilt 579-Series tractor truck ("Vehicles"). Doc. #268.

No party in interest timely filed written opposition. After the motion was filed, this case was converted to chapter 7 on December 14, 2022. Doc. #290. That same day, Jeffrey M. Vetter ("Trustee") was appointed as the chapter 7 trustee. Doc. #291. Movant served the motion and supporting documents on Trustee on December 16, 2022. Doc. #322. So, this motion will be called and proceed as scheduled because Trustee was served on less than 28 days' notice. The court intends to GRANT the motion if Trustee does not oppose. Otherwise, this motion may be CONTINUED to a date determined at the hearing for further briefing.

As a preliminary matter, the certificates of service filed with this motion do not comply with the local rules. Docs. #274; #322. General Order 22-04 makes LBR 7005-1 effective as of November 1, 2022. See Gen. Order 22-04 (Oct. 6, 2022).

LBR 7005-1 requires service of pleadings and other documents in adversary proceedings, contested matters in the bankruptcy case, and all other pleadings in the Eastern District of California Bankruptcy Court by attorneys, trustees, or other Registered Electronic Filing System Users using the *Official Certificate of Service Form*, EDC 007-005. Unless six or fewer parties in interest are served, the form

shall have attached to it the Clerk of the Court's official matrix, as appropriate: (1) for the case or adversary proceeding; (2) list of ECF Registered Users; (3) list of persons who have filed Requests for Special Notice; and/or (4) list of Equity Security Holders. LBR 7005-1(a). The Clerk's Matrix of Creditors shall be downloaded not more than seven days prior to the date of serving the pleadings and other documents and shall reflect the date of downloaded. LBR 7005-1(d).

Here, Movant's certificates of service do use the correct Form EDC 007-005, but Movant did not attach true and correct copies of the Clerk of the Court's Matrices of Creditors. Instead, Movant generated its own creditor matrix for the first certificate. Doc. #274. Replications of the Clerk's Matrix of Creditors are not permitted. The official Clerk's Matrices of Creditors are obligatory in contested matters and are available on the court's website and through PACER. Since Movant did not use an official Clerk's Matrix downloaded within seven days, the motion fails to comply with LBR 7005-1.

The second certificate interposes Trustee's name and address within the official form, rather than attaching it as a separate service list. Doc. #322. Since fewer than six parties were served, Movant could have generated its own address list and appended it to the certificate of service form. Instead, no service list was used, and the official form was impermissibly modified.

The court has temporarily delayed enforcement of LBR 7005-1 and Gen. Order 22-04 for a short period of time. Motions filed after January 1, 2023 will be required to attach a copy of the official Clerk's Matrices of Creditors downloaded within seven days of the filing of the motion. Counsel is advised to review the local rules and ensure procedural compliance in subsequent matters.

Freon Logistics ("Debtor") executed a Commercial Promissory Note and Security Agreement with Movant on July 23, 2019 to finance the purchase of the Vehicles. Docs. ##271-72. Copies of the Agreement and Certificates of Title are included as exhibits. *Exs. 1-2*, Doc. #272. Debtor has missed one post-petition payment in the amount of \$7,147.78. Doc. #273. As of November 8, 2022, Debtor owes Movant \$62,048.36 under the Agreement. Doc. #271.

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 Debtor has missed one post-petition payment in the amount of \$7,147.78. Doc. #273. Movant produced evidence that Debtor owes a total of \$62,048.36 under the Agreement. *Id.*; Doc. #271. Additionally, Debtor has failed to maintain insurance on the Vehicles. *Id.*

This motion will be called as scheduled to inquire about Trustee's position. If Movant obtains Trustee's written consent before the hearing, or if Trustee does not oppose at the hearing, the court intends to GRANT this motion pursuant 11 U.S.C. § 362(d)(1). Otherwise, this motion may be CONTINUED to a date and time to be determined at the hearing.

If granted, the 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because Debtor has failed to make post-petition payments, failed to maintain insurance coverage on the Vehicles, and the Vehicles are depreciating assets.

9. [22-11907](#)-B-7      **IN RE: FREON LOGISTICS**  
[RK-4](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
12-12-2022    [\[275\]](#)

WINTRUST SPECIALTY FINANCE/MV  
LEONARD WELSH/ATTY. FOR DBT.  
RAFFI KHATCHADOURIAN/ATTY. FOR MV.  
CONVERTED TO CHAPTER 7

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 hearing.

Wintrust Specialty Finance, a division of Beverly Bank & Trust Co., N.A. ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to four agreements (collectively the "Agreements") secured by four trucks (collectively "Vehicles"). Doc. #275.

No party in interest timely filed written opposition. After the motion was filed, this case was converted to chapter 7 on December 14, 2022. Doc. #290. That same day, Jeffrey M. Vetter ("Trustee") was appointed as the chapter 7 trustee. Doc. #291. Movant served the motion and supporting documents on Trustee on December 16, 2022. Doc. #321. So, this motion will be called and proceed as scheduled because Trustee was served on less than 28 days' notice. The court intends to GRANT the motion if Trustee does not oppose. Otherwise, this motion may be CONTINUED to a date determined at the hearing for further briefing.

As a preliminary matter, the certificates of service filed with this motion do not comply with the local rules. Docs. #281; #321. General



Order 22-04 makes LBR 7005-1 effective as of November 1, 2022. See Gen. Order 22-04 (Oct. 6, 2022).

LBR 7005-1 requires service of pleadings and other documents in adversary proceedings, contested matters in the bankruptcy case, and all other pleadings in the Eastern District of California Bankruptcy Court by attorneys, trustees, or other Registered Electronic Filing System Users using the *Official Certificate of Service Form*, EDC 007-005. Unless six or fewer parties in interest are served, the form shall have attached to it the Clerk of the Court's official matrix, as appropriate: (1) for the case or adversary proceeding; (2) list of ECF Registered Users; (3) list of persons who have filed Requests for Special Notice; and/or (4) list of Equity Security Holders. LBR 7005-1(a). The Clerk's Matrix of Creditors shall be downloaded not more than seven days prior to the date of serving the pleadings and other documents and shall reflect the date of download. LBR 7005-1(d).

Here, Movant's certificates of service do use the correct Form EDC 007-005, but Movant did not attach true and correct copies of the Clerk of the Court's Matrices of Creditors. Instead, Movant generated its own creditor matrix for the first certificate. Doc. #281. Replications of the Clerk's Matrix of Creditors are not permitted. The official Clerk's Matrices of Creditors are obligatory in contested matters and are available on the court's website and through PACER. Since Movant did not use an official Clerk's Matrix downloaded within seven days, the motion fails to comply with LBR 7005-1.

The second certificate interposes Trustee's name and address within the official form, rather than attaching it as a separate service list. Doc. #321. Since fewer than six parties were served, Movant could have generated its own address list and appended it to the certificate of service form. Instead, no service list was used, and the official form was impermissibly modified.

The court has temporarily delayed enforcement of LBR 7005-1 and Gen. Order 22-04 for a short period of time. Motions filed after January 1, 2023 will be required to attach a copy of the official Clerk's Matrices of Creditors downloaded within seven days of the filing of the motion. Counsel is advised to review the local rules and ensure procedural compliance in subsequent matters.

Freon Logistics ("Debtor") executed the four cross-collateralized Agreements in favor of BMO Harris Bank, N.A. between July 12, 2019 and March 15, 2022 to finance the purchase the following Vehicles:

<b>Contract</b>	<b>Collateral</b>
First Agreement	Two 2020 Freightliner Cascadia Series tractor truck
Second Agreement	One 2020 Volvo VNL64T760 tractor truck
Third Agreement	One 2023 Peterbilt Model 579 tractor truck
Fourth Agreement	One 2023 Peterbilt Model 579 tractor truck

Docs. ##278-80. BMO Harris Bank subsequently assigned its interest in the Agreements to Movant. Copies of the Agreements, Assignments, and their Certificates of Title are included as exhibits. Exs. 1-10, Doc. #279. Movant indicates that Debtor defaulted under (1) the First Agreement on October 19, 2022, (2) the Second Agreement on September 19, 2022, (3) the Third Agreement on September 6, 2022, and (4) the Fourth Agreement September 6, 2022. Doc. #278. Debtor has missed pre-petition payments under the Agreements in the combined sum of \$39,437.02 and one post-petition payment in the combined sum of \$19,203.26. Doc. #280. As of December 1, 2022, Debtor owes: (1) \$39,728.04 under the First Agreement, (2) \$74,523.60 under the Second Agreement, (3) \$157,026.56 under the Third Agreement, and (4) \$156,617.35 under the Fourth Agreement. Doc. #278.

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 Debtor has missed pre- and post-petition payments on the Vehicles totaling \$58,640.28 Doc. #280. Additionally, Movant has produced evidence that Debtor owes an approximate total of \$427,895.55 under the Agreements. *Id.*; Doc. #278. Additionally, Debtor has failed to maintain insurance on the Vehicles. *Id.*

This motion will be called as scheduled to inquire about Trustee's position. If Movant obtains Trustee's written consent before the hearing, or if Trustee does not oppose at the hearing, the court intends to GRANT this motion pursuant 11 U.S.C. § 362(d)(1). Otherwise, this motion may be CONTINUED to a date and time to be determined at the hearing.

If granted, the 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because Debtor has failed to make post-petition payments, failed to maintain insurance coverage on the Vehicles, and the Vehicles are depreciating assets.

10. [22-11907](#)-B-7     **IN RE: FREON LOGISTICS**  
[RPM-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR  
ADEQUATE PROTECTION  
12-1-2022    [\[142\]](#)

TRANS LEASE, INC./MV  
LEONARD WELSH/ATTY. FOR DBT.  
RANDALL MROCZYNSKI/ATTY. FOR MV.  
CONVERTED TO CHAPTER 7

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                Granted in part and denied as moot in part or  
continued.

ORDER:                        The minutes of the hearing will be the court's  
findings and conclusions. Order preparation to be  
determined at the hearing.

Trans Lease, Inc. ("Movant") seeks relief from the automatic stay  
under 11 U.S.C. § 362(d)(1) with respect to three separate agreements  
(collectively the "Agreements") secured by five 2021 Peterbilt 579  
trucks (collectively "Vehicles"). Doc. #142.

No parties in interest timely filed written opposition. After the  
motion was filed, this case was converted to chapter 7 on December 14,  
2022. Doc. #290. That same day, Jeffrey M. Vetter ("Trustee") was  
appointed as the chapter 7 trustee. Doc. #291. Trustee has not been  
served or notified of this motion and the court is unable to order  
relief against the Trustee without further noticed motion upon or  
stipulation with the Trustee.

The court approved a stipulation between Movant and Debtor for limited  
relief from the stay with waiver of the 14-day stay under Fed. R.  
Bankr. P. 4001(a)(3). Doc. #301. However, Movant was not permitted to  
consummate any sales of the Vehicles without further order of the  
court. This motion may be moot with respect to Debtor unless Movant is  
seeking additional relief to proceed with the sale of the Vehicles.  
Additionally, Trustee was not a party to the stipulation because it  
was executed prior to conversion.

This motion will be called as scheduled because Trustee was not served  
or party to the stipulation. If Movant obtains Trustee's written  
consent before the hearing, or if Trustee consents to stay relief at  
the hearing, this motion may be GRANTED IN PART with respect to  
Trustee and DENIED AS MOOT IN PART with respect to Debtor, unless  
Movant is seeking additional stay relief other than that already  
granted. Otherwise, this motion will be CONTINUED to a date and time  
determined at the hearing so that Movant can serve Trustee.

As a preliminary matter, the certificates of service filed with this motion do not comply with the local rules. Docs. #148; #232. General Order 22-04 makes LBR 7005-1 effective as of November 1, 2022. See Gen. Order 22-04 (Oct. 6, 2022).

LBR 7005-1 requires service of pleadings and other documents in adversary proceedings, contested matters in the bankruptcy case, and all other pleadings in the Eastern District of California Bankruptcy Court by attorneys, trustees, or other Registered Electronic Filing System Users using the *Official Certificate of Service Form*, EDC 007-005. Unless six or fewer parties in interest are served, the form shall have attached to it the Clerk of the Court's official matrix, as appropriate: (1) for the case or adversary proceeding; (2) list of ECF Registered Users; (3) list of persons who have filed Requests for Special Notice; and/or (4) list of Equity Security Holders. LBR 7005-1(a). The Clerk's Matrix of Creditors shall be downloaded not more than seven days prior to the date of serving the pleadings and other documents and shall reflect the date of downloaded. LBR 7005-1(d).

Here, both of Movant's certificates of service use the correct Form EDC 007-005, but neither included attached true and correct copies of the Clerk's Matrices of Creditors. Docs. #148; #232. Instead, Movant generated its own creditor matrices for both certificates. *Id.* Replications of the Clerk's Matrices of Creditors are not permitted. The official Clerk's Matrices of Creditors are obligatory in contested matters and are available on the court's website and through PACER. Since Movant did not use an official Clerk's Matrix downloaded within seven days, the motion fails to comply with LBR 7005-1.

The court has temporarily delayed enforcement of LBR 7005-1 and Gen. Order 22-04 for a short period of time. Motions filed after January 1, 2023 will be required to attach a copy of the official Clerk's Matrices of Creditors downloaded within seven days of the filing of the motion. Counsel is advised to review the local rules and ensure procedural compliance in subsequent matters.

Freon Logistics ("Debtor") executed the five cross-collateralized Agreements in favor of Movant between January 6, 2021 and January 15, 2021 for the finance of the Vehicles. Docs. ##144-45; #147. Copies of the Agreements and their Certificates of Title are included as exhibits. *Exs. A-B*, Doc. #145. Debtor has missed pre- and post-petition payments under the Agreements resulting in a current arrearage of \$51,348.09. Doc. #142. The aggregate debt owing to Movant under the Agreements is \$453,872.87. *Id.*

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 Debtor has a current arrearage of \$51,348.09. Doc. #142. Movant has produced evidence that Debtor owes a total of \$453,872.87 under the Agreements. *Id.*; Doc. #147. Additionally, Debtor has failed to maintain insurance on the Vehicles and has stipulated to limited stay relief. *Id.*; Doc. #301.

This motion will be called as scheduled because Trustee was neither served notice of the motion nor was party to the stipulation. If Movant obtains Trustee's written consent before the hearing, or if Trustee consents to stay relief at the hearing, this motion may be GRANTED IN PART with respect to Trustee and DENIED AS MOOT IN PART with respect to Debtor, unless Movant is seeking additional stay relief other than that already granted. Otherwise, this motion will be CONTINUED to a date and time determined at the hearing so that Movant can serve Trustee.

If granted, the 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because Debtor has failed to make post-petition payments, failed to maintain insurance coverage on the Vehicles, the Vehicles are depreciating assets, and Debtor has stipulated to limited stay relief.

11. [22-11540](#)-B-11      **IN RE: VALLEY TRANSPORTATION, INC.**  
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 SUBCHAPTER V  
VOLUNTARY PETITION  
9-1-2022    [\[1\]](#)

RILEY WALTER/ATTY. FOR DBT.  
CONT'D TO 1/24/2023 PER ECF ORDER #155

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

DISPOSITION:      Continued to January 24, 2023 at 9:30 a.m.

ORDER:              The court will issue an order.

The court issued an order setting the confirmation hearing for the debtor's chapter 11 subchapter V plan on January 24, 2023. Doc. #155. Accordingly, this status conference will be continued to January 24, 2023 at 9:30 a.m. to be heard in connection with the debtor's plan confirmation.

12. [22-11540](#)-B-11     **IN RE: VALLEY TRANSPORTATION, INC.**  
[HLG-1](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF HATMAKER LAW  
GROUP FOR SUSAN K. HATMAKER, SPECIAL COUNSEL(S)  
12-20-2022     [\[179\]](#)

SUSAN HATMAKER/MV  
RILEY WALTER/ATTY. FOR DBT.  
SUSAN HATMAKER/ATTY. FOR MV.

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

DISPOSITION:        Denied without prejudice.

ORDER:                The court will issue an order.

Hatmaker Law Group ("Applicant"), special counsel to chapter 11, subchapter V debtor-in-possession Valley Transportation, Inc. ("Debtor"), requests interim compensation in the sum of \$140,034.56 pursuant to 11 U.S.C. §§ 330-31 and Fed. R. Bankr. P. ("Rule") 2002 and 2016. Doc. #179.

Notwithstanding Debtor's non-objection to payment of the proposed fees and expenses (Doc. #181), this motion will be DENIED WITHOUT PREJUDICE for failure to comply with the Local Rules of Practice ("LBR").

For motions filed on less than 28 days' notice, LBR 9014-1(f)(2)(C) requires the movant to notify respondents written opposition is not required and any opposition to the motion must be presented at the hearing.

Here, the motion was filed and served on December 20, 2022, and set for hearing on January 10, 2023. Docs. ##179-80, ##184-85. December 20, 2022 is twenty-one (21) days before January 10, 2023. Therefore, this motion was set for hearing on less than 28 days' notice under LBR 9014-1(f)(2). Nevertheless, the notice stated:

**Deadline to file opposition papers:** Pursuant to  
Local Bankruptcy Rule 9014-1(f)(1):

Opposition, if any, to the granting of the motion shall be in writing and shall be served and filed with the Court by the responding party at least fourteen (14) calendar days preceding the date or continued date of the hearing. Opposition shall be accompanied by evidence establishing its factual allegations. Without good cause, no party shall be heard in opposition to the motion at oral argument if written opposition to the motion has not been timely filed. Failure of the responding party to timely file written opposition may be deemed a

waiver of any opposition to the granting of the motion or may result in the imposition of sanctions. . . .

**UNLESS WRITTEN OPPOSITION AND SUPPORTING EVIDENCE ARE FILED WITH THE CLERK AND SERVED ON THE MOVING PARTY, THE COURT MAY RESOLVE THE MATTER WITHOUT ORAL ARGUMENT. PURSUANT TO LOCAL BANKRUPTCY RULE 9014-1(F) (1) (B), THE FAILURE TO FILE TIMELY WRITTEN OPPOSITION MAY RESULT IN THE MOTION BEING RESOLVED WITHOUT ORAL ARGUMENT AND THE STRIKING OF UNTIMELY WRITTEN OPPOSITION.**

Notice ¶¶ 4-5 at 2, Doc. #180 (emphasis in original). This is incorrect. Motions noticed on less than 28 days' notice of the hearing are deemed brought pursuant to LBR 9014-1(f)(2) notwithstanding Applicant's compliance with the 21-day notice requirement of Rule 2002(a)(6). The notice should have informed respondents that written opposition was not required, and opposition, if any, shall be presented at the hearing. If opposition is presented, or if there is other good cause, the court may continue the hearing to permit the filing of evidence and briefs. Therefore, the notice was materially deficient because the respondents were told to file and serve written opposition even though it was not necessary. Since the notice of hearing stated that respondents were required to file a written opposition, an interested party could be deterred from opposing the motion, or even from appearing at the hearing.

For this reason, the motion will be DENIED WITHOUT PREJUDICE.

13. [22-11540](#)-B-11     **IN RE: VALLEY TRANSPORTATION, INC.**  
[WJH-10](#)

MOTION TO ASSUME LEASE OR EXECUTORY CONTRACT  
11-17-2022    [\[122\]](#)

VALLEY TRANSPORTATION, INC./MV  
RILEY WALTER/ATTY. FOR DBT.

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

DISPOSITION:       Continued to February 14, 2023 at 9:30 a.m.

ORDER:                The court will issue an order.

Valley Transportation, Inc. ("Debtor") moves for authority to assume a written lease of land and improvements with respect to real property commonly known as 2740 E. Church Ave., Fresno, CA 93706 ("Property"), including all modifications and amendments, dated January 1, 2015 (the "Lease") by and between Deborah Simpson ("Lessor") and Debtor pursuant to 11 U.S.C. § 365. Doc. #122.

However, Debtor failed to provide any evidence in support of this motion as required by Fed. R. Bankr. P. 9017 and Local Rule of Practice 9014-1(d)(1) and (d)(3)(D). This motion relies on facts outside of the record of this proceeding. No foundation was provided for the lease at issue attached as an exhibit. No declarations or other competent evidence was provided regarding Debtor's business judgment to assume the lease, and why.

Since no party interest opposed the relief requested, this motion will be CONTINUED to February 14, 2023 at 9:30 a.m. Debtor shall augment the record with competent evidence filed and served not later than January 31, 2023.

14. [22-11540](#)-B-11     **IN RE: VALLEY TRANSPORTATION, INC.**  
[WJH-11](#)

MOTION TO ASSUME LEASE OR EXECUTORY CONTRACT  
11-17-2022    [\[127\]](#)

VALLEY TRANSPORTATION, INC./MV  
RILEY WALTER/ATTY. FOR DBT.

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

DISPOSITION:        Continued to February 14, 2023 at 9:30 a.m.

ORDER:                The court will issue an order.

Valley Transportation, Inc. ("Debtor") moves for authority to assume a written lease of land and improvements with respect to real property commonly known as 2837 S. East Ave., Fresno, CA 93725 ("Property"), including all modifications and amendments, dated January 1, 2018 (the "Lease") by and between Deborah Simpson ("Lessor") and Debtor pursuant to 11 U.S.C. § 365. Doc. #127.

However, Debtor failed to provide any evidence in support of this motion as required by Fed. R. Bankr. P. 9017 and Local Rule of Practice 9014-1(d)(1) and (d)(3)(D). This motion relies on facts outside of the record of this proceeding. No foundation was provided for the lease at issue attached as an exhibit. No declarations or other competent evidence was provided regarding Debtor's business judgment to assume the lease, and why.

Since no party interest opposed the relief requested, this motion will be CONTINUED to February 14, 2023 at 9:30 a.m. Debtor shall augment the record with competent evidence filed and served not later than January 31, 2023.



15. [22-11540](#)-B-11     **IN RE: VALLEY TRANSPORTATION, INC.**  
[WJH-12](#)

MOTION TO ASSUME LEASE OR EXECUTORY CONTRACT  
11-17-2022    [\[132\]](#)

VALLEY TRANSPORTATION, INC./MV  
RILEY WALTER/ATTY. FOR DBT.

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

DISPOSITION:        Continued to February 14, 2023 at 9:30 a.m.

ORDER:                The court will issue an order.

Valley Transportation, Inc. ("Debtor") moves for authority to assume a written lease of land and improvements with respect to real property commonly known as 3451 Unicorn Road, Suite #200, Bakersfield, CA 93308 ("Property"), including all modifications and amendments, dated November 18, 2015 (the "Lease") by and between Joseph Jaconi Company, Inc. ("Lessor") and Debtor pursuant to 11 U.S.C. § 365. Doc. #132.

However, Debtor failed to provide any evidence in support of this motion as required by Fed. R. Bankr. P. 9017 and Local Rule of Practice 9014-1(d)(1) and (d)(3)(D). This motion relies on facts outside of the record of this proceeding. No foundation was provided for the lease at issue attached as an exhibit. No declarations or other competent evidence was provided regarding Debtor's business judgment to assume the lease, and why.

Since no party interest opposed the relief requested, this motion will be CONTINUED to February 14, 2023 at 9:30 a.m. Debtor shall augment the record with competent evidence filed and served not later than January 31, 2023.

16. [18-11651](#)-B-11     **IN RE: GREGORY TE VELDE**  
[MB-93](#)

MOTION FOR FINAL DECREE  
10-30-2022    [\[3343\]](#)

ELIZABETH HOWARD/ATTY. FOR DBT.  
JOHN MACCONAGHY/ATTY. FOR MV.

TENTATIVE RULING:        The matter will proceed as scheduled.

DISPOSITION:        Granted in part.

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

Chapter 11 liquidating trustee Randy Sugarman ("Trustee") moves for entry of final decree closing the chapter 11 bankruptcy case of Gregory John te Velde ("Debtor") under 11 U.S.C. § 350 and Fed. R. Bankr. P. ("Rule") 3022. Doc. #3343.

No party in interest timely filed written opposition. This motion will be GRANTED IN PART.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the 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 above-mentioned parties in interest are entered. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Systems, Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

As a preliminary matter, the second amended notice of hearing does not procedurally comply with the local rules.

First, the motion did not originally contain a Docket Control Number. LBR 9004-2(a)(6), (b)(5), (b)(6), (e)(3), LBR 9014-1(c), and (e)(3) are the rules about Docket Control Numbers ("DCN"). These rules require a DCN to be in the caption page on all documents filed in every matter with the court and each new motion requires a new DCN. The DCN shall consist of not more than three letters, which may be the initials of the attorney for the moving party (e.g., first, middle, and last name) or the first three initials of the law firm for the moving party, and the number that is one number higher than the number of motions previously filed by said attorney or law firm in connection with that specific bankruptcy case. Each separate matter must have a unique DCN linking it to all other related pleadings. However, the amended and corrected notices attempted to correct this issue by designating the motion as DCN MB-93.

Second, the notice cites to LBR 3007-1(b)(1), rather than LBR 9014-1(f)(1), with respect to opposition deadlines. Doc. #3349. Although LBR 3007-1 pertains to objections to claims, this procedural defect is *de minimis* because the respondents were still apprised of the deadline to file and serve written opposition 14 days before the hearing.

Third, the notice fails to list the names and address on which opposition must be served. LBR 9014-1(d)(3)(B)(i) requires the notice to include the names and addresses of persons who must be served with any opposition. The court will overlook these procedural deficiencies in this instance.

11 U.S.C. § 350 requires the court to close the case after an estate is fully administered and the court has discharged the trustee.

Rule 3022 provides that after an estate is fully administered in a chapter 11 reorganization case, *sua sponte* or on motion of a party in interest, the court shall enter a final decree closing the case.

Here, Debtor filed chapter 11 bankruptcy on April 26, 2018. Doc. #1. Trustee was appointed as the chapter 11 trustee on September 21, 2018. Doc. #850. On November 25, 2019, the court entered an order confirming the *Chapter 11 Trustee's Plan of Reorganization* dated August 5, 2019, as modified September 27, 2019, and November 15, 2019 (the "Plan"). Docs. #2973; #2975. The order confirming the Plan was not appealed and became final on the effective date of the plan: December 26, 2019. Docs. #2992. As a result, all assets of the bankruptcy estate became vested in the Te Velde Liquidating Trust ("Liquidating Trust"). Doc. #3066.

"Substantial consummation" is defined in § 1101(2). It requires three things. First, transfer of all or substantially all property proposed by the plan to be transferred. Second, assumption by (in this case) the debtor's successor under the plan of the management of all or substantially all of the property dealt with by the plan. Third, commencement of distribution under the plan. "Substantial consummation" is a question of fact. *Jorgensen v. Federal Land Bank of Spokane (In re Jorgensen)*, 66 B.R. 104, 106 (B.A.P. 9th Cir. 1986).

The motion here claims that Trustee transferred all property required to be transferred under the terms of the Plan to the Liquidating Trust and the Liquidating Trust has commenced all payments required under the terms of the Plan. Doc. #3343. As of the present time, unsecured creditors have received payments aggregating to approximately a 25% dividend. Additionally, the motion says that all objections to claims have been resolved and the case has been fully administered. *Id.*

Two third party disputes remain outstanding. First, the adversary proceeding entitled *Sugarman v. IRZ Consulting, LLC*, and its consolidated matters, Adv. Proc. No. 19-1033. Second, the Trustee intends to bring an action for a refund of purportedly unconstitutional U.S. Trustee's fees paid in this matter in the approximate amount of \$2 million. *Id.* The basis for this action is the Supreme Court's ruling in *Siegel v. Fitzgerald*, 142 S. Ct. 1770 (2022), as interpreted by *In re John Q. Hammons Fall 2006 LLC*, 2022 WL 3354682 (10th Cir. 2022). As a result, Trustee requests the court to retain jurisdiction over both those matters following entry of the Final Decree, which Trustee says is appropriate under *In re Carraher*, 971 F.2d 327 (9th Cir. 1992). Doc. #3343.

The motion includes a "Verification" on the second page in which Trustee declares under penalty of perjury that the application is true and correct to the best of his information and belief. *Id.*

Therefore, all motions in this bankruptcy case have been resolved other than the third-party actions discussed above. The plan has been substantially consummated under 11 U.S.C. § 1101(2).

The court will retain jurisdiction of the *Sugarman v. IRZ Consulting, LLC* matter (A.P. 19-1033) and consolidated matters. It is economical to retain jurisdiction given the extensive litigation that has occurred over the past nearly four years. It is more convenient to do so since the parties have already presented this court and the District Court with numerous law and motion matters. It is fair to do so given the parties efforts in this court so far, as opposed to having to "start over" at great expense to the parties and the creditors who may benefit from the result. Finally, there are no comity issues here since other than one removed matter, there is no substantial state court involvement. The matter removed was removed early in the litigation.

The same cannot be said of the *potential* claim to be filed by Sugarman against the United States Trustee. The considerations under *Carraher* are not applicable since the action is not currently pending and there is nothing for this court to *retain*. *Sea Hawk Seafoods v. Alaska (In re Valdez Fisheries Dev. Assn.)*, 439 F. 3d 545, 548-49 (9th Cir. 2006). Though this court may have jurisdiction, that skirmish must be left for another day.

Accordingly, this motion will be GRANTED IN PART. The court will enter a final decree closing this case and reserving jurisdiction of the *Sugarman v. IRZ* matter and the consolidated matters described above.

11:00 AM

1. [22-11908](#)-B-7     **IN RE: RAFAEL RODRIGUEZ ZEPEDA**

REAFFIRMATION AGREEMENT WITH AMERICREDIT FINANCIAL SERVICES, INC.  
12-8-2022     [[14](#)]

SCOTT LYONS/ATTY. FOR DBT.

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

DISPOSITION:     Dropped.

ORDER:     The court will issue an order.

Debtor's counsel shall notify the debtor that no appearance is necessary.

A Reaffirmation Agreement between debtor Rafael Rodriguez Zepeda and AmeriCredit Financial Services for a 2017 Toyota Corolla IM was filed on December 8, 2022. Doc. #14.

The court is not approving or denying approval of the reaffirmation agreement. Debtor was represented by counsel when entering into the agreement. The form of the reaffirmation agreement complies with 11 U.S.C. § 524(c) and (k), and it was signed by the debtor's attorney with the appropriate attestations. *Id.* Pursuant to § 524(d), the court need not approve the agreement.

2. [22-11832](#)-B-7     **IN RE: MAURO/MARISELA ARMAS**

REAFFIRMATION AGREEMENT WITH MECHANICS BANK  
12-9-2022     [[25](#)]

JANINE ESQUIVEL OJI/ATTY. FOR DBT.

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

DISPOSITION:     Dropped.

ORDER:     The court will issue an order.

Debtor's counsel shall notify the debtor that no appearance is necessary.

A Reaffirmation Agreement between debtor Mauro Armas and Mechanics Bank for a 2016 Kia Optima was filed on December 9, 2022. Doc. #25.

The court is not approving or denying approval of the reaffirmation agreement. Debtors were represented by counsel when entering into the agreement. The form of the reaffirmation agreement complies with 11 U.S.C. § 524(c) and (k), and it was signed by the debtor's attorney with the appropriate attestations. *Id.* Pursuant to § 524(d), the court need not approve the agreement.

3. [22-11832](#)-B-7      **IN RE: MAURO/MARISELA ARMAS**

REAFFIRMATION AGREEMENT WITH FORD MOTOR CREDIT COMPANY LLC  
11-29-2022    [\[17\]](#)

JANINE ESQUIVEL OJI/ATTY. FOR DBT.

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

DISPOSITION:      Dropped.

ORDER:              The court will issue an order.

Debtors' counsel shall notify the debtor that no appearance is necessary.

A Reaffirmation Agreement between debtors Mauro and Marisela Armas and Ford Motor Credit Company, LLC, for a 2019 Ford F150 XLT was filed on November 29, 2022. Doc. #17.

The court is not approving or denying approval of the reaffirmation agreement. Debtors were represented by counsel when entering into the agreement. The form of the reaffirmation agreement complies with 11 U.S.C. § 524(c) and (k), and it was signed by the debtors' attorney with the appropriate attestations. *Id.* Pursuant to § 524(d), the court need not approve the agreement.

4. [22-11832](#)-B-7      **IN RE: MAURO/MARISELA ARMAS**

REAFFIRMATION AGREEMENT WITH TUCOEMAS FEDERAL CREDIT UNION  
12-9-2022    [\[21\]](#)

JANINE ESQUIVEL OJI/ATTY. FOR DBT.

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

DISPOSITION:      Dropped.

ORDER:              The court will issue an order.

Debtor's counsel shall notify the debtor that no appearance is necessary.

A Reaffirmation Agreement between joint debtor Mauro Armas and Tucoemas Federal Credit Union for a 2017 Honda Accord was filed on December 9, 2022. Doc. #21.

The form of the reaffirmation agreement complies with 11 U.S.C. § 524(c) and (k), and it was signed by the debtor's attorney with the appropriate attestations. *Id.* Additionally, the reaffirmation agreement is between a represented debtor and a credit union. 11 U.S.C. § 524(m)(2); *Bay Fed. Credit Union v. Ong (In re Ong)*, 461 B.R. 559, 563 (B.A.P. 9th Cir. 2011) (reversing disapproval of reaffirmation agreement between represented debtor and credit union), citing *In re Morton*, 410 B.R. 556, 562 (B.A.P. 9th Cir. 2009) (reaffirmation agreement between represented debtor and credit union is "not subject to judicial oversight"). Pursuant to § 524(d), the court need not approve the agreement.

5. [22-11653](#)-B-7      **IN RE: SYDNEE APPEL AND MARIO ROMAN**

REAFFIRMATION AGREEMENT WITH TOYOTA MOTOR CREDIT CORPORATION  
12-2-2022    [\[15\]](#)

BENNY BARCO/ATTY. FOR DBT.

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

DISPOSITION:      Dropped.

ORDER:              The court will issue an order.

Debtors' counsel shall notify the debtor that no appearance is necessary.

A Reaffirmation Agreement between debtors Sydnee Appel and Mario Roman and Toyota Motor Credit Corporation for a 2021 Toyota RAV4 was filed on December 2, 2022. Doc. #15.

The court is not approving or denying approval of the reaffirmation agreement. Debtors were represented by counsel when entering into the agreement. The form of the reaffirmation agreement complies with 11 U.S.C. § 524(c) and (k), and it was signed by the debtors' attorney with the appropriate attestations. *Id.* Pursuant to § 524(d), the court need not approve the agreement.

6. [22-11654](#)-B-7      **IN RE: LUIS LOPEZ PACHECO**

REAFFIRMATION AGREEMENT WITH VALLEY FIRST CREDIT UNION  
12-6-2022    [\[19\]](#)

BENNY BARCO/ATTY. FOR DBT.

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

DISPOSITION:      Dropped.

ORDER:              The court will issue an order.

Debtor's counsel shall notify the debtor that no appearance is necessary.

A Reaffirmation Agreement between debtor Luis Lopez Pacheco and Valley First Credit Union for a 2016 Ford F150 SuperCrew Cab was filed on December 6, 2022. Doc. #19.

The court is not approving or denying approval of the reaffirmation agreement. Debtor was represented by counsel when entering into the agreement. The form of the reaffirmation agreement complies with 11 U.S.C. § 524(c) and (k), and it was signed by the debtor's attorney with the appropriate attestations. *Id.* Additionally, the reaffirmation agreement is between a represented debtor and a credit union. 11 U.S.C. § 524(m)(2); *Bay Fed. Credit Union v. Ong (In re Ong)*, 461 B.R. 559, 563 (B.A.P. 9th Cir. 2011) (reversing disapproval of reaffirmation agreement between represented debtor and credit union), citing *In re Morton*, 410 B.R. 556, 562 (B.A.P. 9th Cir. 2009) (reaffirmation agreement between represented debtor and credit union is "not subject to judicial oversight"). Pursuant to § 524(d), the court need not approve the agreement.

7. [22-11555](#)-B-7      **IN RE: MICHAEL/ASHTON CHEATHAM**

REAFFIRMATION AGREEMENT WITH ALLY BANK  
12-7-2022    [\[19\]](#)

BENNY BARCO/ATTY. FOR DBT.

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

DISPOSITION:      Dropped.

ORDER:              The court will issue an order.



Debtors' counsel shall notify the debtor that no appearance is necessary.

A Reaffirmation Agreement between debtors Michael and Ashton Cheatham and Ally Bank for a 2014 Ford Focus Hatchback was filed on December 7, 2022. Doc. #19.

The court is not approving or denying approval of the reaffirmation agreement. Debtors were represented by counsel when entering into the agreement. The form of the Reaffirmation Agreement complies with 11 U.S.C. § 524(c) and (k), and it was signed by the debtor's attorney with the appropriate attestations. *Id.* Pursuant to § 524(d), the court need not approve the agreement.

8. [22-11555](#)-B-7      **IN RE: MICHAEL/ASHTON CHEATHAM**

REAFFIRMATION AGREEMENT WITH GOLDEN 1 CREDIT UNION  
12-1-2022    [\[16\]](#)

BENNY BARCO/ATTY. FOR DBT.

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

DISPOSITION:      Dropped.

ORDER:              The court will issue an order.

Debtor's counsel shall notify the debtor that no appearance is necessary.

A Reaffirmation Agreement between debtor Michael Cheatham and Golden 1 Credit Union for a 2014 Toyota Sienna was filed on December 1, 2022. Doc. #16.

The court is not approving or denying approval of the reaffirmation agreement. Debtor was represented by counsel when entering into the agreement. The form of the reaffirmation agreement complies with 11 U.S.C. § 524(c) and (k), and it was signed by the debtor's attorney with the appropriate attestations. *Id.* Additionally, the reaffirmation agreement is between a represented debtor and a credit union. 11 U.S.C. § 524(m)(2); *Bay Fed. Credit Union v. Ong (In re Ong)*, 461 B.R. 559, 563 (B.A.P. 9th Cir. 2011) (reversing disapproval of reaffirmation agreement between represented debtor and credit union), citing *In re Morton*, 410 B.R. 556, 562 (B.A.P. 9th Cir. 2009) (reaffirmation agreement between represented debtor and credit union is "not subject to judicial oversight"). Pursuant to § 524(d), the court need not approve the agreement.

9. [22-11780](#)-B-7      **IN RE: PATRICK O'HANLON**

REAFFIRMATION AGREEMENT WITH SOLARITY CREDIT UNION  
12-22-2022    [\[14\]](#)

BENNY BARCO/ATTY. FOR DBT.

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

DISPOSITION:      Dropped.

ORDER:              The court will issue an order.

Debtor's counsel shall notify the debtor that no appearance is necessary.

A Reaffirmation Agreement between debtor Patrick Alan O'Hanlon and Solarity Credit Union was filed on December 22, 2022. Doc. #14.

The court is not approving or denying approval of the reaffirmation agreement. Debtor was represented by counsel when entering into the agreement. The agreement complies with 11 U.S.C. § 524(c) and (k) and it was signed by the debtor's attorney with the appropriate attestations. *Id.* Additionally, the reaffirmation agreement is between a represented debtor and a credit union. 11 U.S.C. § 524(m)(2); *Bay Fed. Credit Union v. Ong (In re Ong)*, 461 B.R. 559, 563 (B.A.P. 9th Cir. 2011) (reversing disapproval of reaffirmation agreement between represented debtor and credit union), citing *In re Morton*, 410 B.R. 556, 562 (B.A.P. 9th Cir. 2009) (reaffirmation agreement between represented debtor and credit union is "not subject to judicial oversight"). Pursuant to § 524(d), the court need not approve the agreement.

1:30 PM

1. [22-10005](#)-B-7     **IN RE: PATRICIA TESSENDORE**  
[ICE-2](#)

MOTION TO COMPEL  
11-30-2022    [\[89\]](#)

IRMA EDMONDS/MV  
TIMOTHY SPRINGER/ATTY. FOR DBT.  
ANTHONY JOHNSTON/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.

Chapter 7 trustee Irma C. Edmonds ("Trustee") moves for an order compelling Patricia Marie Tessendore ("Debtor") to attend the continued § 341(a) meeting of creditors rescheduled for January 23, 2023. Docs. #89; #93. Trustee amended the motion and notice of hearing on December 29, 2022 to update the date of the continued meeting of creditors. Docs. ##93-94.

Debtor did not oppose. No other parties in interest timely filed written opposition. This motion will be GRANTED.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the Debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the defaults of the above-mentioned parties in interest are entered. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Debtor filed chapter 13 bankruptcy on January 3, 2022. Doc. #1. The first § 341 meeting was held on February 22, 2022, continued to March 22, 2022, continued again to April 26, 2022, and continued a third time to May 17, 2022. See docket generally. Debtor appeared at the February 22, 2022 and April 26, 2022 meetings but did not appear on March 22, 2022. On April 26, 2022, the case was converted to chapter

7, so the May 17, 2022 meeting before the chapter 13 trustee did not occur. Doc. #47.

Trustee was appointed as interim chapter 7 trustee and the 341 meeting for the chapter 7 case was first set for May 31, 2022. *Id.*; Doc. #48. That meeting was held on and/or continued to the following dates: June 21, 2022, July 11, 2022, August 1, 2022, August 22, 2022, October 3, 2022, November 14, 2022, December 27, 2022, and January 23, 2023. Debtor appeared at the meetings on June 21 and August 1, 2022 but did not appear at any of the other meetings. Docket generally. As of this writing, the January 23, 2023 meeting has not yet occurred.

Trustee says that Debtor has an interest in real property located at 909 E. Dartmouth Drive, Fresno, CA 93730 valued at \$750,900.00 with a \$236,780.00 lien, in which Debtor has claimed a \$350,000.00 exemption. Doc. #93. Thus, the equity exists for the benefit of the estate.

11 U.S.C. § 341(a) requires the holding of a meeting of creditors. At this hearing, the Trustee is required to orally examine the debtor as to certain items of information necessary for administration of the bankruptcy estate.

No party in interest timely filed written opposition. Accordingly, this motion will be GRANTED. The court will order Debtor to appear at the continued meeting of creditors currently rescheduled for January 23, 2023 at 12:00 p.m.

2. [22-11907](#)-B-7     **IN RE: FREON LOGISTICS**  
[AKA-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
12-23-2022    [\[364\]](#)

ASCENTIUM CAPITAL, LLC/MV  
LEONARD WELSH/ATTY. FOR DBT.  
ANDREW ALPER/ATTY. FOR MV.

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

DISPOSITION:        Denied without prejudice.

ORDER:                The court will issue an order.

Ascentium Capital, LLC ("Movant"), seeks relief from the automatic stay pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) with respect to ten 2023 Utility Trailers. Doc. #364.

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

First, LBR 9004-2(a)(6), (b)(5), (b)(6), (e)(3), LBR 9014-1(c), and (e)(3) are the rules about Docket Control Numbers ("DCN"). These rules require a DCN to be in the caption page on all documents filed in every matter with the court and each new motion requires a new DCN. The DCN shall consist of not more than three letters, which may be the initials of the attorney for the moving party (e.g., first, middle, and last name) or the first three initials of the law firm for the moving party, and the number that is one number higher than the number of motions previously filed by said attorney or law firm in connection with that specific bankruptcy case. Each separate matter must have a unique DCN linking it to all other related pleadings.

Here, this motion and two others for relief from the automatic stay in matters ##3-4 below all contain the "AKA-2" DCN. Docs. ##360-68; ##371-99. Although Movant filed a notice of errata on December 27, 2022 attempting to correct the issue, such notice only identified this motion (Doc. #364) and failed to correct any of the supporting documents. Doc. #412. Each separate matter requires a new, unused DCN. Further, it is unclear which exhibit goes to which matter. See Docs. ##374-380; ##382-99.

Second, LBR 9014-1(d)(1) requires every motion or other request for relief to be comprised of a motion, notice, evidence, and a certificate of service. Here, the primary document is the *Notice of Motion and Motion of Ascentium Capital, LLC for Relief from Automatic Stay Pursuant to 11 U.S.C. § 362(d)*, which consists of a motion, notice of hearing, exhibits, and a certificate of service. Each of these documents must be filed separately. LBR 9004-2(c)(1), (d).

Third, LBR 9004-2(e)(1), (e)(2), and LBR 9014-1(e)(3) require the proof of service for any documents to be itself filed as a separate document, and copies of the pleadings and documents served "SHALL NOT be attached" to the proof of service. Here, the certificates of service were attached to each document. Docs. ##364-67. Movant may use one certificate of service for all documents related to a single matter. See LBR 9004-2(e)(2).

Fourth, LBR 9004-2(d) requires exhibits to be filed as a separate exhibit document, requires an exhibit index stating the page number at which each exhibit is found within the exhibit document, and requires use of consecutively numbered exhibit pages throughout the exhibit document, including any separator, cover, or divider sheets. Here, the exhibits are attached to other pleadings, do not contain an exhibit index, and are not consecutively numbered. Docs. ##364-66. The exhibits not attached to other pleadings still omit exhibit indices and consecutively numbered pages. ##374-380; ##382-99.

Fifth, Movant is advised that General Order 22-04 makes LBR 7005-1 effective as of November 1, 2022. See Gen. Order 22-04 (Oct. 6, 2022).

LBR 7005-1 requires service of pleadings and other documents in adversary proceedings, contested matters in the bankruptcy case, and

all other pleadings in the Eastern District of California Bankruptcy Court by attorneys, trustees, or other Registered Electronic Filing System Users using the *Official Certificate of Service Form*, EDC 007-005. Unless six or fewer parties in interest are served, the form shall have attached to it the Clerk of the Court's official matrix, as appropriate: (1) for the case or adversary proceeding; (2) list of ECF Registered Users; (3) list of persons who have filed Requests for Special Notice; and/or (4) list of Equity Security Holders. LBR 7005-1(a). The Clerk's Matrix of Creditors shall be downloaded not more than seven days prior to the date of serving the pleadings and other documents and shall reflect the date of download. LBR 7005-1(d).

Here, Movant's certificates of service do not use the correct Form EDC 007-005 and do not attach true and correct copies of the Clerk of the Court's Matrices of Creditors. Docs. ##364-67.

Though the court has temporarily delayed enforcement of LBR 7005-1 and Gen. Order 22-04 for a short period of time and motions filed after January 1, 2023 will be required to attach a copy of the official Clerk's Matrices of Creditors downloaded within seven days of the filing of the motion, the other issues described above prevent the granting of this motion. Counsel is advised to review the local rules and ensure procedural compliance in subsequent matters.

For the above reasons, this motion will be DENIED WITHOUT PREJUDICE.

3. [22-11907](#)-B-7     **IN RE: FREON LOGISTICS  
AKA-2**

MOTION FOR RELIEF FROM AUTOMATIC STAY  
12-23-2022    [\[371\]](#)

COMMERCIAL CREDIT GROUP, INC./MV  
LEONARD WELSH/ATTY. FOR DBT.  
ANDREW ALPER/ATTY. FOR MV.

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

DISPOSITION:        Denied without prejudice.

ORDER:                The court will issue an order.

Commercial Credit Group, Inc. ("Movant"), seeks relief from the automatic stay pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) with respect to twenty-eight (28) loans secured by 200 trucks, trailers, tractors, and refrigerated units, including to prosecute insurance claims with respect to damaged collateral. Doc. #371.

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

First, LBR 9004-2(a)(6), (b)(5), (b)(6), (e)(3), LBR 9014-1(c), and (e)(3) are the rules about Docket Control Numbers ("DCN"). These rules require a DCN to be in the caption page on all documents filed in every matter with the court and each new motion requires a new DCN. The DCN shall consist of not more than three letters, which may be the initials of the attorney for the moving party (e.g., first, middle, and last name) or the first three initials of the law firm for the moving party, and the number that is one number higher than the number of motions previously filed by said attorney or law firm in connection with that specific bankruptcy case. Each separate matter must have a unique DCN linking it to all other related pleadings.

Here, this motion and two others for relief from the automatic stay in matters #2 above and #4 below all contain the "AKA-2" DCN. Docs. ##360-68; ##371-99. Although Movant filed a notice of errata on December 27, 2022 attempting to correct the issue, such notice only identified this motion (Doc. #371) and failed to correct any of the supporting documents. Doc. #413. Each separate matter requires a new, unused DCN. Further, it is unclear which exhibit goes to which matter. See Docs. ##374-380; ##382-99.

Second, LBR 9014-1(d)(1) requires every motion or other request for relief to be comprised of a motion, notice, evidence, and a certificate of service. Here, the primary document is the *Notice of Motion and Motion of Commercial Credit Group, Inc. for Relief from Automatic Stay Pursuant to 11 U.S.C. § 362(d)*, which consists of a motion, notice of hearing, exhibits, and a certificate of service. Doc. #371. Each of these documents must be filed separately. LBR 9004-2(c)(1), (d).

Third, LBR 9004-2(e)(1), (e)(2), and LBR 9014-1(e)(3) require the proof of service for any documents to be itself filed as a separate document, and copies of the pleadings and documents served "SHALL NOT be attached" to the proof of service. Here, the certificates of service were attached to each document. Docs. ##371-73. Movant may use one certificate of service for all documents related to a single matter. See LBR 9004-2(e)(2).

Fourth, LBR 9004-2(d) requires exhibits to be filed as a separate exhibit document, requires an exhibit index stating the page number at which each exhibit is found within the exhibit document, and requires use of consecutively numbered exhibit pages throughout the exhibit document, including any separator, cover, or divider sheets. Here, the exhibits are attached to other pleadings, do not contain an exhibit index, and are not consecutively numbered. Docs. ##371-373. The exhibits not attached to other pleadings still omit exhibit indices and consecutively numbered pages. ##374-380; ##382-99.

Fifth, Movant is advised that General Order 22-04 makes LBR 7005-1 effective as of November 1, 2022. See Gen. Order 22-04 (Oct. 6, 2022).

LBR 7005-1 requires service of pleadings and other documents in adversary proceedings, contested matters in the bankruptcy case, and all other pleadings in the Eastern District of California Bankruptcy Court by attorneys, trustees, or other Registered Electronic Filing System Users using the *Official Certificate of Service Form*, EDC 007-005. Unless six or fewer parties in interest are served, the form shall have attached to it the Clerk of the Court's official matrix, as appropriate: (1) for the case or adversary proceeding; (2) list of ECF Registered Users; (3) list of persons who have filed Requests for Special Notice; and/or (4) list of Equity Security Holders. LBR 7005-1(a). The Clerk's Matrix of Creditors shall be downloaded not more than seven days prior to the date of serving the pleadings and other documents and shall reflect the date of download. LBR 7005-1(d).

Here, Movant's certificates of service do not use the correct Form EDC 007-005 and do not attach true and correct copies of the Clerk of the Court's Matrices of Creditors. Docs. ##371-73.

Though the court has temporarily delayed enforcement of LBR 7005-1 and Gen. Order 22-04 for a short period of time and motions filed after January 1, 2023 will be required to attach a copy of the official Clerk's Matrices of Creditors downloaded within seven days of the filing of the motion, the other issues described above prevent the granting of this motion. Counsel is advised to review the local rules and ensure procedural compliance in subsequent matters.

For the above reasons, this motion will be DENIED WITHOUT PREJUDICE.

4. [22-11907](#)-B-7     **IN RE: FREON LOGISTICS  
AKA-2**

MOTION FOR RELIEF FROM AUTOMATIC STAY  
12-23-2022    [\[360\]](#)

M&T EQUIPMENT FINANCE CORPORATION/MV  
LEONARD WELSH/ATTY. FOR DBT.  
ANDREW ALPER/ATTY. FOR MV.

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

DISPOSITION:        Denied without prejudice.

ORDER:                The court will issue an order.

M & T Equipment Finance Corporation fka People's United Equipment Finance Corp. ("Movant") seeks relief from the automatic stay pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) with respect to five 2022 Peterbilt 579 tractors. Doc. #360.

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



First, LBR 9004-2(a)(6), (b)(5), (b)(6), (e)(3), LBR 9014-1(c), and (e)(3) are the rules about Docket Control Numbers ("DCN"). These rules require a DCN to be in the caption page on all documents filed in every matter with the court and each new motion requires a new DCN. The DCN shall consist of not more than three letters, which may be the initials of the attorney for the moving party (e.g., first, middle, and last name) or the first three initials of the law firm for the moving party, and the number that is one number higher than the number of motions previously filed by said attorney or law firm in connection with that specific bankruptcy case. Each separate matter must have a unique DCN linking it to all other related pleadings.

Here, this motion and two others for relief from the automatic stay in matters ##2-3 above all contain the "AKA-2" DCN. Docs. ##360-68; ##371-99. Although Movant filed a notices of errata on December 27, 2022 attempting to correct the issues with respect to the above motions, such notice only identified those motions (Docs. #364; #371) and failed to correct any of the supporting documents. Docs. ##412-13. Each separate matter requires a new, unused DCN. Further, it is unclear which exhibit goes to which matter. See Docs. ##374-380; ##382-99.

Second, LBR 9014-1(d)(1) requires every motion or other request for relief to be comprised of a motion, notice, evidence, and a certificate of service. Here, the primary document is the *Notice of Motion and Motion of M & T Equipment Finance Corporation for Relief from Automatic Stay Pursuant to 11 U.S.C. § 362(d)*, which consists of a motion, notice of hearing, exhibits, and a certificate of service. Doc. #360. Each of these documents must be filed separately. LBR 9004-2(c)(1), (d).

Third, LBR 9004-2(e)(1), (e)(2), and LBR 9014-1(e)(3) require the proof of service for any documents to be itself filed as a separate document, and copies of the pleadings and documents served "SHALL NOT be attached" to the proof of service. Here, the certificates of service were attached to each document. Docs. ##360-62. Movant may use one certificate of service for all documents related to a single matter. See LBR 9004-2(e)(2).

Fourth, LBR 9004-2(d) requires exhibits to be filed as a separate exhibit document, requires an exhibit index stating the page number at which each exhibit is found within the exhibit document, and requires use of consecutively numbered exhibit pages throughout the exhibit document, including any separator, cover, or divider sheets. Here, the exhibits are attached to other pleadings, do not contain an exhibit index, and are not consecutively numbered. Docs. ##360-62. The exhibits not attached to other pleadings still omit exhibit indices and consecutively numbered pages. ##374-380; ##382-99.

Fifth, Movant is advised that General Order 22-04 makes LBR 7005-1 effective as of November 1, 2022. See Gen. Order 22-04 (Oct. 6, 2022).

LBR 7005-1 requires service of pleadings and other documents in adversary proceedings, contested matters in the bankruptcy case, and all other pleadings in the Eastern District of California Bankruptcy Court by attorneys, trustees, or other Registered Electronic Filing System Users using the *Official Certificate of Service Form*, EDC 007-005. Unless six or fewer parties in interest are served, the form shall have attached to it the Clerk of the Court's official matrix, as appropriate: (1) for the case or adversary proceeding; (2) list of ECF Registered Users; (3) list of persons who have filed Requests for Special Notice; and/or (4) list of Equity Security Holders. LBR 7005-1(a). The Clerk's Matrix of Creditors shall be downloaded not more than seven days prior to the date of serving the pleadings and other documents and shall reflect the date of download. LBR 7005-1(d).

Here, Movant's certificates of service do not use the correct Form EDC 007-005 and do not attach true and correct copies of the Clerk of the Court's Matrices of Creditors. Docs. ##360-62.

Though the court has temporarily delayed enforcement of LBR 7005-1 and Gen. Order 22-04 for a short period of time and motions filed after January 1, 2023 will be required to attach a copy of the official Clerk's Matrices of Creditors downloaded within seven days of the filing of the motion, the other issues described above prevent the granting of this motion. Counsel is advised to review the local rules and ensure procedural compliance in subsequent matters.

For the above reasons, this motion will be DENIED WITHOUT PREJUDICE.

5. [22-11907](#)-B-7     **IN RE: FREON LOGISTICS**  
[GRI-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
12-27-2022     [\[405\]](#)

FRUITVALE FINANCIAL, LLC/MV  
LEONARD WELSH/ATTY. FOR DBT.  
LAUREN RODE/ATTY. FOR MV.

TENTATIVE RULING:             This matter will proceed as scheduled.

DISPOSITION:                     Granted or continued.

ORDER:                             The minutes of the hearing will be the court's findings and conclusions. Order preparation to be determined at the hearing.

Fruitvale Financial, LLC ("Movant"), seeks relief from the automatic stay pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) with respect to commercial real property located at 235 Mt. Vernon Bakersfield, CA 93307 ("Bakersfield Property"). Doc. #405.

Written opposition was not required and may be presented at the hearing. The court notes that Freon Logistics ("Debtor") filed written opposition to Movant's first attempt at stay relief because it was expecting to receive a formal written offer for the sale of Property for \$1.8 million. Doc. #203. However, Movant's first motion was denied for procedural reasons. Doc. #348.

This motion was filed and served 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. 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.

On or about September 8, 2022, Movant loaned non-debtor entity Freon Estates LLC ("Freon Estates") and Debtor, as a co-borrower, \$1,238,846 to purchase property located at Barstow, California 92311 ("Barstow Property"). *Ex. A*, Doc. 410. That loan was secured by Barstow Property and Bakersfield Property pursuant to a Deed of Trust and Assignment of Rents dated September 8, 2022. *See Ex. B, id.*

Additionally, Debtor also entered into a Subordination Agreement with Amur Equipment Finance Inc. ("Amur") under which Amur's fixture filing in the Bakersfield Property would be subordinated to Movant's interest. *Ex. C, id.* In the event Debtor failed to secure the Subordination Agreement with Amur within 45 days of close of escrow on the Barstow Property, Debtor was obligated to make a payment of \$132,656.05 on the loan. Debtor failed to timely obtain an executed Subordination Agreement from Amur.

Lastly, the loan was personally guaranteed by Hardeep Singh and Amarinder Singh Gorwara, the principals of Debtor and Freon Estates. *Ex. D, id.*

Movant claims that the loan has been in default since its inception because Debtor has failed to make any payments, either pre- or post-petition. Doc. #407. Debtor has failed to make payments of \$10,862.61 each for November and December 2022, as well as late fees of \$2,172.52, interests and costs of \$38,411.35, and the \$132,656.05 payment for failure to secure the Subordination Agreement with Amur post-closing. *Id.* Since an event of default has occurred, the full amount on the note is due and payable, resulting in a total amount owing to Movant in the amount of \$1,279,429.87.

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 an equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, it appears that "cause" exists to lift the stay because Debtor has failed to make any pre- or post-petition payments to Movant and owes Movant the sum of \$1,279,429.87 under the loan.

Additionally, Movant values the Bakersfield Property at \$1,100,000, and Debtor values it at \$1,000,000. Doc. #407. It is subject to a \$10,826.09 tax lien and the Amur lien in the amount of \$132,656.05. Docs. ##408-09. Thus, it appears that Debtor does not have any equity in the Bakersfield Property, Movant is undersecured, and Bakersfield Property is not necessary for a successful reorganization because this is a chapter 7 case.

This matter will be called as scheduled to inquire whether any party in interest opposes. In the absence of opposition at the hearing, the court intends to GRANT this motion pursuant to § 362(d)(1) and (d)(2). If opposition is presented, this matter will be CONTINUED to a date and time determined at the hearing for further briefing.

If granted, the 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because Debtor has failed to make all pre- and post-petition payments and Movant is undersecured.

6. [22-11907](#)-B-7     **IN RE: FREON LOGISTICS**  
[RK-5](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
12-22-2022    [\[351\]](#)

CROSSROADS EQUIPMENT LEASE AND FINANCE, LLC/MV  
LEONARD WELSH/ATTY. FOR DBT.  
RAFFI KHATCHADOURIAN/ATTY. FOR MV.

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                Granted in part.

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

Crossroads Equipment Lease and Finance, LLC ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to seventeen (17) Master Equipment Finance Agreements and Equipment Finance Schedules (collectively "Agreements") secured by thirty-five (35) tractor trucks (collectively "Vehicles"). Doc. #351.

Written opposition was not required and may be presented at the hearing. In the absence of opposition, the court is inclined to GRANT this motion.

This motion was filed and served 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. 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.

Freon Logistics ("Debtor") executed the cross-collateralized Agreements in favor of Movant, Bank of America, and Presidential Bank between March 5, 2020 and December 28, 2021. Doc. #355. Movant has a loan syndication agreement with Bank of America and Presidential Bank in which they are participants in Movant's loans to Debtor, but Movant is the servicer of such loans. Doc. #351. The Agreements are secured by the Vehicles, which consist of:

- a. Thirty-one 2022 Peterbilt 579 tractor trucks;
- b. Two Kenworth T680 tractor trucks;
- c. Two 2020 Volvo VNL64T760 tractor truck;

See *Ex. 1*, Doc. #355. Copies of the Agreements and Certificates of Title are included as exhibits. *Exs. 2, 4-5, id.* Debtor defaulted on payments under the Agreements pre-petition and has not made any post-petition payments to Movant. Doc. #353. As of the petition date, Debtor owed under the Agreements: Movant approximately \$1,593,067.49, Bank of America approximately \$946,366.45, and Presidential Bank approximately \$730,680.76. *Id.*

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 an 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 Debtor has failed to make any post-petition payments, failed to maintain insurance on the Vehicles, and owes Movant, Bank of America, and Presidential Bank a combined sum of \$3,270,114.70 under the Agreements.

Since the court intends to grant this motion under § 362(d)(1), relief under subsection (d)(2) is moot. The court declines finding that Debtor does not have any equity in the Vehicles. Although the Vehicles are not necessary to an effective reorganization because this case was

converted to chapter 7, Movant and Debtor value the vehicles at approximately \$3,450,000 and \$3,500,000, respectively, which leaves Movant slightly oversecured under both valuations.

This matter will be called as scheduled to inquire whether any party in interest opposes. In the absence of opposition at the hearing, the court intends to GRANT IN PART this motion pursuant to 11 U.S.C. § 362(d)(1) and DENY IN PART with respect to § 362(d)(2).

If granted, the 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because Debtor has failed to make post-petition payments, failed to maintain insurance coverage on the Vehicles, and the Vehicles are depreciating assets.

7. [22-11609](#)-B-7     **IN RE: IGNACIO MANZO**  
[SKI-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
12-7-2022    [\[15\]](#)

AMERICREDIT FINANCIAL SERVICES, INC./MV  
WILLARD FIELDS/ATTY. FOR DBT.  
SHERYL ITH/ATTY. FOR MV.  
DISCHARGED 12/27/22

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

DISPOSITION:        Granted in part and denied as moot in part.

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

Americredit Financial Services, Inc. dba GM Financial("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2014 Honda Accord ("Vehicle"). Doc. #15.

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

*facie* showing that they are entitled to the relief sought, which the movant has done here.

11 U.S.C. § 362(c)(2)(C) provides that the automatic stay of § 362(a) continues until a discharge is granted. The debtor's discharge was entered on December 27, 2022. Doc. #25. Therefore, the automatic stay terminated with respect to the debtor on December 27, 2022. This motion will be DENIED AS MOOT IN PART as to the debtor's interest and will be GRANTED IN PART for cause shown as to the chapter 7 trustee.

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 an equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, cause exists to lift the automatic stay with respect to the chapter 7 trustee because Debtor has failed to make one pre-petition payment of \$309.62 and two post-petition payments totaling \$619.24. Movant has produced evidence that Debtor owes \$14,136.02 to Movant. Docs. #17; #21.

Since the court intends to grant this motion in part under § 362(d)(1), relief under subsection (d)(2) is moot. The court declines finding that Debtor does not have any equity in the Vehicle. Although the Vehicle is not necessary to an effective reorganization because this is a chapter 7 case, Movant values the Vehicle at \$14,136.02 and Debtor owes \$14,136.02, which leaves Movant oversecured.

Accordingly, the motion will be GRANTED IN PART as to the trustee's interest under § 362(d)(1) and DENIED AS MOOT IN PART as to the debtors' interest under § 362(c)(2)(C).

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the Vehicle is a depreciating asset.

8. [22-10936](#)-B-7     **IN RE: PEGGY RIOS**  
[AP-1](#)

MOTION TO COMPEL ABANDONMENT  
11-23-2022    [\[32\]](#)

WELLS FARGO BANK, N.A./MV  
VINCENT GORSKI/ATTY. FOR DBT.  
WENDY LOCKE/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.

Wells Fargo Bank, N.A. ("Movant") requests an order compelling chapter 7 trustee Jeffrey M. Vetter ("Trustee") to abandon the estate's interest in real property located at 2432 Algehro Dr., Delano, CA 93215-9251 ("Property") pursuant to 11 U.S.C. § 554(b). Doc. #32.

Neither the Trustee nor any other party in interest timely filed written opposition. This motion will be GRANTED.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the chapter 7 trustee, 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 amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

11 U.S.C. § 554(b) provides that "on request of a party in interest and after notice and a hearing, the court may order the trustee to abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate."

To grant a motion to abandon property, the bankruptcy court must find either that: (1) the property is burdensome to the estate or (2) of inconsequential value and inconsequential benefit to the estate. *In re Vu*, 245 B.R. 644, 647 (B.A.P. 9th Cir. 2000). As one court noted, "an



order compelling abandonment is the exception, not the rule. Abandonment should only be compelled in order to help the creditors by assuring some benefit in the administration of each asset . . . . Absent an attempt by the trustee to churn property worthless to the estate just to increase fees, abandonment should rarely be ordered.” *In re K.C. Mach. & Tool Co.*, 816 F.2d 238, 246 (6th Cir. 1987). In evaluating a proposal to abandon property, it is the interests of the estate and the creditors that have primary consideration, not the interests of the debtor. *In re Johnson*, 49 F.3d 538, 541 (9th Cir. 1995) (noting that the debtor is not mentioned in § 554). *In re Galloway*, No. AZ-13-1085-PaKiTa, 2014 Bankr. LEXIS 3626, at \*16-17 (B.A.P. 9th Cir. 2014).

Prior to filing bankruptcy, Peggy L. Rios (“Debtor”) and Jesse J. Rios (collectively “Borrowers”) executed a SmartFit Home Equity Account Agreement and Disclosure Statement with a credit line limit in the amount of \$141,000.00, which is secured by a Short Form Deed of Trust in favor of Movant encumbering Property. *See Exs. 1-2, Doc. #36.*

When Debtor commenced this bankruptcy on May 31, 2022, Property became an asset of the estate and was listed in the schedules with a value of \$366,000.00. *Sched. A/B, Doc. #1.* Debtor exempted Property pursuant to Cal. Code Civ. Proc. § 704.730(a)(1) in the amount of \$146,467.00. *Sched. C, id.* Movant’s secured claim was listed in *Schedule D* in the amount of \$131,773.00, though Movant estimates the payoff as of October 25, 2022 to be approximately \$135,099.83. *Sched. D, id.; Doc. #34.* Additionally, Movant’s affiliate, Wells Fargo Home Mortgage (“WFHM”), is the holder of a second lien on Property in the amount of \$87,760.00. *Sched. D, Doc. #1.*

On this basis, Movant seeks to compel Trustee to abandon Property because it is of inconsequential value and benefit to the estate:

Value of Property	\$366,000.00
Movant’s deed of trust	\$135,099.83
WFHM deed of trust	\$87,760.00
Debtor’s exemption	\$146,467.00
<b>Net equity for estate</b>	<b>(\$3,326.83)</b>

After payoff to Movant and WFHM, only \$143,140.17 in equity remains for Debtor’s exemption. After payoff of Debtor’s exemption, approximately \$3,326.83 of the exemption would remain unpaid, meaning that no equity exists for the benefit of the estate. Therefore, Property appears to be fully encumbered or exempted, and of inconsequential value and benefit to the estate.

Accordingly, this motion will be GRANTED. The order shall specifically include the Property to be abandoned.

9. [22-11360](#)-B-7     **IN RE: BRANDY HUBBARD**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
12-6-2022    [\[34\]](#)

MARK ZIMMERMAN/ATTY. FOR DBT.  
\$188.00 FILING FEE PAID 12/9/22

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

DISPOSITION:        The OSC will be vacated.

ORDER:                The court will issue an order.

The record shows that the \$188.00 filing fee was paid on December 9, 2022. Accordingly, this order to show cause will be VACATED.

10. [22-11360](#)-B-7     **IN RE: BRANDY HUBBARD**  
[TKN-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
12-1-2022    [\[28\]](#)

VIRENDER KALEKA/MV  
MARK ZIMMERMAN/ATTY. FOR DBT.  
THANH NGUYEN/ATTY. FOR MV.

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

DISPOSITION:        Denied without prejudice.

ORDER:                The court will issue an order.

Virender Kaleka ("Movant") seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to Fresno Superior Court Case No. 20CECG03444. Doc. #28. Movant also requests waiver of the 14-day of Federal Rule of Bankruptcy Procedure ("Rule") 4001(a)(3).

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

First, the notice did not contain the language required under Local Rule of Practice ("LBR") 9014-1(d)(3)(B)(ii), which provides, "[i]f written opposition is required, the notice of hearing shall advise potential respondents that the failure to file timely written opposition may result in the motion being resolved without oral argument and the striking of untimely written opposition."

Second, the United States Trustee ("UST") was not served electronically or by mail. The UST may raise, appear, and be heard on

any issue in any case under § 307 and should be served or notified. Since no relief is being sought against the UST, electronic notification under Rule 7005 and LBR 7005-1 is sufficient provided that the requirements of LBR 7005-1 are met.

Accordingly, this motion will be DENIED WITHOUT PREJUDICE for failure to comply with the LBR 9014-1(d)(3)(B)(ii) and because UST was not properly served or notified.

11. [19-15396](#)-B-7     **IN RE: JUAN/MARYLOU BARRAGAN**  
[ADJ-3](#)

MOTION TO SELL  
12-13-2022    [\[103\]](#)

IRMA EDMONDS/MV  
SCOTT LYONS/ATTY. FOR DBT.  
ANTHONY JOHNSTON/ATTY. FOR MV.  
RESPONSIVE PLEADING

TENTATIVE RULING:        This matter will proceed for higher and better bids, only.

DISPOSITION:                Granted.

ORDER:                        The Moving Party shall submit a proposed order after hearing.

Chapter 7 trustee Irma C. Edmonds ("Trustee") requests an order authorizing: (1) the sale of the estate's interest in real property located at 1116 N. Palm St., Visalia, CA 93292 ("Property") to Daniela C. Armendariz ("Proposed Buyer") for \$300,000.00 pursuant to 11 U.S.C. § 363, subject to higher and better bids at the hearing; (2) payment of 6% broker commission under §§ 327(a), 328, and 330, to be split evenly between Berkshire Hathaway HomeServices California Realty and the buyer's real estate broker at 3% each; (3) payment of expenses of the sale; and (4) Trustee to execute all documents necessary or convenient to complete the transaction. Doc. #103.

Carrington Mortgage Services, LLC ("Secured Creditor"), timely filed limited opposition to the motion. Doc. #108. Secured Creditor does not oppose the sale provided that it receives payment in full to satisfy its secured claim. *Id.*

No other parties in interest timely filed written opposition. This motion will be GRANTED and proceed for higher and better bids only.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1) and Fed. R. Bankr. P. ("Rule") 2002(a)(2) and (a)(6). The failure of the creditors, the debtors, the U.S. Trustee, or any other party in interest except

Secured Creditor 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 above-mentioned parties in interest except Secured Creditor are entered and the matter will proceed for higher and better bids only. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Juan Barragan and Marylou Barragan (collectively "Debtors") filed chapter 13 bankruptcy on December 31, 2019. Doc. #1. The initial chapter 13 plan was confirmed on July 15, 2020. Docs. #2; #46. On April 26, 2022, the case was converted to chapter 7 for failure to make required plan payments under 11 U.S.C. § 1307(c)(6). Doc. #78. The same day as conversion, Trustee was appointed as interim trustee and became permanent trustee at the first chapter 7 meeting of creditors on May 31, 2022. Doc. #79. In the course of administering the estate, Trustee investigated the estate's assets, including Property, and now moves to sell Property pursuant to 11 U.S.C. § 363(b) to Proposed Buyer. Doc. #105.

#### Compensation of Broker

This motion affects the proposed disposition and the Broker. Under Fed. R. Civ. P. ("Civ. Rule") 21 (Rule 7021 incorporated in contested matters under Rule 9014(c)), the court will exercise its discretion and allow the relief requested by movant here as to Broker and use the court's discretion to add a party under Civ. Rule 21.

Compensation is separate from the sale. Since payment of Broker's compensation and the sale are separate claims, the court will allow their joinder in this motion under Civ. Rule 18 (Rule 7018) because it is economical to handle this motion in this manner absent an objection. This rule is not incorporated in contested matters absent court order under Rule 9014(c) and affected parties are entitled to notice. Trustee, having requested this relief, is deemed to have notice. Since no party except Secured Creditor timely filed written opposition, defaulted parties are deemed to have consented to application of this rule.

On August 3, 2022, Trustee moved to employ Broker to assist Trustee in carrying out the trustee's duties by selling property of the estate. Doc. #96. The court authorized Broker's employment on August 11, 2022 under §§ 327 and 328. Doc. #100.

Pursuant to the employment order, Trustee requests to compensate Broker and the buyer's broker with a 6% commission to be split equally between Broker and the buyer's real estate broker. Doc. #103. Here, Proposed Buyer is represented by Melson Reality, Inc. ("MRI"). If

Proposed Buyer is the successful bidder, MRI and Broker would each be paid a 3% commission on the sale. Trustee believes that this is a reasonable compensation for the services performed by Broker, including listing Property for sale, soliciting offers, showing the Property, marketing the Property, and negotiating the terms of the sale with the buyer. Doc. #105.

If sold at the proposed sale price, both MRI and Broker will split \$18,000.00 in compensation: \$9,000.00 each. The court will authorize Trustee to pay the brokers' compensation as prayed.

#### Proposed Sale

11 U.S.C. § 363(b)(1) allows the trustee to "sell, or lease, other than in the ordinary course of business, property of the estate." Proposed sales under 11 U.S.C. § 363(b) are reviewed to determine whether they are: (1) in the best interests of the estate resulting from a fair and reasonable price; (2) supported by a valid business judgment; and (3) proposed in good faith. *In re Alaska Fishing Adventure, LLC*, 594 B.R. 883, 887 (Bankr. D. Alaska 2018) citing *240 North Brand Partners, Ltd. v. Colony GFP Partners, Ltd. P'ship (In re 240 N. Brand Partners, Ltd.)*, 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996); *In re Wilde Horse Enters., Inc.*, 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991). In the context of sales of estate property under § 363, a bankruptcy court "should determine only whether the trustee's judgment was reasonable and whether a sound business justification exists supporting the sale and its terms." *Alaska Fishing Adventure, LLC*, 594 B.R. at 889, quoting 3 Collier on Bankruptcy ¶ 363.02[4] (Richard Levin & Henry J. Sommer eds., 16th ed.). "[T]he trustee's business judgment is to be given 'great judicial deference.'" *Id.*, citing *In re Psychometric Sys., Inc.*, 367 B.R. 670, 674 (Bankr. D. Colo. 2007); *In re Bakalis*, 220 B.R. 525, 531-32 (Bankr. E.D.N.Y. 1998).

Sales to an insider are subject to heightened scrutiny. *Alaska Fishing Adventure, LLC*, 594 B.R. at 887 citing *Mission Product Holdings, Inc. v. Old Cold, LLC (In re Old Cold LLC)*, 558 B.R. 500, 516 (B.A.P. 1st Cir. 2016). Trustee wishes to sell Property to Proposed Buyer. There is nothing in the record suggesting that Proposed Buyer is an insider with respect to Debtors. Proposed Buyers are neither listed in the schedules nor the master address list. Docs. #1; #6.

Trustee declares that she entered into a contract with Proposed Buyer for the sale and purchase of Property for \$300,000.00 as follows:

- a. Proposed Buyer has delivered a \$5,000.00 earnest money deposit to the escrow holder, which will be applied to the purchase price;
- b. Proposed Buyer will pay an additional \$434.00 deposit to the escrow holder, which will be applied to the purchase price;
- c. Proposed Buyer will pay \$294,566.00 cash at close of escrow to Trustee through a secured loan obtained by Proposed Buyer from a third-party lender.

Doc. #105. A copy of the *California Residential Purchase Agreement and Joint Escrow Instructions*, related counter offers, and addenda ("Purchase Agreement") are attached as an exhibit to this motion. See Doc. #106.

On the petition date, Property was subject to a deed of trust in favor of Chase Bank in the amount of \$140,603.00. *Sched. D*, Doc. #1. Chase Bank filed Proof of Claim No. 17-1 on February 24, 2020 in the amount of \$138,803.16. Claim #17-1. This deed of trust appears to have been assigned to Secured Creditor on or about March 20, 2020. Claim 17-1; Docs. ##21-22. The current remaining balance on the deed of trust is unclear.

Additionally, Debtors claimed an exemption in Property in the amount of \$29,223.08 pursuant to Cal. Code Civ. Proc. § 703.140(b)(5). *Am. Sched. C*, Doc. #93.

If sold at the proposed sale price, the sale would be illustrated as follows:

Sale price	\$300,000.00
Estimated Secured Creditor's deed of trust	\$138,803.16
Estimated broker fees (6%, split)	\$18,000.00
Debtors' exemption	\$29,223.08
Estimated net proceeds to estate	\$113,973.76

The sale under these circumstances should maximize potential recovery for the estate. The sale of the Property appears to be in the best interests of the estate because it will pay off the deed of trust and provide liquidity that can be distributed for the benefit of unsecured claims. The sale appears to be supported by a valid business judgment and proposed in good faith. There are no objections to the motion other than Secured Creditor's limited opposition, but there appears to be sufficient equity to pay its claim in full. Therefore, this sale is an appropriate exercise of Trustee's business judgment and will be given deference.

No party in interest other than Secured Creditor timely filed written opposition. This motion will be GRANTED. Trustee will be authorized to sell the Property to the prevailing bidder at the hearing and pay Broker and the buyer's broker for its services. Trustee is further authorized to pay all costs, commissions, and expenses from escrow, and to execute any documents necessary or convenient to close the sale.

#### Overbid Procedure

Any party wishing to make a higher or better bid for the Property shall appear at the hearing and, at least seven days prior to the hearing on this motion: (1) contact Trustee; (2) provide a cashier's check drawn on a California bank in the amount equal to or greater

than \$5,000.00; and (3) sign a contract substantially identical to the Purchase Agreement between the Trustee and Proposed Buyer, except for the Purchase Price, which will be determined through bidding at the hearing. Overbids will be in \$1,000.00 increments such that the first overbid will be in the minimum amount of \$301,000.00. The prevailing bidder will have its deposit applied to the purchase price of Property and unsuccessful overbidders shall have any and all deposits returned. The sale of Property is in "as-is" condition with no warranties or representations, express, implied, or otherwise, by the bankruptcy estate, the Trustee, the Debtors, or their representatives.