

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Tuesday, January 12, 2021
Place: Department B - Courtroom #13
Fresno, California

ALL APPEARANCES MUST BE TELEPHONIC
(Please see the court's website for instructions.)

Pursuant to District Court General Order 618, no persons are permitted to appear in court unless authorized by order of the court until further notice. All appearances of parties and attorneys shall be telephonic through CourtCall. The contact information for CourtCall to arrange for a phone appearance is: (866) 582-6878.

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. The court may continue the hearing on the matter, set a briefing schedule or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

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

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

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

9:30 AM

1. [20-10800](#)-B-11 IN RE: 4-S RANCH PARTNERS, LLC
[MF-12](#)

CONTINUED MOTION FOR COMPENSATION BY THE LAW OFFICE OF
MACDONALD FERNANDEZ LLP FOR RENO F.R. FERNANDEZ III, DEBTORS
ATTORNEY(S)
11-24-2020 [[336](#)]

RENO FERNANDEZ/ATTY. FOR DBT.
VACATED PER ECF ORDER #358

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED.

This matter was continued to January 6, 2021 so that debtor-in-possession 4-S Ranch Partners, LLC ("DIP") could file a declaration consenting to the Macdonald Fernandez LLP's ("Movant") fee application. Doc. #354. On December 18, 2020, DIP's sole managing member, Stephen W. Sloan, filed a declaration stating that he reviewed Movant's application and has no objection to the requested compensation of \$113,577.00 and reimbursement of expenses of \$4,162.62. Doc. #355. On December 21, 2020, this court issued an order granting the motion. See Doc. #358. Accordingly, this matter will be dropped from calendar.

2. [20-10809](#)-B-11 **IN RE: STEPHEN SLOAN**
[WJH-5](#)

MOTION TO EXTEND DEADLINE TO FILE A COMPLAINT OBJECTING TO
DISCHARGE OF THE DEBTOR AND/OR MOTION TO EXTEND DEADLINE TO
FILE A COMPLAINT OBJECTING TO DISCHARGEABILITY OF A DEBT
11-25-2020 [[297](#)]

SANDTON CREDIT SOLUTIONS
MASTER FUND IV, LP/MV
PETER FEAR/ATTY. FOR DBT.
KURT VOTE/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice 9014-1(f)(1).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 amount 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.

Creditor Sandton Credit Solutions Master Fund IV, LP ("Sandton") filed this motion to extend the deadline to object to the discharge of Stephen W. Sloan ("Debtor") and to object to dischargeability of certain debts from November 30, 2020 to August 31, 2021 under Rule 4004(b). Doc. #297.

This motion will be GRANTED.

Debtor filed chapter 11 bankruptcy on March 2, 2020. Doc. #1. The § 341(a) meeting of creditors was initially set for April 1, 2020 but was continued to May 13, 2020 due to COVID-19 and the Court's emergency orders. Doc. #10. General Order 20-02 extended the deadline by sixty days to July 13, 2020, to commence an objection to

¹ Unless otherwise indicated, references to "LBR" are to the Local Rules of Practice; "Rules" are to the Federal Rules of Bankruptcy Procedure; and all chapter and section references are to the Bankruptcy Code, 11 U.S.C. §§ 101-1532.

Debtor's discharge under § 727 and to object to the dischargeability of certain debts under § 523.

On March 16, 2020, Sandton filed a motion for relief from the automatic stay under § 362(d)(2) with respect to certain real property pledged as collateral in Debtor's related case involving Debtor 4-S Ranch Partners, LLC ("4-S"). This was scheduled for evidentiary hearing September 17 and 18, 2020, but was later dropped from calendar at the parties' request.

On June 12, 2020, Sandton and Debtor entered into a stipulation to extend the deadlines to October 1, 2020, which was approved on July 14, 2020. See Doc. #192.

Stephen Smith and the SHS Family Limited Partnership filed a motion seeking to intervene or otherwise be added as a party in the contested matter relating to Sandton's motion from relief from the automatic stay on September 9, 2020. The court temporarily recused itself and the intervention motion was heard by the Honorable Jennifer E. Niemann on October 14, 2020 and denied on October 19, 2020. See *In re 4-S Ranch Partners, LLC*, case no. 20-10800, Doc. #303.

Creditor San Luis & Delta Mendota Water Authority ("Authority") requested an extension of time and Debtor agreed on September 22, 2020, entering into a stipulation giving the Authority until August 31, 2021 to object to Debtor's discharge or the dischargeability of certain debts under §§ 727 and 523, respectively. See Doc. #236; #246.

On September 30, 2020 Sandton and Debtor signed a stipulation to extend the deadlines under §§ 727 and 523 to November 30, 2020, which was approved on November 12, 2020. Doc. #287.

Debtor and Sandton recently signed another stipulation on November 30, 2020. Doc. #302. This agreement stated that the deadline to object to Debtor's discharge pursuant to § 727 and to object to the dischargeability of certain debts pursuant to § 523 should be extended to August 31, 2021. Doc. #299. Sandton and Debtor seek approval of this stipulation and extension of time to object under Rule 4004(b).

Meanwhile, on December 8, 2020, Sandton, Debtor, and 4-S reached a stipulated resolution as to Sandton's stay relief motions. Doc. #302.

Rule 4004(b) provides:

- (1) On motion of any party in interest, after notice and hearing, the court may for cause extend the time to object to discharge. Except as provided in subdivision (b)(2), the motion shall be filed before the time has expired.
- (2) A motion to extend the time to object to discharge may be filed after the time for objection has expired and before discharge is granted if (A) the objection

is based on facts that, if learned after the discharge, would provide a basis for revocation under § 727(d) of the Code, and (B) the movant did not have knowledge of those facts in time to permit an objection. The motion shall be filed promptly after the movant discovers the facts on which the objection is based.

Rule 4004(b)(1) & (2). Rule 4007(c) states:

Except as otherwise provided in subdivision (d) a complaint to determine the dischargeability of a debt under § 523(c) shall be filed no later than 60 days after the first date set for the meeting of creditors under § 341(a). The court shall give all creditors no less than 30 days' notice of the time so fixed in the manner provided in Rule 2002. On motion of a party in interest, after hearing on notice, the court may for cause extend the time fixed under this subdivision. The motion shall be filed before the time has expired.

Rule. 4007(c).

Courts have analyzed "cause" for the purposes of requesting an extension of time to object to a debtor's discharge. These factors include:

- (1) Whether the moving party had sufficient notice of the deadline and information to file an objection;
- (2) The complexity of the case;
- (3) Whether the moving party has exercised diligence; and
- (4) Whether the debtor has been uncooperative or acted in bad faith.

In re Bomarito, 448 B.R. 242, 249 (Bankr. E.D. Cal. 2011) citing *In re Nowinski*, 291 B.R. 302 (Bankr. S.D. N.Y. 2004).

Sandton contends here that cause exists to extend the deadline as to Sandton. Stating that it has "conducted significant discovery" but "it has mainly been confined to matters related to its pending Motions for Relief from the Automatic Stay," (Doc. #297, ¶ 8) Sandton believed the motion for relief from the automatic stay would be resolved, which would change its procedural posture and treatment of its claim. *Ibid*. Sandton expected this to be completed prior to the deadline of November 30, 2020. *Ibid*. Although the motion was not resolved prior to this deadline, as noted above, the parties stipulated to a resolution on December 8, 2020, which was approved on December 9, 2020. Doc. #302.

Sandton believes that this extension will provide it with sufficient time to complete its evaluation of whether an adversary proceeding for nondischargeability may be necessary. Doc. #299, ¶ 9. Because of the extension to August 31, 2021 with respect to the Authority and its members, Sandton contends that this extension will not unnecessarily delay the progress of the bankruptcy case. *Id.*, ¶ 10.

The court agrees. There is no opposition to this motion.

This motion will be GRANTED. Cause exists for this court to extend the deadlines to object to Debtor's discharge or the dischargeability of certain debts pursuant to §§ 727 and 523 to August 31, 2021. The extension granted under this motion is for Sandton, only.

3. [20-11612](#)-B-11 **IN RE: BENTON ENTERPRISES, LLC**

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY
PETITION
5-5-2020 [[1](#)]

PETER FEAR/ATTY. FOR DBT.

NO RULING.

4. [20-11612](#)-B-11 **IN RE: BENTON ENTERPRISES, LLC**
[FW-5](#)

CHAPTER 11 DISCLOSURE STATEMENT FILED BY DEBTOR BENTON
ENTERPRISES, LLC
11-20-2020 [[102](#)]

PETER FEAR/ATTY. FOR DBT.

NO RULING.

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). 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 all above parties **except** Fresno-Madera Production Credit Association, Fresno-Madera Federal Land Bank, FLCA and ESHEG are entered.

On December 28, 2020, the court entered an order based on a stipulation between the debtor, Fresno-Madera PCA, Fresno-Madera Federal Land Bank, FLCA, and ESHEG permitting the parties to file their objections and state their reply on the hearing date, January 12, 2021. Doc. #115. The court was advised that the parties were negotiating a consensual plan. *Id.*

If there are objections to the Disclosure Statement submitted by Fresno-Madera Federal Land Bank, PCA, or ESHEG at or before the hearing, the hearing on the adequacy of the Disclosure Statement will be continued.

5. [18-13677](#)-B-9 **IN RE: COALINGA REGIONAL MEDICAL CENTER, A CALIFORNIA LOCAL HEALTH CARE DISTRICT**
[WJH-18](#)

CONTINUED OBJECTION TO CLAIM OF DEPARTMENT OF HEALTH CARE SERVICES, CLAIM NUMBER 61
10-19-2020 [[657](#)]

COALINGA REGIONAL MEDICAL
CENTER, A CALIFORNIA LOCAL
RILEY WALTER/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to April 27, 2021 at 9:30 a.m.

NO ORDER REQUIRED.

Pursuant to the parties' stipulation (Doc. #673), this court issued an order continuing the matter to April 27, 2021 at 9:30 a.m. See Doc. #675. The District shall file and serve its responsive pleadings to the opposition of the Department of Health Care Services not later than April 22, 2021, which is five days prior to the continued hearing date.

6. [20-11992](#)-B-11 **IN RE: CHAR PHAR INVESTMENTS, LLC**
[WLC-6](#)

CONTINUED MOTION TO ASSUME LEASE OR EXECUTORY CONTRACT
7-27-2020 [[64](#)]

CHAR PHAR INVESTMENTS, LLC/MV
WILLIAM COWIN/ATTY. FOR DBT.
CONTINUED TO 1/12/21 PER EF ORDER DOC #150

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

DISPOSITION: Continued to March 30, 2021 at 9:30 a.m.

NO ORDER REQUIRED.

Pursuant to the parties' stipulation (Doc. #160), this court continued the hearing to March 30, 2021 at 9:30 a.m. See Doc. #162. Any opposition to the motion must be filed not later than March 16, 2021, which is 14 days before the continued hearing.

7. [20-11992](#)-B-11 **IN RE: CHAR PHAR INVESTMENTS, LLC**
[WLC-8](#)

MOTION FOR COMPENSATION FOR SHERYL A. STRAIN, ACCOUNTANT(S)
11-23-2020 [\[151\]](#)

SHERYL STRAIN/MV
WILLIAM COWIN/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

This motion was set for hearing on 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 amount 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.

Sheryl A. Strain ("Movant"), the certified public accountant of debtor-in-possession Char Phar Investments, LLC ("DIP"), requests fees of \$6,356.00 and costs of \$0.00 for services rendered from September 30, 2020 through November 15, 2020. Doc. #151.

The motion will be GRANTED.

Movant's employment as an accountant was authorized pursuant to 11 U.S.C. §§ 327, 330, and 331 on August 17, 2020, effective as to services rendered on or after May 13, 2020. Doc. #103; see also WLC-3. The order further stated that no compensation was permitted except upon court order under § 330(a) and compensation would be at the "lodestar rate" for accounting services applicable at the time services are rendered in accordance with *In re Manoa Fin. Co.*, 853 F.2d 687 (9th Cir. 1988). *Id.* Interim compensation under § 331 was permitted if the combined fees and expenses exceeded \$5,000.00. *Id.* This Movant's second interim fee application having previously been approved to receive \$11,872.00 on October 20, 2020. See WLC-7.

Movant indicates that she spent 22.7 billable hours at a rate of \$280.00 per hour, resulting in \$6,356.00 in fees for accountant

services. Doc. #154, Ex. A. Movant did not request reimbursement for any expenses.

Ravinderpaul S. Tut, DIP's representative, filed a declaration stating that he reviewed the fee application and has no objections. Doc. #155.

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . .[a] professional person" and "reimbursement for actual, necessary expenses." Movant's services included, without limitation: (1) providing accounting services to the DIP; (2) preparing the September and October Monthly Operating Reports; (3) reviewing paycheck reports to locate payroll tax deposits; (4) preparing budgets and analyzing the budget compared to actual expenditures. Doc. #153; #155, Ex. A. The court finds the services reasonable and necessary.

Movant shall be awarded \$6,356.00 in fees.

11:00 AM

1. [20-13607](#)-B-7 **IN RE: JESSE/ESMERALDA GONZALEZ**

PRO SE REAFFIRMATION AGREEMENT WITH TRUIST BANK
12-17-2020 [[16](#)]

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

DISPOSITION: Dropped.

NO ORDER REQUIRED.

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

2. [20-13048](#)-B-7 **IN RE: MARIA GIRARTE**

PRO SE REAFFIRMATION AGREEMENT WITH WELLS FARGO BANK, N.A.
12-23-2020 [[14](#)]

LEROY AUSTIN/ATTY. FOR DBT.

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

DISPOSITION: Dropped.

NO ORDER REQUIRED.

Debtor's counsel will inform debtor that no appearance is necessary.

This matter was automatically set for a hearing because the reaffirmation agreement is not signed by an attorney. However, this reaffirmation agreement appears to relate to a consumer debt secured by real property. Pursuant to 11 U.S.C. §524(c)(6)(B), the court is not required to hold a hearing and approve this agreement. Also, the debtor has certified that additional funds are available to make the payment under the reaffirmation agreement. Therefore, the hearing will be dropped from calendar.

1:30 PM

1. [20-12802](#)-B-7 **IN RE: GURWINDER CHAHAL AND KIRANPAL KAUR**
[GEG-1](#)

MOTION TO AVOID LIEN OF BMO HARRIS BANK N.A.
11-24-2020 [\[20\]](#)

GURWINDER CHAHAL/MV
GLEN GATES/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

This motion was set for hearing on 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 amount 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.

Gurwinder Chahal and Kiranpal Kaur ("Debtors") filed this motion seeking to avoid a judicial lien in favor of BMO Harris Bank, N.A. ("Creditor"), encumbering residential real property located at 1484 La Quinta Way, Madera, CA 93638 ("Property"). Doc. #20.

This motion will be GRANTED.

In order to avoid a lien under 11 U.S.C. § 522(f)(1) the movant must establish four elements: (1) there must be an exemption to which the debtor would be entitled under § 522(b); (2) the property must be listed on the debtor's schedules as exempt; (3) the lien must impair the exemption; and (4) the lien must be either a judicial lien or a non-possessory, non-purchase money security interest in personal property listed in § 522(f)(1)(B). § 522(f)(1); *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003) (quoting *In re Mohring*, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992), *aff'd* 24 F.3d 247 (9th Cir. 1994)).

Here, a judgment was entered against Debtors in favor of Creditor in the sum of \$998,139.79 on March 30, 2020. Doc. #23, Ex. E. An abstract of judgment was issued on June 4, 2020 and recorded in Madera County on July 1, 2020. *Id.* That lien attached to Debtor's interest in Property. Doc. #22. As of the petition date, Property had an approximate value of \$340,000.00. *Id.*, ¶ 6; Doc. #23, Ex. B. The unavoidable liens totaled \$252,963.71 on that same date, consisting of a deed of trust in favor of The Money Source, Inc. *Id.*, Ex. C. Debtor claimed an exemption pursuant to California Civ. Proc. Code ("C.C.P.") § 704.730 for "100% of fair market value, up to any applicable statutory limit[,]" which Debtors contend reflects a claimed exemption of \$100,000.00 *Id.*, Ex. D; see also Doc. #22, ¶ 8. Property's encumbrances can be described as follows:

Fair Market Value of Property on petition date		\$340,000.00
Amount of first priority deed of trust	-	\$252,963.71
Remaining equity available in Property	=	\$87,036.29
Value of Debtors' exemption	-	\$100,000.00
Creditor's judicial lien	-	\$998,139.79
Extent Debtors' exemption impaired	=	(\$1,011,103.50)

After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is insufficient equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs Debtors' exemption in the Property and its fixing will be avoided.

Debtors have established the four elements necessary to avoid a lien under § 522(f)(1). Therefore, this motion will be GRANTED.

2. [20-13527](#)-B-7 **IN RE: ANTONIO TORRECILLAS**
[PFT-1](#)

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO
 APPEAR AT SEC. 341(A) MEETING OF CREDITORS
 12-8-2020 [\[13\]](#)

LAYNE HAYDEN/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Conditionally granted.

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

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1) and will proceed as scheduled.

Chapter 7 trustee Peter Fear ("Trustee") filed this motion to dismiss because Antonio Torrecillas ("Debtor") did not appear at the § 341(a) meeting of creditors scheduled for December 7, 2020.

Doc. #13. Debtor timely responded, stating that he attempted to attend the hearing on Zoom but was unable to connect. Doc. #15. Debtor contends that he and his attorney waited for one and a half hours on a page indicating that another meeting was in progress and to wait. *Id.* Debtor claims that he and his attorney were never brought into the Zoom meeting, which is not his fault. *Id.*

This motion to dismiss will be CONDITIONALLY GRANTED.

Debtor shall attend the meeting of creditors rescheduled for February 1, 2021 at 2:00 p.m. If Debtor fails to do so, Trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

The time prescribed in Rules 1017(e)(1) and 4004(a) for the chapter 7 trustee and United States trustee to object to Debtor's discharge or file motions for abuse, other than presumed abuse, under § 707, is extended to 60 days after the conclusion of the meeting of creditors.

3. [20-12036](#)-B-7 **IN RE: SANDRA SANCHEZ**
[JES-2](#)

MOTION TO SELL
12-11-2020 [[33](#)]

JAMES SALVEN/MV
MARK HANNON/ATTY. FOR DBT.

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

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The Moving Party shall submit a proposed order in conformance with the ruling below.

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. 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. The matter will be called as scheduled and proceed for higher and better bids only.

Chapter 7 trustee James Salven ("Trustee") seeks authorization to sell the estate's interest in four vehicles ("Estate Assets") to Sandra Sanchez ("Debtor"), subject to higher and better bids at the

hearing, for a total of \$11,850.00. Doc. #33. The sale of Estate Assets includes: (a) 2000 Toyota Celica for \$2,350; (b) 2005 Ford F-150 for \$2,575 (\$3,075 less \$500 in exemption credit); (c) 2006 Nissan Murano for \$1,300 (\$2,750 less \$1,450 in exemption credit); and (d) 1995 Ford Mustang for \$3,175 (\$3,675 less \$500 in exemption credit). Doc. #35. The net to the estate totals \$9,400.00 after subtracting \$2,450.00 for Debtor's exemption credits. Trustee indicates that the estate has received the funds and is awaiting court approval. *Id.*, ¶ 3.

This motion will be GRANTED.

11 U.S.C. § 363(b)(1) allows 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, LP (In re 240 N. Brand Partners, Ltd.)*, 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996); *In re Wilde Horse Enterprises, 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 Systems, 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). This sale is to Debtor. The schedules include the Estate Assets as follows: (a) 2000 Toyota Celica with 200,000 miles in fair condition was listed with a value of \$1,426.00; (b) 2005 Ford F-150 with 260,000 miles in poor condition was listed with a value of \$500.00 and exempted for \$500.00 under California Code of Civil Procedure ("C.C.P.") § 704.010; (c) 2006 Nissan Murano with 262,000 miles in poor condition was listed with a value of \$1,450.00 and exempted for \$1,450.00 under C.C.P. § 704.010; and (d) 1995 Ford Mustang with 295,000 miles in poor condition was listed with a value of \$500.00 and exempted for \$500.00 under C.C.P. § 704.010. Doc. #1, Schedule A/B, ¶¶ 3.1-3.4; Schedule C, ¶ 2. All Estate Assets are being sold for more than Debtor's previous valuation.

Trustee contends that the sale price was determined by estimating the fair market value of the property and believes that the proposed sale is in the best interests of creditors. Doc. #35, ¶¶ 3, 5. No commission will be paid to any party in connection with this sale. *Id.*, ¶ 4. The Trustee has presumably conducted due diligence and

concluded the sale is in the best interest of creditors and the estate.

It appears that the sale of the Estate Assets is in the best interests of the estate, for a fair and reasonable price, supported by a valid business judgment, and proposed in good faith. There are no objections or opposition to the motion.

Any party wishing to overbid must appear at the hearing and acknowledge that no warranties or representations are included with the Estate Assets, which are being sold "as-is."

4. [20-13639](#)-B-7 **IN RE: IRENE MORENO**
[NSC-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-21-2020 [\[19\]](#)

THE GOLDEN 1 CREDIT UNION/MV
ERIC ESCAMILLA/ATTY. FOR DBT.
NICHOLAS COUCHOT/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

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 and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

The movant, The Golden 1 Credit Union ("Movant"), seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to a 2017 GMC Terrain ("Vehicle"). Doc. #19.

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 at least one pre-petition payment and at least two post-petition payments.

The movant has produced evidence that debtor is delinquent at least \$1,287.00. Doc. #21, 23.

The court also finds that the debtor does not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because debtor is in chapter 7. Movant values the Vehicle at \$16,310.00 and the amount owed to Movant is \$20,132.59. Doc. #21.

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

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

5. [20-13645](#)-B-7 **IN RE: ANTONIO ALBARRAN**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
12-18-2020 [[17](#)]

NO RULING.

6. [17-13947](#)-B-7 **IN RE: EDWIN CATUIRA**
[FW-5](#)

MOTION TO PAY
12-11-2020 [[61](#)]

JAMES SALVEN/MV
LAYNE HAYDEN/ATTY. FOR DBT.
PETER FEAR/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

This motion was set for hearing on 28 days' notice 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 amount 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.

Chapter 7 trustee James Salven ("Trustee") seeks authorization to pay \$22,606.00 in federal taxes and \$8,137.00 in state taxes. Doc. #61. Trustee prepared the final income tax returns for the estate, which indicate the above amounts are owed to the United States and the State of California. Doc. #63. Taxes incurred by the estate may be allowed as an administrative expense after notice and a hearing under 11 U.S.C. § 503(b)(1)(B). *Dreyfuss v. Cory (In re Cloobek)*, 788 F.3d 1243, 1247 (9th Cir. 2015). No party in interest timely filed written opposition.

Accordingly, this motion will be GRANTED. Trustee will be authorized to pay \$22,606.00 to the United States for federal income taxes and \$8,137.00 to the State of California for state income taxes.

7. [18-15055](#)-B-7 **IN RE: DIXIE ESPINOSA**
[JES-2](#)

MOTION FOR COMPENSATION FOR JAMES E. SALVEN, ACCOUNTANT(S)
12-2-2020 [[119](#)]

JAMES SALVEN/MV

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

DISPOSITION: Granted.

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

This motion was set for hearing on 28 days' notice 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 amount 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.

The motion will be GRANTED. James Salven, the chapter 7 trustee ("Trustee") and a certified public accountant, requests fees of \$1,675.00 and costs of \$234.40 for a total of \$1,909.40 for accountant services rendered from February 19, 2020 through November 30, 2020. Doc. #119.

Trustee's employment as an accountant was authorized pursuant to 11 U.S.C. §§ 327, 330, and 331 on February 27, 2020, effective as to services rendered on or after January 31, 2020. Doc. #91. The employment order provided that as a condition precedent to employment, Trustee must irrevocably waive all pre-petition claims, if any, against Debtor's bankruptcy estate. *Id.* The order further stated that no compensation was permitted except upon court order under § 330(a) and compensation would be at the "lodestar rate" for accounting services applicable at the time services are rendered in accordance with *In re Manoa Fin. Co.*, 853 F.2d 687 (9th Cir. 1988). *Id.* Interim compensation under § 331 was permitted but not pursued as this is Trustee's first and final fee application for accountant services. *Id.*

Trustee indicates that he spent 6.7 billable hours at a rate of \$250.00 per hour, resulting in \$1,675.00 in fees for accountant services. Doc. #121, Ex. A. Trustee also incurred the following expenses:

Copies	\$21.60
Envelopes	\$1.00
Lacerte Tax Software	\$186.00
Postage	\$25.80
Total Costs	\$234.40

Id., Ex. B. Trustee also filed a declaration in his capacity as the chapter 7 trustee stating that he reviewed the fee application and believes the fees and costs were reasonable and necessary for administration of the estate. Doc. #123.

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." Trustee's services included, without limitation: (1) review of possible conflicts of interest and preparation of the employment application; (2) researching the tax basis of estate property; (3) preparing, processing, and finalizing tax returns, determination letters, and this fee application. Doc. #121, Ex. A. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Trustee shall be awarded \$1,675.00 in fees and \$234.40 in costs.

8. [20-10357](#)-B-7 **IN RE: STEPHEN MEZA**
[FW-4](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH DEBTOR, STEPHEN L. MEZA AND/OR MOTION TO SELL
12-3-2020 [[91](#)]

PETER FEAR/MV
MARK ZIMMERMAN/ATTY. FOR DBT.
PETER FEAR/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

This motion was set for hearing on 28 days' notice 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 amount 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.

Chapter 7 trustee Peter L. Fear ("Trustee") filed this motion seeking approval for a stipulation between him and Stephen L. Meza ("Debtor") and approving the sale of non-exempt equity from the estate to Debtor.

This motion will be GRANTED.

Trustee requests approval of a settlement agreement between the estate and Debtor, which includes (1) agreements relating to Debtor's claimed exemptions; and (2) an agreement to sell the non-exempt assets to Debtor.

This controversy was precipitated after Debtor filed his chapter 7 petition on January 31, 2020. Doc. #1. Among the assets of the estate is a 2017 Harley Davidson Road Glider ("Motorcycle"), which Debtor believes is worth approximately \$13,000.00. Doc. #1, Schedule A/B, ¶ 3.1. Debtor claimed an \$3,325.00 exemption in the Motorcycle under California Code of Civil Procedure ("C.C.P.") § 704.010. Doc. #16, ¶ 2. Meanwhile, Debtor also claimed a \$75,000 exemption ("Homestead Exemption") on real property located at 648 Auburn

Street, Tulare, CA 93274 ("Property") and valued at \$116,000.00. *Ibid.*; Doc. #1, Schedule A/B, ¶ 1.1. Debtor indicated his wish to retain the Motorcycle to Trustee and the two parties executed this stipulation. Doc. #93, ¶ 4.

Under the terms of the compromise, Debtor will be allowed to retain the Motorcycle subject to any claims secured by Motorcycle in exchange for \$10,000.00 in equity from the Homestead Exemption while allowing Trustee to sell Property. Doc. #94, Ex. A, ¶¶ 1-2. After sale of Property, Trustee will be assigned the first \$10,000 of the proceeds of the Homestead Exemption, resulting in a maximum Homestead Exemption of \$65,000 for Debtor. *Ibid.* No portion of the payment will be used to pay any claims securing Motorcycle, Debtor shall not be required to re-invest the remaining Homestead Exemption as would normally be required by *In re Jacobson*, 676 F.3d 1193, 1200 (9th Cir. 2012). *Id.*, ¶ 3. Finally, Debtor agrees not to amend his exemptions in any way that would affect Motorcycle or Property. *Id.*, ¶ 4.

It appears from the moving papers that the Trustee has considered the standards of *In re Woodson*, 839 F.2d 610, 620 (9th Cir. 1988) and *In re A & C Properties*, 784 F.2d 1377, 1381 (9th Cir. 1986):

- a. the probability of success in the litigation;
- b. the difficulties, if any, to be encountered in the matter of collection;
- c. the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; and
- d. the paramount interest of the creditors and a proper deference to their reasonable views in the premises.

On a motion by the Trustee and after notice and a hearing, the court may approve a compromise or settlement. Fed. R. Bankr. P. 9019.

The court concludes that the Woodson factors balance in favor of approving the compromise. That is: (a) Even though litigation is not currently pending, the probability of success is far from assured if Debtor were to contest the sale of Property or Motorcycle. Trustee believes that cooperation in the sale of Property while allowing Debtor to retain Motorcycle will maximize recovery for the estate and creditors. Doc. #91, ¶ 7. (b) If the stipulation is not approved, Trustee will incur expenses to collect and sell the Motorcycle at public auction to a third party, which will reduce the funds available for creditors. *Ibid.* (c) Litigation is not particularly complex in this case, so this factor is neutral. (d) Trustee believes the stipulation maximizes recovery to unsecured creditors and thus this factor weighs in favor of approval of the stipulation. *Ibid.*

The settlement appears to be equitable and fair. Debtor has compromised part of his Homestead Exemption and the Trustee has administered an asset at little cost. Without the compromise, the Trustee must incur costs to sell the Motorcycle and may not recover what is to be paid to the estate under the compromise. Therefore, the court concludes the compromise to be in the best interests of the creditors and the estate. The court may give weight to the

opinions of the trustee, the parties, and their attorneys. *In re Blair*, 538 F.2d 849, 851 (9th Cir. 1976). Furthermore, the law favors compromise and not litigation for its own sake. *Id.* Accordingly, the motion will be granted.

The Trustee also describes this compromise as a "sale" of the equity in the Motorcycle back to the debtor for \$10,000.00. The Debtor "pays" for that sale by waiving \$10,000.00 of his Homestead Exemption and permits the Trustee to sell Property. The schedules show Property is valued by the Debtor at \$116,000.00 with no encumbrance. So, there may be additional value in the sale of Property which can be realized for the estate's benefit. Applying the criteria for sales, for the above reasons this stipulation is in the best interests of the estate and the Trustee's business judgment is entitled to deference. The transaction also appears to be in good faith as the Debtor has agreed to keep his exemptions unchanged and the Debtor is represented by counsel. This is an "arms-length" transaction.

Accordingly, it appears that the compromise pursuant to Fed. R. Bankr. P. 9019 is a reasonable exercise of the Trustee's business judgment. The order should be limited to the claims compromised as described in the motion.

9. [20-13667](#)-B-7 **IN RE: JAMES MASSICOTTE**

MOTION TO RECONSIDER APPLICATION FOR WAIVER OF THE CHAPTER 7
FILING FEE
12-14-2020 [\[18\]](#)

JAMES MASSICOTTE/MV

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

James Massicotte ("Debtor"), *pro se*, filed this motion asking the court to reconsider its November 23, 2020 order denying his application for waiver of the chapter 7 filing fee. Doc. #18.

This motion will be GRANTED.

Debtor's initial application was denied because he indicated that he received \$2,800.00 per month, along with CalFresh, to provide for a family of three. Doc. #9. To qualify for a filing fee waiver, Debtor must show an income below 150% of the federal poverty guidelines published by the United States Department of Health and Human Services. See www.uscourts.gov/sites/default/files/poverty-guidelines.pdf (Jan. 8, 2021). For a family of three, the maximum

allowable income to still qualify for the fee waiver is \$2,715.00 per month (or \$32,580.00 annually). *Id.*

At the time Debtor filed his first fee waiver application, he was receiving \$2,800.00 per month (\$33,600.00 annually) in income. Debtor now states that "the stimulus portion has expired" and he is only receiving \$2,200.00 per month (\$26,400.00 annually) in income. Doc. #18. Debtor's current income appears to fall under the Department of Health and Human Services' poverty guidelines for a family of three.

Accordingly, this motion to reconsider will be GRANTED. Debtor's filing fee will be waived. The court may order the Debtor to pay the fee in the future if developments in administering the bankruptcy case show that the waiver was unwarranted. In the event that assets are discovered, the Clerk of Court may collect the filing fee as an administrative expense in this case.

10. [15-11070](#)-B-7 **IN RE: SHAWN KNIGHT**
[JES-2](#)

MOTION FOR COMPENSATION FOR JAMES E. SALVEN, ACCOUNTANT(S)
12-4-2020 [\[78\]](#)

JAMES SALVEN/MV

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

DISPOSITION: Granted.

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

This motion was set for hearing on 28 days' notice 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 amount 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.

James Salven ("Movant"), the certified public accountant for chapter 7 trustee Peter Fear ("Trustee"), requests fees of \$2,300.00 and costs of \$268.58 for a total of \$2,568.58 for accountant services rendered from November 15, 2020 through November 30, 2020. Doc. #78.

This motion will be GRANTED.

Movant's employment as an accountant was authorized pursuant to 11 U.S.C. §§ 327, 330, and 331 on December 3, 2020, effective as to services rendered on or after November 15, 2020. Doc. #77. The employment order provided that as a condition precedent to employment, Movant must irrevocably waive all pre-petition claims, if any, against Debtor's bankruptcy estate. *Id.* The order further stated that no compensation was permitted except upon court order under § 330(a) and compensation would be at the "lodestar rate" for accounting services applicable at the time services are rendered in accordance with *In re Manoa Fin. Co.*, 853 F.2d 687 (9th Cir. 1988). *Id.* Interim compensation under § 331 was permitted but not pursued as this is Movant's first and final fee application for accountant services. *Id.*

Movant indicates that he spent 9.2 billable hours at a rate of \$250.00 per hour, resulting in \$2,300.00 in fees for accountant services. Doc. #80, Ex. A. Movant also incurred the following expenses:

Copies	\$22.20
Envelopes	\$1.25
Lacerte Tax Software	\$186.00
Postage	\$59.13
Total Costs	\$268.58

Id., Ex. B. Trustee also filed a declaration stating that he reviewed the fee application and believes the fees and costs were reasonable and necessary for administration of the estate. Doc. #82.

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . .[a] professional person" and "reimbursement for actual, necessary expenses." Movant's services included, without limitation: (1) review of possible conflicts of interest and preparation of the employment application; (2) researching tax implications for a compromise motion; (3) preparing, processing, and finalizing tax returns, determination letters, and this fee application. Doc. #80, Ex. A. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded \$2,300.00 in fees and \$268.58 in costs.

11. [20-13786](#)-B-7 **IN RE: ALYSSA TORRES**
[DJP-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-21-2020 [\[13\]](#)

EDUCATIONAL EMPLOYEES CREDIT
UNION/MV
DON POOL/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

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 and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

The movant, Educational Employees Credit Union ("Movant"), seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to a 2019 Toyota Camry LE Sedan 4D ("Vehicle"). Doc. #13.

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 is at least 2 payments past due in the amount of \$769.60 plus late fees of \$23.08. Doc. #15, #16.

The court also finds that the debtor does not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because debtor is in chapter 7. Debtor values the Vehicle on Schedule D at \$19,353.00 and the amount owed to Movant is \$20,807.37. Doc. #15, #16.

Accordingly, the motion will be granted pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2) to permit the movant to dispose of its collateral pursuant to applicable law and to use the proceeds from

its disposition to satisfy its claim. No other relief is awarded. Adequate protection is unnecessary due to the relief granted.

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

12. [20-13099](#)-B-7 **IN RE: SAMUEL SORIA AND GUILLERMINA FUENTES**
[SBM-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-14-2020 [\[19\]](#)

WELLS FARGO BANK, NATIONAL
ASSOCIATION/MV
T. O'TOOLE/ATTY. FOR DBT.
STEVEN MAINS/ATTY. FOR MV.

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.

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

The movant, Wells Fargo Bank ("Movant"), seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to a 2014 Kenworth DS Truck ("Vehicle"). Doc. #19.

11 U.S.C. § 362(c)(2)(C) provides that the automatic stay of § 362(a) continues until a discharge is granted. The debtors' discharge was entered on December 29, 2020. Doc. #26. Therefore, the automatic stay terminated with respect to the debtors on December 29, 2020. This motion will be DENIED AS MOOT IN PART as to the debtors' 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, the court finds that "cause" exists to lift the stay because debtor is past due in the amount \$1,547.79 plus late fees of \$25.79. Doc. #21, #23. Also, the debtors have not provided proof of insurance. Doc. #23.

The court also finds that the debtors do not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because debtors are in chapter 7. *Id.* The Vehicle is valued at \$14,575.00 and debtors owe \$17,026.99. Doc. #23

Accordingly, the motion will be GRANTED IN PART as to the trustee's interest 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 and the debtors have failed to provide proof of insurance to the Movant.