



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

Hearing Date: Tuesday, January 14, 2025

Unless otherwise ordered, all matters before the Honorable René Lastreto II, shall be simultaneously: (1) **In Person** at, 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 or stated below.

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

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

Please also note the following:

- Parties in interest and/or their attorneys may connect to the video or audio feed free of charge and should select which method they will use to appear when signing up.
- Members of the public and the press who wish to attend by ZoomGov may only listen in to the hearing using the Zoom telephone number. Video participation or observing are not permitted.
- Members of the public and the press may not listen in to trials or evidentiary hearings, though they may attend in person unless otherwise ordered.

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

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
2. Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#). If you are appearing by ZoomGov phone or video, please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

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

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

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

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

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

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

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

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. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[WJH-18](#)

CONTINUED OBJECTION TO CLAIM OF TULARE HOSPITALIST GROUP,
CLAIM NUMBER 231
1-8-2020 [[1784](#)]

TULARE LOCAL HEALTHCARE DISTRICT/MV
RILEY WALTER/ATTY. FOR DBT.

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

DISPOSITION: Continued to February 25, 2025, at 9:30 a.m.

ORDER: The court will prepare the order.

On January 7, 2025, the parties in this matter submitted a stipulation stating that they had reached a settlement which would be submitted to the District's Board for final approval by January 24, 2025. Doc. #2727. The Debtor requests a continuance to **February 25, 2025, at 9:30 a.m.** as a scheduling conference with a status report filed by Debtor's counsel no later than seven days prior. If final approval is granted by the Debtor's Board, the settlement will be promptly lodged with the Court. Counsel for Tulare Hospitalist Group consents to the continuance.

Accordingly, this matter will be CONTINUED to **February 25, 2025, at 9:30 a.m.**, with Debtor's counsel to submit a status report no later than seven (7) days prior to the continued hearing date.

2. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[WJH-19](#)

CONTINUED OBJECTION TO CLAIM OF GUPTA-KUMAR
MEDICAL PRACTICE, CLAIM NUMBER 232
1-8-2020 [[1789](#)]

TULARE LOCAL HEALTHCARE DISTRICT/MV
RILEY WALTER/ATTY. FOR DBT.

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

DISPOSITION: Continued to February 25, 2025, at 9:30 a.m.

ORDER: The court will prepare the order.

On January 7, 2025, the parties in this matter submitted a stipulation stating that they had reached a settlement which would be submitted to the District's Board for final approval by January 24, 2025. Doc. #2729. The Debtor requests a continuance to **February 25, 2025, at 9:30 a.m.** as a scheduling conference with a status report filed by Debtor's counsel no later than seven days prior. If final approval is granted by the Debtor's Board, the settlement will be promptly lodged with the Court. Counsel for Gupta-Kumar Medical Practice consents to the continuance.

Accordingly, this matter will be CONTINUED to **February 25, 2025, at 9:30 a.m.**, with Debtor's counsel to submit a status report no later than seven (7) days prior to the continued hearing date.

3. [17-13797](#)-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
[WJH-25](#)

CONTINUED OBJECTION TO CLAIM OF INPATIENT HOSPITAL GROUP,
INC., CLAIM NUMBER 230
1-10-2020 [[1834](#)]

TULARE LOCAL HEALTHCARE DISTRICT/MV
RILEY WALTER/ATTY. FOR DBT.

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

DISPOSITION: Continued to February 25, 2025, at 9:30 a.m.

ORDER: The court will prepare the order.

On January 7, 2025, the parties in this matter submitted a stipulation stating that they had reached a settlement which would be submitted to the District's Board for final approval by January 24, 2025. Doc. #2727. The Debtor requests a continuance to **February 25, 2025, at 9:30 a.m.** as a scheduling conference with a status report filed by Debtor's

counsel no later than seven days prior. If final approval is granted by the Debtor's Board, the settlement will be promptly lodged with the Court. Counsel for Inpatient Hospital Group, Inc. consents to the continuance.

Accordingly, this matter will be CONTINUED to **February 25, 2025, at 9:30 a.m.**, with Debtor's counsel to submit a status report no later than seven (7) days prior to the continued hearing date.

11:00 AM

1. [24-12989](#)-B-7 **IN RE: DEANDRE CLARK**

PRO SE REAFFIRMATION AGREEMENT WITH NATIONSTAR MORTGAGE LLC
12-27-2024 [[19](#)]

NO RULING.

1:30 PM

1. [24-12906](#)-B-7 **IN RE: IRMA PADILLA**
[SKI-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-12-2024 [\[28\]](#)

AMERICREDIT FINANCIAL SERVICES, INC./MV
GIOVANNI ORANTES/ATTY. FOR DBT.
SHERYL ITH/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

AmeriCredit Financial Services, Inc. ("Movant") seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to a 2023 Chevrolet Tahoe (VIN: 1GNSKRKL1PR292530) ("Vehicle"). Doc. #28. Movant also requests waiver of the 14-day stay of Fed. R. Bankr. P. 4001(a)(3). *Id.*

Irma Claudia Padilla ("Debtor") did not file opposition and Movant recovered the Vehicle on October 2, 2024. No other party in interest timely filed written opposition. This motion will be GRANTED.

As an informative matter, the notice did not comply with LBR 9014-1(d)(3)(B)(i), which requires the notice of hearing to include the names and addresses of persons who must be served with any opposition. Here Movant's notice did not include Debtor's attorney as a person to serve any opposition. Counsel is advised to review the local rules and ensure procedure compliance in subsequent matters.

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.

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 missed two (2) pre-petition payments totaling \$2,721.22 and one post-petition payment in the amount of \$1,360.81. Docs. #30, #32. Additionally, Movant recovered possession of the Vehicle pre-petition on October 2, 2024. Doc. #30. Since the Vehicle has been recovered, the only issue is disposition of the collateral.

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. The Vehicle is valued at \$69,400.00 and Debtor owes \$80,780.86. Doc. #30.

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 two (2) pre-petition payments and one (1) post-petition payment to Movant, the vehicle is already in movant's possession, and the Vehicle is a depreciating asset.

2. [24-13334](#)-B-7 **IN RE: DAVID REED AND TONYA UNDERWOOD**
[SLL-1](#)

MOTION TO CONVERT CASE FROM CHAPTER 7 TO CHAPTER 13
12-5-2024 [\[13\]](#)

STEPHEN LABIAK/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.

David Reed and Tonya Underwood ("Debtors") move to convert the above-styled case from one brought under Chapter 7 to one brought under Chapter 13 pursuant 11 U.S.C. § 706(a). Doc. #15.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). Thus, pursuant to LBR 9014-1(f)(1)(B), the failure of any party in interest (including but not limited to creditors, the debtor, the U.S. Trustee, or any other properly-served party in interest) to file written opposition at least 14 days prior to the hearing may be deemed a waiver of any such opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). When there is no opposition to a motion, the defaults of all parties in interest who failed to timely respond will be entered, and, in the absence of any opposition, the movant's 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). Because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary when an unopposed movant has made a prima facie case for the requested relief. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006).

No party in interest timely filed written opposition, and the defaults of all nonresponding parties will be entered. This motion will be GRANTED.

11 U.S.C. § 706(a) allows a debtor in chapter 7 to convert to chapter 13 "at any time," unless the case was previously converted to chapter 7 from another chapter.

The Supreme Court in *Marrama v. Citizens Bank*, 549 U.S. 365, 371-72 (2007), held that a debtor does not have an absolute right to convert a chapter 13 under § 706(a), but also must be eligible to be a debtor under chapter 13. The Supreme Court held that "[i]n practical effect, a ruling that an individual's Chapter 13 case should be dismissed or converted to Chapter 7 because of prepetition bad-faith conduct, including fraudulent acts committed in an earlier Chapter 7

proceeding, is tantamount to a ruling that the individual does not qualify as a debtor under Chapter 13." Therefore, the court must find that the debtor is eligible to be a debtor under chapter 13 in conformance with 11 U.S.C. § 1307(c).

The court finds that this case has not been previously converted to chapter 7 from another chapter, and that the Debtors are eligible to be a debtor under chapter 13 in conformance with 11 U.S.C. § 1307(c).

3. [24-13346](#)-B-7 **IN RE: AYLIN BENITEZ**
[KL-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-17-2024 [\[17\]](#)

WILMINGTON SAVINGS FUND SOCIETY, FSB/MV
LIOR KATZ/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.

Wilmington Savings Fund Society, FSB, as Owner-Trustee of the Residential Credit Opportunities Trust VI-B ("Movant") seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(4) with respect to real property located at 11211 Vista Del Luna Drive, Bakersfield, CA 93311 ("Property") so that it may take all steps necessary under state and federal law to commence or complete its foreclosure sale. Doc. #22 et seq. Movant requests that the order be binding and effective under § 362(d)(4) in any other bankruptcy purporting to affect Property for a period of two years after entry of the order. Movant also requests waiver of the 14-day stay of Federal Rule of Bankruptcy Procedure ("Rule") 4001(a)(3) and Cal. Civ. Code § 3924g(d). *Id.*

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 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.

No party in interest timely filed written opposition, and the defaults of all nonresponding parties are entered. This motion will be GRANTED.

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).

An order entered under § 362(d)(4) is binding in any other bankruptcy case purporting to affect such real property filed not later than two years after the date of entry of the order.

To obtain relief under § 362(d)(4), Movant must show and the court must affirmatively find the following three elements: (1) the debtor's bankruptcy filing must have been part of a scheme; (2) the object of the scheme must have been to delay, hinder, or defraud creditors, and (3) the scheme must have involved either the transfer of some interest in the real property without the secured creditor's consent or court approval, or multiple bankruptcy filings affecting the property. *First Yorkshire Holdings, Inc. v. Pacifica L 22, LLC (In re First Yorkshire Holdings, Inc.)*, 470 B.R. 864, 870 (B.A.P. 9th Cir. 2012).

A scheme is an intentional construct - it does not happen by misadventure or negligence. *In re Duncan & Forbes Dev., Inc.*, 368 B.R. 27, 32 (Bankr. C.D. Cal. 2007). A § 362(d)(4)(A) scheme is an "intentional artful plot or plan to delay, hinder or defraud creditors." *Id.* It is not common to have direct evidence of an artful plot or plan to deceive others - the court must infer the existence and contents of a scheme from circumstantial evidence. *Id.* Movant must present evidence sufficient for the trier of fact to infer the existence and content of the scheme. *Id.*

After review of the included evidence, the court finds that "cause" exists to lift the stay because Borrower, who is not a party to this bankruptcy, has defaulted on the Note and because, for the reasons outlined below, the court finds that Borrower transferred Debtors' interest in the Property to Debtors without authorization from the Movant.

Furthermore, after review of the included evidence, the court finds that the debtor's filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved the transfer of all or part ownership of the subject real property without the consent of the secured creditor or court approval.

The relevant facts as outlined below are drawn from the Motion (Doc. #17); Movant's Statement of Indebtedness (Doc. #19); a lengthy list of Exhibits (Doc. #20); the Declaration of Dave Kleiman, Vice President of Asset Management for the administrator of Movant (Doc. #21); and a Memorandum of Authorities (Doc. #22). No party has filed a response, and so the Movant's allegations are accepted as true.

Movant is the holder of a Note dated Jun 27, 2006, in the original principal amount of \$283,557.00, which is secured by a first Deed of Trust recorded on June 30, 2006. The original borrower was Pedro Benitez ("Pedro" or "Borrower"). After several transfers of the beneficial interest in the subject Deed of Trust, it passed to Movant. Borrower ultimately defaulted on his loan obligations, and Movant initiated foreclosure proceedings. Borrower filed for Chapter 7 in Case No. 24-12504 ("the Prior Bankruptcy") on August 28, 2024, and that was dismissed on November 8, 2024, due to Pedro's failure to attend the 341 meeting.

The foreclosure sale was then reset for November 20, 2024, but it was delayed after Benitez purportedly and without permission from Movant transferred a 50% interest in the Property to Aylin Benitez ("Debtor" or "Aylin"), the debtor in the instant case. It appears that Pedro transferred the one-half interest to Aylin on November 18, 2024, just two days before the scheduled foreclosure sale, and Aylin filed for bankruptcy the very next day.

Movant presents evidence that Borrower has missed 14 monthly mortgage payments from November 1, 2023, through December 1, 2024, with additional payments accruing. The total reinstatement cost as of the filing of the motion is \$31,034.60. The total unpaid principal balance plus reinstatement is \$389,528.13. The value of the Property is only \$320,000.00 according to Debtor's Schedule A/B. See Doc. #1. Thus, there is no equity in the Property.

Movant argues that Aylin's filing of this bankruptcy was done for the sole purpose of delaying the foreclosure sale and represents a bad-faith scheme to hinder, delay, and defraud Movant by filing multiple consecutive bankruptcy cases. Movant seeks not only stay relief for cause pursuant to § 362(d)(1) but also *in rem* relief as to the Property for two years pursuant to § 362(d)(4).

The court agrees with Movant's arguments. The timing of the filing of this case (which is presently the subject of a Trustee's *Motion to Dismiss* for failure to attend the 341 meeting, the same thing that doomed the Prior Bankruptcy), which was the day after the interest in the Property was transferred from Pedro to Aylin and the day before the scheduled foreclosure sale, is a strong indication of a bad-faith filing.

Furthermore, after review of the included evidence, the court finds that "cause" exists to lift the stay because Borrower failed to make

at least 14 payments. The Movant has produced evidence that Debtors are delinquent at least \$31,034.60 and the entire balance of \$389,528.13 is due. Docs. ##19-21.

The Court having rendered findings of fact and conclusions of law pursuant to Federal Rule of Civil Procedure 52, as incorporated by Federal Rule of Bankruptcy Procedure 7052:

IT IS ORDERED that the automatic stay of 11 U.S.C. § 362(a) is vacated concerning real property located at 11425 Buell Street, Santa Fe Springs, CA 90670; and

IT IS FURTHER ORDERED, pursuant to 11 U.S.C. § 362(d)(4), that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved either transfer of all or part ownership of, or other interest in, the aforesaid real property without the consent of the secured creditor or court approval; or multiple bankruptcy filing affecting such real property. The order shall be binding in any other case under Title 11 of the United States Code purporting to affect the real property described in the motion not later than two years after the date of entry of the order. A debtor in a subsequent case under Title 11 may move for relief from this order based on changed circumstances or for good cause shown after notice and a hearing.

The 14-day stay of Rule 4001(a)(3) will be ordered waived because the Borrower has failed to make pre- and post-petition payments to Movant and Debtor and Borrower engaged in a scheme to frustrate Movant's rights through abuse of the bankruptcy process.

4. [23-10450](#)-B-7 **IN RE: MARK/THERESA PARKER**
[JES-3](#)

MOTION FOR COMPENSATION FOR JAMES E. SALVEN,
CHAPTER 7 TRUSTEE(S)
12-10-2024 [\[76\]](#)

JAMES SALVEN/MV
GABRIEL WADDELL/ATTY. FOR DBT.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will prepare the order.

James E. Salven ("Trustee"), Chapter 7 Trustee in this case, requests commission in the amount of **\$11,444.05** and costs of **\$251.09** for a total award of **\$11,695.14** as statutory compensation and actual and necessary expenses. Doc. #76.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). Thus, pursuant to LBR 9014-1(f)(1)(B), the failure of any party in interest (including but not limited to creditors, the debtor, the U.S. Trustee, or any other properly-served party in interest) to file written opposition at least 14 days prior to the hearing may be deemed a waiver of any such opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). When there is no opposition to a motion, the defaults of all parties in interest who failed to timely respond will be entered, and, in the absence of any opposition, the movant's 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). Because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary when an unopposed movant has made a prima facie case for the requested relief. See *Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). A prima facie case has not been made here.

No party in interest timely filed written opposition, and the defaults of all nonresponding parties will be entered. Nevertheless, this motion will be DENIED WITHOUT PREJUDICE for the reasons outlined below.

Mark and Theresa Parker ("Debtors") filed chapter 7 bankruptcy on March 9, 2023. Doc. #1. Trustee was appointed as interim trustee on that same date and became permanent trustee on April 13, 2023. Doc. #5; *Docket generally*.

11 U.S.C. § 326 permits the court to allow reasonable compensation to the chapter 7 trustee under § 330 for the trustee's services. Section 326(a) states:

In a case under chapter 7 or 11, other than a case under subchapter V of chapter 11, the court may allow reasonable compensation under section 330 of this title of the trustee for the trustee's services, payable after the trustee renders such services, not to exceed 25 percent on the first \$5,000 or less, 10 percent on any amount in excess of \$5,000 but not in excess of \$50,000, 5 percent on any amount in excess of \$50,000 but not in excess of \$1,000,000, and reasonable compensation not to exceed 3 percent of such moneys in excess of \$1,000,000, upon all moneys disbursed or turned over in the case by the trustee to parties in interest, excluding the debtor, but including all holders of secured claims.

11 U.S.C. § 326(a). To restate these percentages, a Chapter 7 Trustee is entitled a maximum reimbursement of:

1. \$25% of the first \$5,000.00 in disbursements;
2. \$10% of the next \$45,000.00 in disbursements, if any;
3. 5% of the next \$95,000.00 in disbursements, if any;
4. 3% of any further disbursements exceeding \$1,000,000.00.

11 U.S.C. § 330 requires the court to find that the fees requested are reasonable and for actual and necessary services to the estate, as well as reimbursement for actual and necessary expenses. 11 U.S.C. § 330(a)(1)(A) & (B).

Here, the motion only states that

- a. "Applicant has rendered trustee services since appointment,"
- b. "All Trustee services rendered by applicant were performed on behalf of the Chapter 7 estate alone,"
- c. "There is no known reason as to why Statutory Commission should be reduced. Amount being sought is within the Statutory Guidelines."
- d. "The reasonable, and necessary, costs incurred are \$250.92 as set forth in the Trustee's Final Report (TFR) which was submitted to the USTO on, or about 12/10/24."

Doc. #75. The motion is accompanied by a Declaration from Salven which recapitulates the motion without adding any new and/or substantive information in support of the motion. Doc. #76. The Trustee states in both the motion and the declaration that the Trustee's Final Report was submitted to the USTO, but the U.S. Trustee has neither approved the Final Report nor objected to the fees requested, and the Final Report itself is not, at this time, available for court review.

Though the court has no evidence to challenge the Trustee's statements in the declaration and motion, finding all those facts true does not entitle the Trustee to the relief he requests.

Noticeably absent from the motion is any information about the amount of disbursements the Trustee made, which is necessary for the court to determine that Trustee the percentage scheme from § 326(a). The court notes that it is the custom of the other Chapter 7 trustees in this district to provide a chart outlining how the percentages from § 326(a) were applied to the total distribution. While it would certainly be helpful for Trustee to "show his math," the court is not averse to doing the necessary calculations to confirm that the fees requested are appropriate, but it must know the total disbursements first in order to do so.

Also, while Trustee requests \$251.09 in costs, the record before the court is devoid of any information as to what expenses were actually incurred.

Finally, the moving papers are devoid of any information as to what services were actually performed by Trustee in the performance of his duties in this case.

For the foregoing reasons, the court concludes that Trustee has failed to make his prima facie case for entitlement to the fees and expense

reimbursement requested. Accordingly, this motion will be DENIED WITHOUT PREJUDICE.

5. [24-12453](#)-B-7 **IN RE: KEITH/JULIE HUFFMAN**
[YW-3](#)

MOTION FOR OMNIBUS RELIEF UPON DEATH OF DEBTOR
12-6-2024 [[26](#)]

JULIE HUFFMAN/MV
LEONARD WELSH/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.

On November 9, 2024, joint debtor Keith Huffman ("Decedent" or "Mr. Huffman") passed away. Doc. #26 *et seq.* Decedent is survived by joint debtor Julie Huffman ("Debtor"). *Id.* Debtor seeks an order (a) substituting Debtor as Decedent's successor for purpose of this Chapter 7 proceeding, (b) permitting administration of this case to proceed, and (c) authorizing Decedent to receive a discharge of debt in the Chapter 7 case as permitted by law. *Id.*

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 chapter 13 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.

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

Upon the death of a debtor in a bankruptcy case that has not been closed, LBR 1016-1(a) provides that a notice of death shall be filed within sixty (60) days of the death of a debtor by counsel or the

person intending to be appointed as the representative for or successor to a deceased debtor pursuant to Fed. R. Civ. P. ("Civ. Rule") 25(a) (Fed. R. Bankr. P. ("Rule") 7025). The notice of death shall be served on all other parties in interest, and a redacted copy of the death certificate shall be filed as an exhibit to the notice of death.

LBR 1016-1(b) permits the notice of death and requests for the following relief to be combined into a single motion for omnibus relief under Civ. Rule 18(a) (Rules 7018, 9014(c)):

- 1) Substitution as the representative for or successor to the deceased debtor in the bankruptcy case pursuant to Civ. Rule 25(a);
- 2) Continued administration of the case under chapter 13 pursuant to Rule 1016; and
- 3) Waiver of the post-petition education requirement for entry of discharge under 1328, including the post-petition education requirement under subsection (g).

Pursuant to LBR 1016-1, Debtor filed this motion for omnibus relief with a notice of death and redacted death certificate for Decedent. Docs. #24, #26. On September 25, 2024, the court entered an order providing that Decedent (who was not yet deceased at that point) would not be required to receive credit counseling, personally attend the Meeting of Creditors, or complete an instructional course in financial management as required by 11 U.S.C. § 727(a)(11). Doc. #17. Debtor filed her certificate of post-petition debtor education on November 27, 2024, as required by 11 U.S.C. § 1328(g). Doc. #23.

Federal Rule of Bankruptcy Procedure 1016(a) states that "[i]n a Chapter 7 case, the debtor's death or incompetency does not abate the case" and "[t]he case continues, as far as possible, as though the death or incompetency had not occurred." Fed. Rule Bankr. Pro. 1016(a). *See generally 9 COLLIER ON BANKRUPTCY P 1016.02 (16th 2024)*

It appears that Debtor will continue to participate in the administration of this joint Chapter 7 case, so administration of this case is possible despite Decedent's death. Debtor also argues that it is the best interest of Debtor, Decedent's heirs, and creditors for Decedent's discharge to be entered at the conclusion of the case "so that the resolution of Mr. Huffman's debtor-creditor problems can be finalized." Doc. #26.

11 U.S.C. 727(c)(11) states that the court shall not grant a discharge to a debtor who fails to complete a personal financial management course, except that this requirement shall not apply to a debtor who the court determines, after notice and a hearing, is not able to complete that requirement due to incapacity or disability as defined in 11 U.S.C. § 109(h).

While there does not appear to be a Ninth Circuit case addressing this issue, several courts have found in the context of Chapter 7 cases that the death of a debtor between the filing of a petition and entry of discharge represents an "incapacity" within the meaning of § 109(h). See, e.g., *In re Shorter*, 544 B.R. 654, 670 (Bankr. E.D. Ark. 2015) (assessing death as "a condition equivalent to either disability or incapacity"); *In re Thomas*, No. 07-00097, 2008 Bankr. LEXIS 4519, 2008 WL 4835911, at *1 (Bankr. D.C. Nov. 6, 2008) (waiving requirement for deceased Chapter 7 debtor to complete financial management course because his death is an incapacity); *In re Henderson*, No. 06-52439-C, 2008 Bankr. LEXIS 1490, 2008 WL 1740529, at *1 (Bankr. W.D. Tex. Apr. 9, 2008) (determining that death is a disability under the definition in Section 109(h)(4)); *In re Robles*, No. 07-30747-C, 2007 Bankr. LEXIS 4239, 2007 WL 4410395, at *2 (Bankr. W.D. Tex. Dec. 13, 2007) (observing that Chapter 7 debtor's death was "the ultimate disability" in terms of debtor's ability to participate in an instructional course on financial management); *In re Trembulak*, 362 B.R. 205, 207 (Bankr. D.N.J. 2007) (allowing deceased debtor to be excused from financial management course under section 109(h)(4) because "clearly the Debtor . . . cannot participate" in the course nor would it aid him in the future).

No party in interest has opposed this motion, and the defaults of all nonresponding parties in interest are entered. This motion will be GRANTED. Accordingly, it is hereby ordered

- a. That Debtor shall be substituted as Mr. Huffman's successor for purposes of this Chapter 7 case,
- b. That administration of this case shall continue, and
- c. That Mr. Huffman shall receive a discharge of debt in this Chapter 7 case as permitted by law.

6. [24-10169](#)-B-7 **IN RE: AUSTIN JIANG**
[JES-2](#)

MOTION FOR COMPENSATION FOR JAMES E. SALVEN, ACCOUNTANT(S)
12-11-2024 [\[32\]](#)

JAMES SALVEN/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.

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

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order that
conforms with the opinion below.

James E. Salven, C.P.A. ("Applicant") seeks approval of a final allowance of compensation under 11 U.S.C. § 330 of the Bankruptcy Code for professional services rendered and reimbursement for expenses incurred as accountant for Peter Fear, Trustee in the above-styled case ("Trustee"). Doc. #32. The Debtor is Austin Jiang ("Debtor").

Applicant was employed to perform services under § 327 of the Code pursuant to an order of this court dated December 3, 2024. Doc. #31. This is Applicant's first and final request for compensation.

Applicant seeks **\$1,064.00** in fees based on **3.8** billable hours from November 22, 2024, through December 11, 2024, minus a \$250.00 reduction for estate size, resulting in a final fee request of **\$814.00**. Doc. #34. Based on the moving papers, it appears that James Salven was the only employee of Applicant to work on this case, and he billed at a rate of \$280. *Id.* Applicant seeks **\$126.57** in expenses, which consists of copies, envelopes, use of tax processing software, and service of the employment/fee applications. *Id.*

11 U.S.C. § 330(a)(1)(A) and (B) permit approval of "reasonable compensation for actual, necessary services rendered by . . . [a] professional person, or attorney" and "reimbursement for actual, necessary expenses." In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, considering all relevant factors, including those enumerated in subsections (a)(3)(A) through (E). § 330(a)(3). Previous interim compensation awards under 11 U.S.C. § 331, if any, are subject to final review under § 330.

Applicant's services here included, without limitation, tax preparation work for Debtor and preparation and filing of the employment/fee applications. Doc. #48. The court finds the services and expenses reasonable, actual, and necessary. The Trustee has reviewed the Application and finds the requested fees and expenses to be reasonable. Doc. #36.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). Thus, pursuant to LBR 9014-1(f)(1)(B), the failure of any party in interest (including but not limited to creditors, the debtor, the U.S. Trustee, or any other properly-served party in interest) to file written opposition at least 14 days prior to the hearing may be deemed a waiver of any such opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). When there is no opposition to a motion, the defaults of all parties in interest who failed to timely respond will be entered, and, in the absence of any opposition, the movant's 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). Because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary when an unopposed movant has made a prima facie case for the requested relief. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006).

No party in interest has responded, and the defaults of all such parties are entered.

This Application is GRANTED. The court will approve on a final basis under 11 U.S.C. § 330 compensation in the amount of **\$814.00** in fees and **\$126.57** in expenses. The court grants the Application for a total award **\$940.57** as an administrative expense of the estate and an order authorizing and directing the Trustee to pay such to Applicant from the first available estate funds.

7. [18-12189](#)-B-7 **IN RE: DEE DINKEL**
[JES-3](#)

MOTION FOR COMPENSATION FOR JAMES SALVEN,
CHAPTER 7 TRUSTEE(S)
12-10-2024 [\[83\]](#)

JAMES SALVEN/MV

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

DISPOSITION: Denied without prejudice.

ORDER: The court will prepare the order.

James E. Salven ("Trustee"), Chapter 7 Trustee in this case, requests commission in the amount of **\$13,072.46** and costs of **\$85.42** for a total award of **\$13,157.88** as statutory compensation and actual and necessary expenses. Doc. #83.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). Thus, pursuant to LBR

9014-1(f)(1)(B), the failure of any party in interest (including but not limited to creditors, the debtor, the U.S. Trustee, or any other properly-served party in interest) to file written opposition at least 14 days prior to the hearing may be deemed a waiver of any such opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). When there is no opposition to a motion, the defaults of all parties in interest who failed to timely respond will be entered, and, in the absence of any opposition, the movant's 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). Because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary when an unopposed movant has made a prima facie case for the requested relief. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). A prima facie case has not been made here.

No party in interest timely filed written opposition, and the defaults of all nonresponding parties will be entered. Nevertheless, this motion will be DENIED WITHOUT PREJUDICE for the reasons outlined below.

Dee Dinkel ("Debtor") filed chapter 7 bankruptcy on May 31, 2018. Doc. #1. Trudi Manfreda ("Manfreda") was the original Chapter 7 Trustee appointed in this case. Doc. #2. Manfreda entered a report of no distribution, and Debtor received a discharge on September 17, 2018. Docs. #15, #17. On October 11, 2023, the U.S. Trustee ("UST") filed a motion to reopen the case, subsequently granted, on the grounds that Debtor failed to schedule their interest in a personal injury/products liability lawsuit ("Debtor's Lawsuit") which the UST believed to be property of the estate. Docs. #21, #22. Trustee was appointed as trustee in the reopened case on that same date. #23; *Docket generally*.

During the pendency of the reopened case, Trustee with court approval hired Fear Waddell, PC as general counsel, the Johnson Law Group as special counsel and himself as accountant. Docs. #38, #46, #58. On September 25, 2024, the court entered an order approving the settlement of Debtor's Lawsuit. Doc. #68. The Johnson Law Group's fees were paid through the settlement agreement, and the fees sought by Fear Waddell, PC were paid pursuant to a fee application approved by this court on December 19, 2024. Docs. #68, #90. Trustee's fee application for his work done in his capacity as accountant for the Trustee was denied on procedural grounds on January 10, 2024. Doc. #100. The matter before the court exclusively deals with Trustee's motion for compensation in his capacity as trustee. Doc. #83.

11 U.S.C. § 326 permits the court to allow reasonable compensation to the chapter 7 trustee under § 330 for the trustee's services. Section 326(a) states:

In a case under chapter 7 or 11, other than a case under subchapter V of chapter 11, the court may allow reasonable compensation under section 330 of this title of the trustee

for the trustee's services, payable after the trustee renders such services, not to exceed 25 percent on the first \$5,000 or less, 10 percent on any amount in excess of \$5,000 but not in excess of \$50,000, 5 percent on any amount in excess of \$50,000 but not in excess of \$1,000,000, and reasonable compensation not to exceed 3 percent of such moneys in excess of \$1,000,000, upon all moneys disbursed or turned over in the case by the trustee to parties in interest, excluding the debtor, but including all holders of secured claims.

11 U.S.C. § 326(a). To restate these percentages, a Chapter 7 Trustee is entitled a maximum reimbursement of:

5. \$25% of the first \$5,000.00 in disbursements;
6. \$10% of the next \$45,000.00 in disbursements, if any;
7. 5% of the next \$95,000.00 in disbursements, if any;
8. 3% of any further disbursements exceeding \$1,000,000.00.

11 U.S.C. § 330 requires the court to find that the fees requested are reasonable and for actual and necessary services to the estate, as well as reimbursement for actual and necessary expenses. 11 U.S.C. § 330(a)(1)(A) & (B).

Here, the motion only states that

- e. "Applicant has rendered trustee services since appointment,"
- f. "All Trustee services rendered by applicant were performed on behalf of the Chapter 7 estate alone,"
- g. "There is no known reason as to why Statutory Commission should be reduced. Amount being sought is within the Statutory Guidelines."
- h. "The reasonable, and necessary, costs incurred are \$250.92 as set forth in the Trustee's Final Report (TFR) which was submitted to the USTO on, or about 12/10/24."

Doc. #75.

The motion is accompanied by two identical Declarations from Salven which recapitulate the motion without adding any new and/or substantive information in support of the motion. Docs. #85, #87. The court presumes that the second Declaration was submitted because the first was erroneously dated July 28, 2022. Doc. #85. The Declaration avers that "[a]ll Statutory duties, save this fee application and the final distribution of funds and report thereon, have been completed" and "[t]here are no known reasons why Statutory commission should be reduced.

Though the court has no evidence to challenge the Trustee's statements in the declaration and motion, finding all those facts true does not entitle the Trustee to the relief he requests.

Noticeably absent from the motion is any information about the amount of disbursements the Trustee made (or plans to make, as the case may be), which is necessary for the court to determine that Trustee the percentage scheme from § 326(a). The court notes that it is the custom of the other Chapter 7 trustees in this district to provide a chart outlining how the percentages from § 326(a) were applied to the total distribution. While it would certainly be helpful for Trustee to "show his math," the court is not averse to doing the necessary calculations to confirm that the fees requested are appropriate, but it must know the total disbursements first in order to do so.

Also, while Trustee requests \$85.42 in costs, the record before the court is devoid of any information as to what expenses were actually incurred.

Finally, the moving papers are devoid of any information as to what services were actually performed by Trustee in the performance of his duties in this case. The court infers that Trustee provided services by hiring Fear Waddell PC and the Johnson Law Group to resolve Debtor's Lawsuit and by hiring himself in his capacity as accountant to handle any tax implications arising from the suit's settlement, but in the court's view, that is something that should be spelled out in the moving papers with at least some particularity beyond a conclusionary statement that all Trustee's statutory duties have been completed.

For the foregoing reasons, the court concludes that Trustee has failed to make his prima facie case for entitlement to the fees and expense reimbursement requested. Accordingly, this motion will be DENIED WITHOUT PREJUDICE.

8. [24-13393](#)-B-7 **IN RE: DANIEL HERRERA**
[EAT-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-13-2024 [\[23\]](#)

LAKEVIEW LOAN SERVICING, LLC/MV
CASSANDRA RICHEY/ATTY. FOR MV.
RESPONSIVE PLEADING

FINAL RULING: There will be no hearing on this matter

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

The Lakeview Loan Servicing LLC ("Movant") seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 5116 Wingspan Lane, Bakersfield, California 93306. Doc. #23.

This motion will be DENIED WITHOUT PREJUDICE for failure to comply with Rules 4001(a) (1) and 7004 and LBR 9014-1(d) (3) (B) (i).

Rule 4001(a) (1) requires motions for relief from the automatic stay to be made in accordance with Rule 9014. Rule 9014(b) requires motions in contested matters to be served upon the parties against whom relief is being sought pursuant to Rule 7004. Since this motion will affect property of the estate, the Chapter 7 Trustee and the Debtor must be served in accordance with Rule 7004.

Rule 7004(b) (1) allows service in the United States by first class mail by "mailing a copy of the summons and complaint to . . . the place where the individual regularly conducts a business[.]" Furthermore, electronic service is precluded in matters brought under Rule 7004 because Rule 9036 "does not apply to any paper required to be served in accordance with Rule 7004." Rule 9036(e).

Here, the *Certificate of Service* does not indicate service by U.S. Mail on the Chapter Trustee, as required by Rules 4001(a) (1) and 7004. Doc. #28. Rather, Movant only served the debtor by mail but checked the box indicating that "Attorneys and Trustees" were served by Electronic Service upon filing the document with the Clerk of the Court pursuant to Fed. R. Bankr. 5005(a) (2) (A), 9036(b) (2) (c); LBR 9010-1, and so separate notice is not required pursuant to Fed. R. Civ. P. 5(d) (1) (B), incorp. by Fed. R. Bankr. P. 7005, 9014(c). *Id.*

The notice did not comply with Local Bankruptcy Rule 9014-1(d) (3) (B) (i), which requires the notice of hearing to include the names and addresses of persons who must be served with any opposition. Here, Movant's notice did not include the Chapter 7 Trustee and the U.S. Trustee as persons to serve. Doc. #24.

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

9. [24-11097](#)-B-7 **IN RE: JAIME GONZALEZ**
[SKI-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION TO
CONFIRM TERMINATION OR ABSENCE OF STAY
12-13-2024 [\[32\]](#)

PERITUS PORTFOLIO SERVICES II, LLC/MV
MARK ZIMMERMAN/ATTY. FOR DBT.
SHERYL ITH/ATTY. FOR MV.
DISCHARGED 9/9/24

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.

Peritus Portfolio Services II, LLC ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to a 2017 Hyundai Accent (Vin: KMHCT4AE2HU317672) ("Vehicle"). Doc. #32. Movant also requests waiver of the 14-day stay of Fed. R. Bankr. P. 4001(a)(3). *Id.*

Jaime Gonzales ("Debtor") did not file an opposition. No other party in interest timely filed written opposition. This motion will be GRANTED IN PART AND DENIED 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 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.

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 September 9, 2024. Doc. #20. Therefore, the automatic stay terminated with respect to the debtors on September 9, 2024. 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's (or estate's) interest.

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 with respect to the chapter 7 trustee because Debtor has failed to make six (6) post-petition payments totaling \$890.04. Movant has produced evidence that Debtor owes \$2,842.62 to Movant. Docs. #35; #38.

Accordingly, the motion will be GRANTED IN PART as to the trustee's interest pursuant to § 362(d)(1) and DENIED AS MOOT IN PART as to the Debtor's 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.