



**UNITED STATES BANKRUPTCY COURT  
Eastern District of California**

**Chief Judge Fredrick E. Clement**  
Sacramento Federal Courthouse  
501 I Street, 7<sup>th</sup> Floor  
Courtroom 28, Department A  
Sacramento, California

**DAY: TUESDAY**  
**DATE: JANUARY 21, 2025**  
**CALENDAR: 10:30 A.M. CHAPTER 7 CASES**

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Unless otherwise ordered, all matters before Chief Judge Fredrick E. Clement shall be simultaneously: (1) **IN PERSON** at Sacramento Courtroom No. 28, (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 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 **Court Appearances** page of our website at:

<https://www.caeb.uscourts.gov/Calendar/CourtAppearances>

Each party who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

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

Please also note the following:

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

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

- Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
- Review the court's [Zoom Procedures and Guidelines](#) for these, and additional instructions.
- 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.

## PRE-HEARING DISPOSITION INSTRUCTIONS

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### RULINGS

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

**"No Ruling"** means the likely disposition of the matter will not be disclosed in advance of the hearing. The matter will be called; parties wishing to be heard should rise and be heard.

**"Tentative Ruling"** means the likely disposition, and the reasons therefor, are set forth herein. The matter will be called. Aggrieved parties or parties for whom written opposition was not required should rise and be heard. Parties favored by the tentative ruling need not appear. However, non-appearing parties are advised that the court may adopt a ruling other than that set forth herein without further hearing or notice.

**"Final Ruling"** means that the matter will be resolved in the manner, and for the reasons, indicated below. The matter will not be called; parties and/or counsel need not appear and will not be heard on the matter.

### CHANGES TO PREVIOUSLY PUBLISHED RULINGS

On occasion, the court will change its intended ruling on some of the matters to be called and will republish its rulings. The parties and counsel are advised to recheck the posted rulings after 3:00 p.m. on the next business day prior to the hearing. Any such changed ruling will be preceded by the following bold face text: **"[Since posting its original rulings, the court has changed its intended ruling on this matter]"**.

### ERRORS IN RULINGS

Clerical errors of an insignificant nature, e.g., nomenclature ("2017 Honda Accord," rather than "2016 Honda Accord"), amounts, ("\$880," not "\$808"), may be corrected in (1) tentative rulings by appearance at the hearing; or (2) final rulings by appropriate ex parte application. Fed. R. Civ. P. 60(a) *incorporated by* Fed. R. Bankr. P. 9024. All other errors, including those occasioned by mistake, inadvertence, surprise, or excusable neglect, must be corrected by noticed motion. Fed. R. Bankr. P. 60(b), *incorporated by* Fed. R. Bankr. P. 9023.

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1. [19-22509](#)-A-7      **IN RE: ULISES MEZA**  
[DNL-9](#)

CONTINUED MOTION TO SELL  
11-18-2024    [\[181\]](#)

GABRIEL LIBERMAN/ATTY. FOR DBT.  
J. CUNNINGHAM/ATTY. FOR MV.  
DEBTOR DISCHARGED: 01/07/22

### **No Ruling**

2. [09-46026](#)-A-7      **IN RE: JAMES/JULIET FOX**  
[CLH-2](#)

MOTION TO COMPEL ABANDONMENT  
12-19-2024    [\[55\]](#)

CINDY HILL/ATTY. FOR DBT.  
DEBTORS DISCHARGED: 05/11/10

### **Final Ruling**

**Motion:** Compel Abandonment of Property of the Estate  
**Notice:** LBR 9014-1(f)(1); written opposition required  
**Disposition:** Granted only as to the asset described in the motion  
**Order:** Prepared by moving party pursuant to the instructions below

**Property Description:** Mass tort/multi district litigation claim  
against 3M for defective hearing protection device

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The debtor seeks an order compelling the Chapter 7 trustee's abandonment of a claim against 3M. The claim is part of a mass tort/multi district litigation against 3M for a defective hearing protection device. The debtor, who previously served in the United States military, was unaware of the cause of action when the petition in this case was filed.

### **ABANDONMENT**

Property of the estate may be abandoned under § 554 of the Bankruptcy Code if property of the estate is "burdensome to the estate or of inconsequential value and benefit to the estate." See 11 U.S.C. § 554(a)-(b); Fed. R. Bankr. P. 6007(b). Upon request of a party in interest, the court may issue an order that the trustee

abandon property of the estate if the statutory standards for abandonment are fulfilled.

The movant bears the burden of proof. *In re Pilz Compact Disc., Inc.*, 229 B.R. 630 (Bankr. E.D. Pa. 1999) (Chapter 7 trustee). "[B]urdensome to the estate" means "consumes the resources and drains the income of the estate." *In re Smith-Douglass, Inc.*, 856 F.2d 12, 16 (4th Cir. 1988). "[O]f inconsequential value and benefit to the estate" refers to assets not likely to be liquidated for the benefit of creditors. 11 U.S.C. § 704(a)(1); *Matter of Taxman Clothing Co.*, 49 F3d 310, 315 (7th Cir. 1995) (Chapter 7 trustee has no duty to liquidate assets where costs of doing so likely to exceed asset's value). Of inconsequential value and benefit to the estate includes assets that (1) have no equity (including post-petition appreciation), *In re Viet Vu*, 245 B.R. 644 (9th Cir. BAP 2000); and (2) assets with equity, which has been wholly and properly exempted by the debtor. *In re Montanaro*, 307 B.R. 194 (Bankr. E.D. Cal. 2004).

### **UNSCHEDULED ASSETS**

The filing of a petition "creates an estate [which] is comprised of . . . all legal or equitable interests of the debtor in property as of the commencement of the case." 11 U.S.C. § 541(a)(1). "The scope of [§ 541] is broad and includes causes of action." *Sierra Switchboard Co. v. Westinghouse Elec. Corp.*, 789 F.2d 705, 707 (9th Cir. 1986) (citing *United States v. Whiting Pools, Inc.*, 462 U.S. 198, 205 & n.9 (1983)).

Section 554(c) provides that property is automatically abandoned upon closure of a case if such property has been "scheduled under § 521(a)(1)." 11 U.S.C. § 521(a)(1), 554(c). This abandonment of properly scheduled property is known as technical abandonment. See *In re Menk v. Lapaglia (In re Menk)*, 241 B.R. 896, 913 (B.A.P. 9th Cir. 1999).

It is well-established that property of the estate "includes property not identified or listed on the bankruptcy schedules." *In re Blixseth*, 454 B.R. 92, 98 (B.A.P. 9th Cir. 2011). This proposition remains true, moreover, after the case is closed. All property remaining in the estate that was not properly scheduled is not abandoned. See 11 U.S.C. § 554(c)-(d).

Furthermore, for property to be technically abandoned under § 554(c), it must be "properly scheduled" under § 521(a)(1). *Pace v. Battley (In re Pace)*, 146 B.R. 562, 566 (B.A.P. 9th Cir. 1992) (emphasis added). Property is not considered to have been properly scheduled merely because the trustee has knowledge of such property. "If the property is not properly scheduled, it is not sufficient that the trustee knew of the property's existence at the time that the case was closed." *Id.* (citing *Vreugdenhill v. Navistar Int'l Transp. Corp.*, 950 F.2d 524, 526 (8th Cir. 1991)).

The asset was not initially scheduled when the petition was filed as the debtor was unaware of his right to make a claim in the litigation. However, upon reopening this case the debtor filed an

amended Schedule A/B and C. Amended Schedules, ECF No. 51. The schedules were filed on November 19, 2024, and served on all creditors and parties in interest on November 20, 2024. Certificate of Service, ECF No. 53. The subject property was listed in the amended schedules and exempted in the amount of \$10,000. No objection to the exemption has been filed.

Accordingly, the court finds that the asset described above is either burdensome to the estate or of inconsequential value to the estate. An order compelling abandonment of such asset is warranted. The order will compel abandonment of only the asset that is described in the motion.

3. [22-21649](#)-A-7     **IN RE: MARY KATTENHORN**  
[WF-6](#)

MOTION TO SELL  
12-20-2024    [[157](#)]

RICHARD HALL/ATTY. FOR DBT.  
JASON ELDRED/ATTY. FOR MV.  
DEBTOR DISCHARGED: 10/11/22

#### **Tentative Ruling**

**Motion:** Sell Real Property and Compensate Real Estate Broker

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Prepared by moving party

**Property:** 0 Cuckoo Court Lot 3, Applegate, California

**Buyer:** Tower Group Holding, LLC

**Sale Price:** \$135,000

**Sale Type:** Private sale subject to overbid opportunity

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55(c), *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Nikki B. Farris, Chapter 7 trustee, seeks an order approving the sale of the subject property and compensation of the real estate broker. The trustee also requests that the court only approve the sale if it also approves the motion to compromise controversy which will be heard concurrently with this motion.

## **FACTS**

The subject property is owned by the debtor and Roger Dale Becker as joint tenants. Debtor has not claimed an exemption in the property. In order to sell the subject property, the trustee filed adversary case *Farris v. Kattenhorn, et al.*, Case No. 23-02063, E.D. Cal. Bankr. (2023). The trustee, the debtor, and Becker reached a settlement to resolve the adversary case.

As a condition of the settlement to resolve the adversary case, the parties agree to sell the subject property pursuant to the terms set forth above.

## **SALES**

Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b)(1); see also *In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). The moving party is the Chapter 7 trustee and liquidation of property of the estate is a proper purpose. See 11 U.S.C. § 704(a)(1). As a result, the court will grant the motion. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

## **BROKER COMPENSATION**

Section 330(a) of Title 11 authorizes "reasonable compensation for actual, necessary services" rendered by a professional person employed under § 327 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The trustee has entered into a listing agreement with Reed Block Realty relating to the subject property, and the agreement was approved by the Court on November 5, 2024. Order, ECF No. 135. Pursuant to the listing agreement, Reed Block will earn a commission of 6% of the gross sales price.

The court finds that the compensation sought is reasonable and will approve the application.

4. [22-21649](#)-A-7     **IN RE: MARY KATTENHORN**  
[WF-7](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT  
AGREEMENT WITH MARY JEAN KATTENHORN AND ROGER BECKER  
12-20-2024    [[163](#)]

RICHARD HALL/ATTY. FOR DBT.  
JASON ELDRED/ATTY. FOR MV.  
DEBTOR DISCHARGED: 10/11/22

### **Tentative Ruling**

**Motion:** Approve Compromise of Controversy

**Notice:** LBR 9014-1(f)(2); no written opposition required

**Disposition:** Granted

**Order:** Civil minute order

**Property:** 0 Cuckoo Court Lot 3, Applegate, California

**Parties:** Trustee; Debtor; Roger Dale Becker

**Material Terms:** Payment of \$70,051.08 to Roger Dale Becker upon sale of the subject property

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 7 trustee, Nikki B. Farris seeks an order approving the settlement agreement reached between the trustee, the debtor, and Roger Dale Backer. The agreement resolves the adversary proceeding discussed below in this ruling.

### **FACTS**

The subject property is owned by the debtor and Roger Dale Becker as joint tenants. Debtor has not claimed an exemption in the property. In order to sell the subject property, the trustee filed adversary case *Farris v. Kattenhorn, et al.*, Case No. 23-02063, E.D. Cal. Bankr. (2023).

The trustee moved for summary judgment against Becker to sell the subject property free and clear of Becker's interest pursuant to 11 U.S.C. § 363(h). The court found in favor of the trustee as to all elements of § 363(h), except for the third element, and held that there exists a triable issue of material fact whether the benefit to the estate of a sale of the subject property free and clear of Becker's interest outweighs the detriment, if any to Becker.



The trustee, the debtor, and Becker reached a settlement to resolve the adversary case.

The settlement agreement provides: (1) the trustee shall sell the subject property; (2) neither the debtor nor Roger Dale Becker will oppose the sale but may submit bids as potential overbidders; (3) regardless of the final sale price, the trustee agrees to pay Becker \$70,051.08 from escrow; and (4) the estate shall retain the difference. Settlement Agreement, Exhibit A, ECF No. 167.

#### **APPROVAL OF COMPROMISE**

In determining whether to approve a compromise under Federal Rule of Bankruptcy Procedure 9019, the court determines whether the compromise was negotiated in good faith and whether the party proposing the compromise reasonably believes that the compromise is the best that can be negotiated under the facts. *In re A & C Props.*, 784 F.2d 1377, 1381 (9th Cir. 1986). More than mere good faith negotiation of a compromise is required. The court must also find that the compromise is fair and equitable. *Id.* "Fair and equitable" involves a consideration of four factors: (i) the probability of success in the litigation; (ii) the difficulties to be encountered in collection; (iii) the complexity of the litigation, and expense, delay and inconvenience necessarily attendant to litigation; and (iv) the paramount interest of creditors and a proper deference to the creditors' expressed wishes, if any. *Id.* The party proposing the compromise bears the burden of persuading the court that the compromise is fair and equitable and should be approved. *Id.*

The movant requests approval of a compromise. The compromise is reflected in the settlement agreement attached to the motion as an exhibit. Based on the motion and supporting papers, the court finds that the compromise presented for the court's approval is fair and equitable considering the relevant *A & C Properties* factors. The compromise or settlement will be approved.

#### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The Chapter 7 trustee's motion to approve a compromise has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The court hereby approves the compromise that is reflected in the settlement agreement filed concurrently with the motion as Exhibit A and filed at docket no. 167.

5. [24-24449](#)-A-7     **IN RE: WILLIAM/SHARDA WILLIAMS**  
[KMM-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
12-20-2024    [\[16\]](#)

CARL GUSTAFSON/ATTY. FOR DBT.  
KIRSTEN MARTINEZ/ATTY. FOR MV.  
AMERICAN CREDIT ACCEPTANCE, LLC VS.  
TRUSTEE NON-OPPOSITION

### **Final Ruling**

**Motion:** Stay Relief

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 2019 MITSUBISHI ECLIPSE CROSS

**Cause:** delinquent installment payments 6 months/\$3,500.30

These minutes constitute the court's findings of fact and conclusions of law required by Fed. R. Civ. P. 52(a), *incorporated* by Fed. R. Bankr. P. 7052, 9014(c). The findings of fact are as set forth above; the conclusions of law are as set forth below.

American Acceptance Credit, LLC, seeks an order for relief from the automatic stay of 11 U.S.C. § 362(a). The Chapter 7 trustee has filed a non-opposition to the motion.

### **DEFAULT OF RESPONDENT**

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

### **STAY RELIEF**

"[A]fter notice and a hearing," the court may terminate, annul, modify or condition the stay: (1) "for cause, including the lack of adequate protection"; or (2) "with respect to a stay of an act against property [of the estate]" if the debtor lacks "equity" in that property and if that "property is not necessary for an effective reorganization." 11 U.S.C. § 362(d); *see also* Fed. R. Bankr. P. 4001(a)(1). The party seeking stay relief bears the burden of proof as to "the debtor's equity in the property" and on the validity and perfection of its security interest, as well as the amount of its debt. 11 U.S.C. § 362(g)(1); *In re Dahlquist*, 34 B.R. 476, 481 (Bankr. S.D. 1983). The party opposing stay relief, e.g., the debtor or Chapter 7 trustee, bears the burden of proof on all other issues. 11 U.S.C. § 362(g)(2).

Subsection (d)(1) of § 362 of Title 11 provides for relief from stay for "cause, including the lack of adequate protection of an interest in property of such party." 11 U.S.C. § 362(d)(1). The debtor bears the burden of proof. 11 U.S.C. § 362(g)(2). Adequate protection may consist of a lump sum cash payment or periodic cash payments to the entity entitled to adequate protection "to the extent that the stay . . . results in a decrease in the value of such entity's interest in property." 11 U.S.C. § 361(1). "An undersecured creditor is entitled to adequate protection only for the decline in the [collateral's] value after the bankruptcy filing." See Kathleen P. March, Hon. Alan M. Ahart & Janet A. Shapiro, *California Practice Guide: Bankruptcy* ¶ 8:1065.1 (rev. 2019) (citing *United Sav. Ass'n v. Timbers of Inwood Forest Assocs., Ltd.*, 484 U.S. 365, 370-73 (1988)); see also *In re Weinstein*, 227 BR 284, 296 (9th Cir. BAP 1998) ("Adequate protection is provided to safeguard the creditor against depreciation in the value of its collateral during the reorganization process"); *In re Deico Electronics, Inc.*, 139 BR 945, 947 (9th Cir. BAP 1992) ("Adequate protection payments compensate undersecured creditors for the delay bankruptcy imposes upon the exercise of their state law remedies").

The debtor is obligated to make debt payments to the moving party pursuant to a loan contract that is secured by a security interest in the debtor's vehicle described above. The debtor has defaulted on such loan with the moving party, and postpetition payments are past due. Vehicles depreciate over time and with usage. As a consequence, the moving party's interest in the vehicle is not being adequately protected due to the debtor's ongoing postpetition default.

Cause exists to grant relief under § 362(d)(1). The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

#### **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

American Acceptance Credit, LLC's motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as a 2019 MITSUBISHI ECLIPSE CROSS, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

6. [24-24961](#)-A-7     **IN RE: KATRICE HURD**  
[NF-1](#)

TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO APPEAR AT SEC.  
341(A) MEETING OF CREDITORS  
12-17-2024    [\[12\]](#)

ROBERT GIMBLIN/ATTY. FOR DBT.

### **Tentative Ruling**

**Motion:** Dismiss Case and Extend Trustee's Deadlines

**Notice:** LBR 9014-1(f)(1); written opposition required, or case dismissed without hearing

**Disposition:** Conditionally denied in part, granted in part

**Order:** Civil minute order

### **DISMISSAL**

Chapter 7 debtors shall attend the § 341(a) meeting of creditors. 11 U.S.C. § 343. A continuing failure to attend this meeting may be cause for dismissal of the case. See 11 U.S.C. §§ 105(a), 343, 707(a); *In re Witkowski*, 523 B.R. 300, 307 n.8 (B.A.P. 1st Cir. 2014) ("Some courts have ruled that the failure to attend the § 341 meeting of creditors constitutes 'cause' for dismissal.").

In this case, the debtor has failed to appear at a scheduled meeting of creditors required by 11 U.S.C. § 341, and at the continued meeting of creditors. The opposition filed to the notice of intent to dismiss the case states that debtor's counsel failed to properly calendar the continued meeting of creditors and notify the debtor of the hearing date. Accordingly, the court will not dismiss the case on condition that the debtor attend the next creditors' meeting. But if the debtor does not appear at the continued meeting of creditors, the case will be dismissed on trustee's declaration without further notice or hearing.

### **EXTENSION OF DEADLINES**

The court will grant the motion in part to the extent it asks for an extension of deadlines. The court extends the following deadlines to 60 days after the next continued date of the creditors' meeting: (1) the trustee and all creditors' deadline to object to discharge under § 727, see Fed. R. Bankr. P. 4004(a); and (2) the trustee and all creditors' deadline to bring a motion to dismiss under § 707(b) or (c) for abuse, other than presumed abuse, see Fed. R. Bankr. P. 1017(e). These deadlines are no longer set at 60 days after the first creditors' meeting.

## **CIVIL MINUTE ORDER**

The court will issue a minute order that conforms substantially to the following form:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes of the hearing.

IT IS ORDERED that the Motion to Dismiss is denied on the condition that the debtor attend the next continued § 341(a) meeting of creditors scheduled for January 29, 2025, at 8:00 a.m. But if the debtor does not appear at this continued meeting, the case will be dismissed on trustee's declaration without further notice or hearing.

IT IS ALSO ORDERED that following deadlines shall be extended to 60 days after the next continued date of the creditors' meeting: (1) the trustee and all creditors' deadline to object to discharge under § 727, see Fed. R. Bankr. P. 4004(a); and (2) the trustee and all creditors' deadline to bring a motion to dismiss under § 707(b) or (c) for abuse, other than presumed abuse, see Fed. R. Bankr. P. 1017(e).

7. [24-20964](#)-A-7      **IN RE: FRANK BELL**  
[SD-1](#)

AMENDED MOTION FOR RELIEF FROM AUTOMATIC STAY  
12-17-2024    [[126](#)]

PETER MACALUSO/ATTY. FOR DBT.  
SHANNON DOYLE/ATTY. FOR MV.  
ATHENE ANNUITY AND LIFE COMPANY VS.

## **Final Ruling**

The hearing on this motion will be continued to February 18, 2025, at 10:30 a.m. to allow the Chapter 7 trustee to respond to the motion. The automatic stay shall remain in effect pending the final resolution of this hearing. 11 U.S.C. § 362(e) (1).

8. [22-21669](#)-A-7     **IN RE: LINDSAY/LISA BRAKEL**  
[PGM-1](#)

MOTION TO COMPEL ABANDONMENT  
12-17-2024    [\[578\]](#)

BYRON FARLEY/ATTY. FOR DBT.

### **Final Ruling**

**Motion:** Abandon Property of the Estate

**Notice:** LBR 9014-1(f)(1); written opposition required

**Disposition:** Denied without prejudice

**Order:** Civil Minute Order

### **ABANDONMENT**

Property of the estate may be abandoned under § 554 of the Bankruptcy Code if property of the estate is "burdensome to the estate or of inconsequential value and benefit to the estate." See 11 U.S.C. § 554(a)-(b). Upon request of a party in interest, the court may issue an order that the trustee abandon property of the estate if the statutory standards for abandonment are fulfilled.

The movant bears the burden of proof. *In re Pilz Compact Disc., Inc.*, 229 B.R. 630 (Bankr. E.D. Pa. 1999) (Chapter 7 trustee). "[B]urdensome to the estate" means "consumes the resources and drains the income of the estate." *In re Smith-Douglass, Inc.*, 856 F.2d 12, 16 (4th Cir. 1988). "[O]f inconsequential value and benefit to the estate" refers to assets not likely to be liquidated for the benefit of creditors. 11 U.S.C. § 704(a)(1); *Matter of Taxman Clothing Co.*, 49 F3d 310, 315 (7th Cir. 1995) (Chapter 7 trustee has no duty to liquidate assets where costs of doing so likely to exceed asset's value). Of inconsequential value and benefit to the estate includes assets that (1) have no equity (including post-petition appreciation), *In re Viet Vu*, 245 B.R. 644 (9th Cir. BAP 2000); and (2) assets with equity, which has been wholly and properly exempted by the debtor. *In re Montanaro*, 307 B.R. 194 (Bankr. E.D. Cal. 2004).

### **NOTICE**

#### Rule 6007(a)

Unless otherwise directed by the court, the trustee or debtor in possession shall give notice of a proposed abandonment or disposition of property to the United States trustee, *all creditors*, indenture trustees, and committees elected pursuant to § 705 or appointed pursuant to § 1102 of the Code. A party in interest may file and serve an objection within 14 days of the mailing of the notice, or within the time fixed by the court. If a timely objection is made, the court shall set a hearing on notice to the United States trustee and to other entities as the court may direct.

Fed. R. Bankr. P. 6007(a) (emphasis added).

The certificate of service filed in this case indicates that only creditors which filed claims were served with the motion. Certificate of Service, p. 2, item 5, ECF No. 581. This contravenes Rule 6007 which requires that all creditors be served with the motion. The certificate shows that the movant attempted to limit notice under LBR 2002-3. See *Certificate of Service*, p. 2, item 3, ECF No. 581.

A party may not limit notice in a motion to compel abandonment unless directed by the court. It appears that the movant believes the recently enacted LBR 2002-3 provides such a direction.

LBR 2002-3

Without further order of the court, the provisions of Fed. R. Bankr. P. 2002(h) are applicable to chapter 7, chapter 12 and chapter 13 cases *that otherwise satisfy the provisions of that subdivision*. The Clerk of the Court or any party in interest giving notice required by Fed. R. Bankr. P. 2002(a) may limit such notice to those persons specified in Fed. R. Bankr. P. 2002(h).

LBR 2002-3 (emphasis added).

In a voluntary chapter 7 case, chapter 12 case, or chapter 13 case, after 70 days following the order for relief under that chapter or the date of the order converting the case to chapter 12 or chapter 13, *the court may direct that all notices required by subdivision (a) of this rule be mailed only to:*

- the debtor;
- the trustee;
- all indenture trustees;
- creditors that hold claims for which proofs of claim have been filed; and
- creditors, if any, that are still permitted to file claims because an extension was granted under Rule 3002(c)(1) or (c)(2).

Fed. R. Bankr. P. 2002(h) (emphasis added).

Rule 2002(h) only allows limited notice in applicable motions listed in Rule 2002(a). Thus, LBR 2002-3 does not authorize, nor contemplate, limited service in any motion which is not included in Fed. R. Bankr. P. 2002(a). Moreover, Fed. R. Bankr. P. 6007 specifically requires notice to all creditors in motions to compel abandonment of estate property.

The court will deny the motion without prejudice as notice was not provided to all creditors as required by Rule 6007.

## **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

The trustee's Motion to Abandon Property of the Estate has been presented to the court. Given the procedural deficiencies discussed by the court in its ruling,

IT IS ORDERED that the motion is denied without prejudice.

9. [24-22469](#)-A-7     **IN RE: JENNIFER RODRIGUE**  
[SCR-1](#)

CONTINUED MOTION TO EXTEND DEADLINE TO FILE A COMPLAINT  
OBJECTING TO DISCHARGE OF THE DEBTOR AND/OR MOTION TO EXTEND  
TIME

11-13-2024    [[127](#)]

CARL GUSTAFSON/ATTY. FOR DBT.  
SAMUEL RAY/ATTY. FOR MV.

**No Ruling**

10. [24-22469](#)-A-7     **IN RE: JENNIFER RODRIGUE**  
[SCR-2](#)

CONTINUED MOTION TO COMPEL  
12-2-2024    [[134](#)]

CARL GUSTAFSON/ATTY. FOR DBT.  
SAMUEL RAY/ATTY. FOR MV.

**No Ruling**



11. [24-22469](#)-A-7     **IN RE: JENNIFER RODRIGUE**  
[SCR-3](#)

CONTINUED OPPOSITION/OBJECTION TO CHAPTER 7 TRUSTEE'S REPORT  
OF NO DISTRIBUTION  
12-9-2024    [[144](#)]

CARL GUSTAFSON/ATTY. FOR DBT.  
SAMUEL RAY/ATTY. FOR MV.

**No Ruling**