

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA**

Honorable Fredrick E. Clement
Sacramento Federal Courthouse
501 I Street, 7th Floor
Courtroom 28, Department A
Sacramento, California

DAY: MONDAY
DATE: FEBRUARY 1, 2021
CALENDAR: 9:00 A.M. CHAPTER 7 CASES

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. 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.

1. [19-27507](#)-A-7 **IN RE: KENNETH/LIELANIE STEERS**
[DL-2](#)

MOTION TO COMPEL ABANDONMENT
1-11-2021 [[219](#)]

WALTER DAHL/ATTY. FOR DBT.

No Ruling

2. [19-27507](#)-A-7 **IN RE: KENNETH/LIELANIE STEERS**
[HSM-12](#)

MOTION TO SELL AND/OR MOTION FOR COMPENSATION FOR LISA
MCKEE, REALTOR(S)
1-11-2021 [[210](#)]

WALTER DAHL/ATTY. FOR DBT.
AARON AVERY/ATTY. FOR MV.

No Ruling

3. [20-23457](#)-A-7 **IN RE: ERNESTO/MARILYN PATACSIL**

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-21-2020 [[64](#)]

CHARLES HASTINGS/ATTY. FOR DBT.
NATALIA RAMIREZ LEE/ATTY. FOR MV.
JOSEPH CARBARDO VS; DEBTORS DISCHARGED: 11/09/2020

Final Ruling

Motion: Relief from Stay
Disposition: Denied without prejudice
Order: Civil minute order

L.B.R. 9014-1(e)

The court will deny the motion without prejudice on grounds of insufficient service of process. A motion for relief from stay is a contested matter requiring service of the motion in the manner provided by Federal Rule of Bankruptcy Procedure 7004 and L.B.R. 9014-1. Fed. R. Bankr. P. 4001(a)(1), 9014(b). For all contested matters, "A proof of service, in the form of a certificate of service, shall be filed with the Clerk concurrently with the pleadings or documents served, or not more than three (3) days after they are filed," L.B.R. 9014-1(e). Here, no certificate of service has been filed concurrently with this motion for relief from stay.

L.B.R. 9014-1(c)

"In motions filed in the bankruptcy case, a Docket Control Number (designated as DCN) shall be included by all parties immediately below the case number on all pleadings and other documents, including proofs of service, filed in support of or opposition to motions.," L.B.R. 9014-1(c)(1). Here the motion for relief from stay was not filed with a docket control number and therefore violates the Local Rules.

For the foregoing reasons, the court will deny the motion without prejudice.

4. [20-24173](#)-A-7 **IN RE: AZIZULLAH MOHAMMADI**
[MKJ-1](#)

MOTION TO COMPEL ABANDONMENT
1-11-2021 [\[24\]](#)

MICHAEL JOHNSON/ATTY. FOR DBT.
DEBTORS DISCHARGED: 12/14/2020

Tentative Ruling

Motion: Compel Abandonment of Property of the Estate
Notice: LBR 9014-1(f)(2); no written opposition required
Disposition: Granted
Order: Prepared by moving party

Subject: 3605 W. Island Court, Elk Grove, CA
Value: \$410,000.00
1st Trust Deed: \$324,932.40
Adjusted gross equity (50% interest): \$42,533.80
Exemption: \$42,533.80
Non-Exempt Equity: \$0.00

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). 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).

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 real property described above is either burdensome to the estate or of inconsequential value to the estate. An order compelling abandonment is warranted.

5. [20-25394](#)-A-7 **IN RE: MELISSA KYES**
[JHW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
12-21-2020 [\[14\]](#)

JENNIFER WANG/ATTY. FOR MV.
CAB WEST, LLC VS.

Final Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: 2016 Ford Explorer

Cause: \$24,749.90 in default under lease agreement

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.

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).

Here prior to filing bankruptcy, the debtor entered into a lease agreement with the movant for the lease of the subject vehicle described above. The lease agreement matured on April 22, 2019. The debtor filed for bankruptcy on December 1, 2020 and the debtor's

schedules indicate the debtor's intent to reaffirm the debt, ECF No. 1. Since the date of petition, the debtor did not exercise the option to purchase the vehicle nor surrender the vehicle to the movant. The debtor remains in default \$24,749.90.

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.

Cab West, 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 2016 Ford Explorer, 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.