



**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: MONDAY**  
**DATE: FEBRUARY 3, 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. [24-24511](#)-A-7     **IN RE: MARIAH FELICIANO**  
[UST-1](#)

MOTION TO DISMISS CASE PURSUANT TO 11 U.S.C. SECTION 707(B)  
12-27-2024    [\[20\]](#)

DAVID FOYIL/ATTY. FOR DBT.  
JORGE GAITAN/ATTY. FOR MV.

### **Final Ruling**

**Motion:** Dismiss Chapter 7 Case under § 707(b)(1)-(2) [Presumption of Abuse]

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

**Disposition:** Granted

**Order:** Prepared by moving party

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 United States Trustee seeks an order dismissing this case under 11 U.S.C § 707(b).

### **DISMISSAL**

A motion to dismiss a chapter 7 bankruptcy case is decided under the standards in § 707(b), which offers creditors or the United States Trustee two grounds of showing that a particular chapter 7 case is abusive: § 707(b)(2), which creates a presumption of abuse, and § 707(b)(3), which allows abuse to be shown based on the totality of the circumstances or bad faith. Section 707(b)(2) and (3) are applicable only to cases in which the debts are primarily consumer debt. 11 U.S.C. § 101(8) (defining consumer debt). And the means test of § 707(b)(2) is triggered only as to above-median income debtors. See *id.* § 707(b)(7)(A).

The presumption of § 707(b)(2) is triggered when the debtor's current monthly income (CMI) less specified expenses ("disposable income"), § 707(b)(2)(A)(ii)-(iv), multiplied by 60 is greater than or equal to the lesser of the following: (1) 25% of the debtor's non-priority unsecured debt or \$9,075.00, whichever is greater, or (2) \$15,150.00. *Id.* § 707(b)(2)(A)(i)(I)-(II). The presumption may be rebutted by demonstrating special circumstances, including serious medical condition or call to duty in the Armed Forces. *Id.* § 707(b)(2)(B)(I).

This case involves a debtor who has above-median income and whose debts are primarily consumer debts.

After adjusting for any improperly claimed deductions from income, the debtor's monthly disposable income of \$835.98 for purposes of Form 122A-2, multiplied by 60, exceeds the applicable statutory limit under § 707(b)(2)(A)(i). See Chapter 7 Means Test Calculation, ECF No. 1.

Based on the motion's well-pleaded facts, the presumption of abuse arises under § 707(b)(2). No opposition has been filed. There is no indication that special circumstances exist.

Since the matter has been resolved under § 707(b)(2), the court makes no findings under § 707(b)(3). 11 U.S.C. § 707(b)(2)-(3). The motion will be granted, and the case dismissed.

2. [24-24665](#)-A-7     **IN RE: REGINA COFFMAN**  
[NF-1](#)

MOTION TO COMPEL ABANDONMENT  
12-19-2024    [\[14\]](#)

NIKKI FARRIS/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

The debtor seeks an order compelling the Chapter 7 trustee's abandonment of assets.

### **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 3, ECF No. 20. 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. 20.

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.

3. [24-24665](#)-A-7     **IN RE: REGINA COFFMAN**  
[NF-2](#)

MOTION TO REDEEM  
12-19-2024    [\[17\]](#)

NIKKI FARRIS/ATTY. FOR DBT.

#### **Final Ruling**

**Motion:** Authorize Redemption of Tangible Personal Property

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

**Disposition:** Denied without prejudice

**Order:** Civil minute order

The debtor seeks an order approving the redemption of property under 11 U.S.C. § 722.

The court will deny the motion without prejudice on grounds of insufficient service of process on the responding party. A motion to redeem personal property under § 722 is a contested matter requiring service of the motion in the manner provided by Federal Rule of Bankruptcy Procedure 7004. See Fed. R. Bankr. P. 6008

advisory committee's note; Fed. R. Bankr. P. 9014(b). Under Rule 7004, service on corporations must be made "to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process." Fed. R. Bankr. P. 7004(b)(3).

Service of the motion was insufficient. The motion was not mailed to the attention of an officer, managing or general agent, or other agent authorized to accept service.

#### **CIVIL MINUTE ORDER**

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

The debtor's Motion to Redeem 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.

4. [22-21669](#)-A-7     **IN RE: LINDSAY/LISA BRAKEL**  
[DNL-22](#)

MOTION/APPLICATION TO REIMBURSE AND/OR MOTION/APPLICATION  
FOR AUTHORITY TO EXPEND ESTATE FUNDS ANNUALLY  
1-9-2025     [\[595\]](#)

BYRON FARLEY/ATTY. FOR DBT.

#### **Tentative Ruling**

**Matter:** Motion for Reimbursement of Administrative Expenses

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

**Disposition:** Granted

**Order:** Civil minute order

**Allowed Expense:**     \$3,138.09

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).

#### **FACTS**

Among the assets of the bankruptcy estate is the debtors' interest in the real properties located at: (1) 46584 Foothill Road, Haines, Oregon; and (2) 29091 Sparta Lane, Baker City, Oregon (collectively, "Oregon Properties"). There are structures on the Real Properties. The Trustee paid approximately \$3,138.09 out of her personal funds to Country Mutual Insurance Company for an insurance premium. As a result of the trustee's efforts, the Real Properties are insured.



### Relief Requested

The Chapter 7 trustee seeks two species of relief: (1) reimbursement of insurance premium of \$3,138.09 for the Oregon properties, which she has already paid; and (2) authority to use estate funds to pay future insurance premiums for the Oregon properties in an amount not to exceed \$4,000.00.

### **ADMINISTRATIVE EXPENSES**

#### Insurance Premiums Paid

The Chapter 7 trustee is obligated to preserve the assets of the bankruptcy estate. *See Bennett v. Williams*, 892 F2d 822, 823 (9th Cir. 1989).

The trustee requests an order approving expenses for the payment of insurance premiums and authorizing reimbursement for the expense under 11 U.S.C. §330(a)(1)(B).

The Chapter 7 trustee paid insurance premiums, totaling \$3,138.09, for liability and loss of estate property. The court will allow the expense in the amount of \$3,138.09. The court finds that that expenses for which reimbursement is sought were actual and necessary. The court will authorize the reimbursement of \$3,138.09.

#### Future Insurance Premiums

The trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate, except that if the debtor in connection with offering a product or a service discloses to an individual a policy prohibiting the transfer of personally identifiable information about individuals to persons that are not affiliated with the debtor and if such policy is in effect on the date of the commencement of the case, then the trustee may not sell or lease personally identifiable information to any person unless

...

11 U.S.C. § 363(b)(1).

The trustee also seeks an order authorizing the use of estate funds for payment of insurance proceeds without the need for a future application. The court authorizes the use of funds for insurance proceeds on the Oregon properties in an amount not to exceed \$4,000.00, pursuant to 11 U.S.C. § 363(b).

### **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.

IT IS ORDERED that the expense for insurance proceeds is allowed as an administrative expense in the amount of \$3,138.09. Reimbursement to the chapter 7 trustee is authorized in this amount.

IT IS FURTHER ORDERED that the trustee is authorized to pay future insurance premiums for the Oregon properties without further order of the court in an amount not to exceed \$4,000 annually.

5. [24-24974](#)-A-7     **IN RE: JULIE KIOKO**  
[CJK-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
1-10-2025     [\[17\]](#)

GARY FRALEY/ATTY. FOR DBT.  
CHRISTINA KHIL/ATTY. FOR MV.  
CARDINAL FINANCIAL COMPANY VS.

### **Tentative Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 8217 Newbury Park Court, Sacramento, California

**Cause:** Delinquent payments; 5 months, totaling \$21,568.65

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).

Cardinal Financial Company, Limited Partnership, seeks an order for relief from the automatic stay of 11 U.S.C. § 362(a).

### **STAY RELIEF**

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). 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).

The debtor has missed 2 pre-petition payments and 3 post-petition payments totaling \$21,568.65 due on the debt secured by the moving party's lien. This constitutes cause for stay relief.

The court does not address grounds for relief under § 362(d)(2) as relief is warranted 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.

Cardinal Financial Company, Limited Partnership'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 8217 Newbury Park Court, Sacramento, California, 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.