



UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable Jennifer E. Niemann
Hearing Date: Wednesday, February 12, 2025
Department A – Courtroom #11
Fresno, California

Unless otherwise ordered, all matters before the Honorable Jennifer E. Niemann shall be simultaneously: (1) **In Person** at, Courtroom #11 (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 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 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 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:

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.

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

1. [24-12501](#)-A-11 **IN RE: US JET TRANS INC**
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 SUBCHAPTER V VOLUNTARY PETITION
8-27-2024 [[1](#)]

DAVID JOHNSTON/ATTY. FOR DBT.

NO RULING.

2. [24-12709](#)-A-11 **IN RE: KEWEL MUNGER**
[WJH-20](#)

MOTION TO EMPLOY MIRAMAR INTERNATIONAL RIVERWALK AS REALTOR(S)
1-28-2025 [[275](#)]

KEWEL MUNGER/MV
RILEY WALTER/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was filed and served on at least 14 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Debtor in possession Kewel K. Munger dba Munger Investments ("DIP") moves pursuant to 11 U.S.C. §§ 327(a) and 328 for authorization to employ Miramar International Riverwalk ("Broker") to serve as a real estate broker in connection with the sale of real property located at 2606 Eagle Crest Drive, Bakersfield, California 93311 (the "Property"). Doc. #275. On November 15, 2025, DIP was authorized to employ Prestige Properties Team Tipton through Bart Tipton to serve as a real estate broker for the Property. Order, Doc. #109. However, Mr. Tipton has since left Prestige Properties Team Tipton, and the listing agreement with Prestige Properties Team Tipton to act as the real estate broker for the Property expired on January 15, 2025. Ex. A, Doc. #80. Thus, DIP seeks to employ a new broker for the Property and asks the court to approve a new listing agreement. Doc. #275.

Section 1107 of the Bankruptcy Code gives DIP all the rights and powers of a trustee and requires DIP perform all the functions and duties of a trustee, subject to certain exceptions not applicable here. 11 U.S.C. § 1107. Section 327(a) of the Bankruptcy Code permits DIP to employ, with court approval, professionals "that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist" DIP in

carrying out DIP's duties under the Bankruptcy Code. 11 U.S.C. § 327(a). DIP may, with the court's approval, employ a real estate broker on any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, on a fixed or percentage fee basis, or on a contingent fee basis. 11 U.S.C. § 328(a). An application to employ a professional on terms and conditions to be pre-approved by the court must unambiguously request approval under § 328. See Circle K. Corp. v. Houlihan, Lokey, Howard & Zukin, Inc., 279 F.3d 669, 671 (9th Cir. 2002).

DIP has selected Broker for employment because of Broker's experience and knowledge in selling high-end residential properties, which the Property is. Doc. #275. DIP needs to employ Broker because DIP seeks to sell the Property to generate revenue to retire debt and eliminate future expenses. Id. DIP and Broker have a proposed listing agreement, which, *inter alia*, establishes Broker's engagement for an approximately 3-month listing period ending on March 11, 2025, and Broker's fee of up to 3.75% of the sale price at closing. Ex. A, Doc. #278. DIP proposes to pay Broker from proceeds received from the sale of the Property, and any compensation will be subject to approval by the bankruptcy court. Id.; Decl. of Connor Andreesen, Doc. #277.

Broker has verified that it has no connection with DIP, his creditors, attorneys, accountants, any other party in interest, or the United States Trustee. Andreesen Decl., Doc. #277. The court finds that Broker is a disinterested person as defined by 11 U.S.C. § 101(14) and does not hold or represent an interest adverse to the estate. The motion does not include a declaration of DIP testifying as to the need for DIP to employ Broker. Ideally, the motion would include a declaration of DIP testifying as to the need for the estate to employ Broker in addition to the declaration of Broker.

After review of the evidence, the court finds that Broker does not represent or hold an adverse interest to DIP or to the estate with respect to the matter on which Broker is to be employed. DIP requests payment to Broker pursuant to § 328. Doc. #275.

Accordingly, pending opposition being raised at the hearing, the court is inclined to GRANT DIP's motion to employ Broker in connection with the sale of the Property. The order authorizing employment of Broker shall specifically state that employment of Broker has been approved pursuant to 11 U.S.C. § 328.

3. [24-12709](#)-A-11 **IN RE: KEWEL MUNGER**
[WJH-21](#)

MOTION TO EMPLOY MIRAMAR INTERNATIONAL RIVERWALK AS REALTOR(S)
1-28-2025 [\[280\]](#)

KEWEL MUNGER/MV
RILEY WALTER/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was filed and served on at least 14 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will

proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Debtor in possession Kewel K. Munger dba Munger Investments ("DIP") moves pursuant to 11 U.S.C. §§ 327(a) and 328 for authorization to employ Miramar International Riverwalk ("Broker") to serve as a real estate broker in connection with the sale of real property located at 2200 Weybridge Dr., Bakersfield, California 93311 (the "Property"). Doc. #280.

Section 1107 of the Bankruptcy Code gives DIP all the rights and powers of a trustee and requires DIP perform all the functions and duties of a trustee, subject to certain exceptions not applicable here. 11 U.S.C. § 1107. Section 327(a) of the Bankruptcy Code permits DIP to employ, with court approval, professionals "that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist" DIP in carrying out DIP's duties under the Bankruptcy Code. 11 U.S.C. § 327(a). DIP may, with the court's approval, employ a real estate broker on any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, on a fixed or percentage fee basis, or on a contingent fee basis. 11 U.S.C. § 328(a). An application to employ a professional on terms and conditions to be pre-approved by the court must unambiguously request approval under § 328. See Circle K. Corp. v. Houlihan, Lokey, Howard & Zukin, Inc., 279 F.3d 669, 671 (9th Cir. 2002).

DIP has selected Broker for employment because of Broker's experience and knowledge in selling high-end residential properties, which the Property is. Doc. #280. DIP needs to employ Broker because DIP seeks to sell the Property to generate revenue to retire debt and eliminate future expenses. Id. DIP and Broker have a proposed listing agreement, which, *inter alia*, establishes Broker's engagement for an approximately 3-month listing period ending on March 21, 2025, and Broker's fee of up to 4.5% of the sale price at closing. Ex. A, Doc. #283. DIP proposes to pay Broker from proceeds received from the sale of the Property, and any compensation will be subject to approval by the bankruptcy court. Id.; Decl. of Connor Andreesen, Doc. #282.

Broker has verified that it has no connection with DIP, his creditors, attorneys, accountants, any other party in interest, or the United States Trustee. Andreesen Decl., Doc. #282. The court finds that Broker is a disinterested person as defined by 11 U.S.C. § 101(14) and does not hold or represent an interest adverse to the estate. The motion does not include a declaration of DIP testifying as to the need for DIP to employ Broker. Ideally, the motion would include a declaration of DIP testifying as to the need for the estate to employ Broker in addition to the declaration of Broker.

After review of the evidence, the court finds that Broker does not represent or hold an adverse interest to DIP or to the estate with respect to the matter on which Broker is to be employed. DIP requests payment to Broker pursuant to § 328. Doc. #280.

Accordingly, pending opposition being raised at the hearing, the court is inclined to GRANT DIP's motion to employ Broker in connection with the sale of the Property. The order authorizing employment of Broker shall specifically state that employment of Broker has been approved pursuant to 11 U.S.C. § 328.

4. [22-10416](#)-A-11 **IN RE: KR CITRUS, INC., A CALIFORNIA CORPORATION**
[WJH-18](#)

MOTION BY RILEY C. WALTER TO WITHDRAW AS ATTORNEY
1-2-2025 [\[472\]](#)

KR CITRUS, INC., A CALIFORNIA CORPORATION/MV
RILEY WALTER/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Continue to February 26, 2025 at 9:30 a.m.

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

Based on the notice of intent filed on January 22, 2025 (Doc. #476) by the
moving party, the court intends to continue this motion to February 26, 2025 at
9:30 a.m.

5. [22-12016](#)-A-11 **IN RE: FUTURE VALUE CONSTRUCTION, INC.**
[JM-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
1-15-2025 [\[549\]](#)

JOHN DEERE CONSTRUCTION AND FORESTRY COMPANY/MV
D. GARDNER/ATTY. FOR DBT.
DONALD DUNNING/ATTY. FOR MV.
RESPONSIVE PLEADING

NO RULING.

6. [24-12873](#)-A-11 **IN RE: GRIFFIN RESOURCES, LLC**
[WJH-9](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF WAGNER JONES HELSLEY FOR
RILEY C. WALTER, DEBTORS ATTORNEY(S)
1-7-2025 [\[153\]](#)

RILEY WALTER/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

This motion was set for hearing on at least 28 days' notice prior to the
hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The
failure of creditors, the U.S. Trustee, or any other party in interest to file
written opposition at least 14 days prior to the hearing as required by
LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of

the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Wagner Jones Helsley ("Movant"), counsel for the debtor and debtor in possession Griffin Resources, LLC ("DIP"), requests allowance of interim compensation in the amount of \$69,479.00 and reimbursement for expenses in the amount of \$1,102.36 for services rendered from October 2, 2024 through December 15, 2024. Doc. #153. DIP has no objection to the fees and expenses requested by Movant. Decl. of Stephen J. Griffin, Doc. #157. This is Movant's first fee application in this case.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a professional person. 11 U.S.C. § 330(a)(1). According to the order authorizing employment of Movant, Movant may submit monthly applications for interim compensation pursuant to 11 U.S.C. § 331. Order, Doc. #61. In determining the amount of reasonable compensation to be awarded to counsel, the court shall consider the nature, extent, and value of such services, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Movant's services included, without limitation: (1) filing various applications to employ Movant, special counsel and consultant; (2) preparing and filing petition and schedules; (3) preparing for and attending meeting of creditors; (4) preparing and filing emergency adversary proceeding and motion for temporary restraining order and injunction in regards to CalGEM; (5) reviewing and responding the CalGEM's objection to DIP's Subchapter V Chapter 11 case eligibility; (6) preparing and filing DIP's Subchapter V Chapter 11 Plan of Reorganization; (7) corresponding with the United States Trustee to resolve issues; (8) corresponding with various parties by email; (9) preparing and filing fee and employment applications; and (10) providing general case administration. Decl. of Riley C. Walter, Doc. #156; Ex. B, Doc. #155. The court finds the compensation and reimbursement sought by Movant to be reasonable, actual, and necessary.

This motion is GRANTED. The court allows interim compensation in the amount of \$69,479.00 and reimbursement of expenses in the amount of \$1,102.36. Movant is allowed interim fees and costs pursuant to 11 U.S.C. § 331, subject to final review and allowance pursuant to 11 U.S.C. § 330. Such allowed amounts shall be perfected, and may be adjusted, by a final application for allowance of compensation and reimbursement of expenses, which shall be filed prior to case closure. Movant may draw on any retainer held. DIP is authorized to pay the fees allowed by this order from available funds only if the estate is administratively solvent and such payment will be consistent with the priorities of the Bankruptcy Code.

7. [25-10074](#)-A-12 **IN RE: CAPITAL FARMS, INC**
[FW-2](#)

CONTINUED MOTION TO USE CASH COLLATERAL
1-13-2025 [\[6\]](#)

CAPITAL FARMS, INC/MV
PETER FEAR/ATTY. FOR DBT.
RESPONSIVE PLEADING

NO RULING.

8. [23-12784](#)-A-11 **IN RE: KODIAK TRUCKING INC.**

MOTION FOR ADMINISTRATIVE EXPENSES
1-28-2025 [\[392\]](#)

ARTHUR J. GALLAGHER RISK MANAGEMENT SERVICES, LLC/MV
PETER FEAR/ATTY. FOR DBT.
DAVID KUPETZ/ATTY. FOR MV.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

This matter is DENIED WITHOUT PREJUDICE for improper notice.

Notice by mail of this motion was sent on January 27, 2025, with a hearing date set for February 12, 2025. The motion was set for hearing on less than 28 days' notice and is governed by Local Rule of Practice ("LBR") 9014-1(f)(2). Pursuant to LBR 9014-1(f)(2), written opposition was not required, and any opposition may be raised at the hearing. However, the notice of hearing filed with the motion states that opposition must be filed and served no later than fourteen days before the hearing and that failure to file written response may result in the court granting the motion prior to the hearing. Doc. #393. The notice of hearing does not comply with LBR 9014-1(f)(2).

As a further procedural matter, the motion and supporting papers do not comply with LBR 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." LBR 9014-1(c)(1). "Once a Docket Control Number is assigned, all related papers filed by any party, including motions for orders shortening the amount of notice and stipulations resolving that motion, shall include the same number." LBR 9014-1(c)(4). See LBR 9004-2(b)(6). Here, there is no Docket Control Number assigned to the motion.

The court encourages counsel for the moving party to review the local rules to ensure compliance in future matters or those matters may be denied without prejudice for failure to comply with the local rules.

11:00 AM

1. [24-13392](#)-A-7 **IN RE: MELISSA HERNANDEZ**

PRO SE REAFFIRMATION AGREEMENT WITH TOYOTA MOTOR CREDIT CORPORATION
1-23-2025 [[17](#)]

NO RULING.

1. [24-13022](#)-A-7 **IN RE: MARIA VINLUAN**
[UST-1](#)

MOTION TO DISMISS CASE PURSUANT TO 11 U.S.C. SECTION 707(B)
1-15-2025 [\[16\]](#)

TRACY DAVIS/MV
LEONARD WELSH/ATTY. FOR DBT.
DEANNA HAZELTON/ATTY. FOR MV.

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

DISPOSITION: Continued to February 26, 2025 at 1:30 p.m.

NO ORDER REQUIRED.

On January 29, 2025, the court issued an order continuing the hearing on the motion to dismiss case to February 26, 2025 at 1:30 p.m. Doc. #26.

2. [24-12229](#)-A-7 **IN RE: ARMANDO ALEJO AND MARIA PEREZ**
[JRL-1](#)

MOTION TO AVOID LIEN OF THE BEST SERVICE CO., INC.
1-10-2025 [\[33\]](#)

MARIA PEREZ/MV
JERRY LOWE/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movants have done here.

Armando Toro Alejo and Maria Perez (together, "Debtors"), the debtors in this chapter 7 case, move pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014 to avoid the judicial lien of The Best

Service Co., Inc. ("Creditor") on the residential real property commonly referred to as 22340 Annabella Avenue, San Joaquin, California 93660 (the "Property"). Doc. #33; Schedule C & D, Doc. #1.

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

Debtors filed the bankruptcy petition on July 31, 2024. Doc. #1. A judgment was entered against Mr. Armando Alejo in the amount of \$24,508.75 in favor of Creditor on December 9, 2023. Ex. A, Doc. #36. The abstract of judgment was recorded pre-petition in Fresno County on March 6, 2024, as document number 2024-0022217. Ex. A, Doc. #36. The lien attached to Debtors' interest in the Property located in Fresno County. Doc. #33. The Property also is encumbered by a lien in favor of US Bank/Guidance Residential in the amount \$82,862.00. Schedule D, Doc. #1. Debtors claimed an exemption of \$300,000.00 in the Property under California Code of Civil Procedure § 704.730. Schedule C, Doc. #1. Debtors assert a market value for the Property as of the petition date at \$345,000.00. Schedule A/B, Doc. #1.

Applying the statutory formula:

Amount of Creditor's judicial lien		\$24,508.75
Total amount of all other liens on the Property (excluding junior judicial liens)	+	\$85,862.00
Amount of Debtors' claim of exemption in the Property	+	\$300,000.00
		\$410,370.75
Value of Debtors' interest in the Property absent liens	-	\$345,000.00
Amount Creditor's lien impairs Debtor's exemption		\$65,370.75

After application of the arithmetical formula required by § 522(f)(2)(A), the court finds there is insufficient equity to support Creditor's judicial lien. Therefore, the fixing of this judicial lien impairs Debtor's exemption in the Property and its fixing will be avoided.

Debtors have established the four elements necessary to avoid a lien under 11 U.S.C. § 522(f)(1). Accordingly, this motion is GRANTED. The proposed order shall state that Creditor's judicial lien is avoided on the subject Property only and include a copy of the abstract of judgment as an exhibit.

3. [25-10134](#)-A-7 **IN RE: DAVID ROBLES**
[LEH-1](#)

MOTION TO DISMISS DUPLICATE CASE
1-22-2025 [\[7\]](#)

DAVID ROBLES/MV
LAYNE HAYDEN/ATTY. FOR DBT.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

This matter is DENIED WITHOUT PREJUDICE for improper notice.

Notice of this motion was sent by mail on January 22, 2025 and an amended notice of this motion was sent by mail on January 27, 2025, with a hearing date set for February 12, 2025. The motion was set for hearing on less than 28 days' notice and is governed by Local Rule of Practice ("LBR") 9014-1(f)(2). Pursuant to LBR 9014-1(f)(2), written opposition was not required, and any opposition may be raised at the hearing. However, both the notice of hearing and the amended notice of hearing filed with the motion state that opposition must be filed and served no later than fourteen days before the hearing and that failure to file written response may result in the court granting the motion prior to the hearing. Doc. ##8, 16. Neither the notice of hearing nor the amended notice of hearing complies with LBR 9014-1(f)(2).

As a further procedural matter, there is no certificate of service filed with the court showing when the motion was served. Therefore, the motion filed by the debtor does not comply with LBR 9014-1(e)(3), which requires that proof of service of all pleadings be filed with the court not more than three (3) days after the pleading is filed with the court.

The court encourages counsel for the debtor to review the local rules to ensure compliance in future matters or those matters may be denied without prejudice for failure to comply with the local rules.

4. [22-10735](#)-A-7 **IN RE: DOUGLAS/SAMANTHA RICE**
[DMG-4](#)

MOTION FOR COMPENSATION FOR D. MAX GARDNER, TRUSTEES ATTORNEY(S)
1-13-2025 [\[48\]](#)

NEIL SCHWARTZ/ATTY. FOR DBT.
D. GARDNER/ATTY. FOR MV.

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

DISPOSITION: Granted.

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

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The

failure of 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

D. Max Gardner, Attorney at Law, ("Movant"), attorney for chapter 7 trustee Jeffrey M. Vetter ("Trustee"), requests allowance of final compensation and reimbursement for expenses for services rendered from January 17, 2022 through January 12, 2025. Doc. #48. Movant provided legal services valued at \$7,031.50, and requests compensation for that amount. Doc. #48. Movant requests reimbursement for expenses in the amount of \$77.85. Doc. #48. This is Movant's first and final fee application. Trustee consents to the amount requested in Movant's application. Doc. #50.

Section 330(a)(1) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services rendered" and "reimbursement for actual, necessary expenses" to a "professional person." 11 U.S.C. § 330(a)(1). 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, taking into account all relevant factors. 11 U.S.C. § 330(a)(3).

Movant's services included, without limitation: (1) providing counsel to Trustee as to the administration of the chapter 7 case; (2) reviewing and preparing motion to employ special counsel; (3) reviewing and preparing motion to compromise controversy; and (4) preparing and filing employment and fee applications. Decl. of D. Max Gardner, Doc. #51; Ex. A, Doc. #52. The court finds the compensation and reimbursement sought are reasonable, actual, and necessary.

This motion is GRANTED on a final basis. The court allows final compensation in the amount of \$7,031.50 and reimbursement for expenses in the amount of \$77.85. Trustee is authorized to make a combined payment of \$7,109.35, representing compensation and reimbursement, to Movant. Trustee is authorized to pay the amount allowed by this order from available funds only if the estate is administratively solvent and such payment is consistent with the priorities of the Bankruptcy Code.

5. [25-10136](#)-A-7 **IN RE: HARPAL SINGH AND SUKHVIR NAHAL**
[LEH-1](#)

MOTION TO DISMISS DUPLICATE CASE
1-22-2025 [\[7\]](#)

SUKHVIR NAHAL/MV
LAYNE HAYDEN/ATTY. FOR DBT.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

This matter is DENIED WITHOUT PREJUDICE for improper notice.

Both a notice of this motion and an amended notice of hearing were sent by mail on January 22, 2025, with a hearing date set for February 12, 2025. The motion was set for hearing on less than 28 days' notice and is governed by Local Rule of Practice ("LBR") 9014-1(f)(2). Pursuant to LBR 9014-1(f)(2), written opposition was not required, and any opposition may be raised at the hearing. However, both the notice of hearing and the amended notice of hearing filed with the motion state that opposition must be filed and served no later than fourteen days before the hearing and that failure to file written response may result in the court granting the motion prior to the hearing. Doc. ##8, 12. Neither the notice of hearing nor the amended notice of hearing complies with LBR 9014-1(f)(2).

As a further procedural matter, there is no certificate of service filed with the court showing when the motion was served. Therefore, the motion filed by the debtors does not comply with LBR 9014-1(e)(3), which requires that proof of service of all pleadings be filed with the court not more than three (3) days after the pleading is filed with the court.

The court encourages counsel for the debtors to review the local rules to ensure compliance in future matters or those matters may be denied without prejudice for failure to comply with the local rules.

6. [23-12843](#)-A-7 **IN RE: VERONICA MOLINA**

MOTION TO WAIVE FILING FEE
1-16-2025 [\[39\]](#)

VERONICA MOLINA/MV

NO RULING.

MOTION FOR RELIEF FROM AUTOMATIC STAY
1-29-2025 [\[52\]](#)

DFS FINANCE/MV
T. O'TOOLE/ATTY. FOR DBT.
THOMAS PHINNEY/ATTY. FOR MV.
DISCHARGED 01/08/2025

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted in part, denied in part.

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

This motion was filed and served on at least 14 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

As an informative matter, paragraph 3 of the notice of hearing (Doc. #53) states that the hearing will be conducted simultaneously in person at the Sacramento Courtroom #11, via ZoomGov Video, via ZoomGov Telephone and via CourtCall and lists the hearing location in the Fresno courthouse and the Sacramento courthouse. Doc. #53 at 2:12-13. However, Courtroom #11 is in the Fresno courthouse. In the future, matters set for hearing in the Fresno courthouse should be accurately stated in the notice of hearing.

The movant, DFS Finance ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2015 Model Farmall 130A Case IH Tractor (S/N: CT00092M), 2021 Model VC-1606P Laird Free Stall Filler (S/N L-LSEA-B), and 2012 Model LP1400 Kirby Trailer Mount Mixer Wagon (S/N KR004952) (collectively, the "Equipment"). Doc. #52. The debtors do not oppose the motion. Doc. #58.

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 debtors do not have any 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 the debtors are in default on all three contracts. Decl. of Brian Kelley, Doc. #55. The Equipment was voluntarily surrendered to Movant in September 2024. Id. Decl. of Brian Kelley, Doc. #55.

The movant's request for relief pursuant to 11 U.S.C. § 362(d)(2) is denied because, based on Movant's evidence, the debtors have equity in the Equipment.

Movant estimates the value of the Equipment to be \$65,500.00, and the amount owing to Movant for the Equipment totals \$50,298.52. Kelley Decl., Doc. #55.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) to permit 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 the debtors are in default and have surrendered the Equipment to Movant.

8. [24-13368](#)-A-7 **IN RE: KATELYN FRITZ**
[WLG-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
1-28-2025 [\[23\]](#)

GENEVA CAPITAL LLC/MV
ERIC ESCAMILLA/ATTY. FOR DBT.
CHRISTOPHER BEYER/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

This motion was filed and served on at least 14 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and grant the motion. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

As a procedural matter, the motion and supporting papers do not comply with LBR 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." LBR 9014-1(c)(1). "Once a Docket Control Number is assigned, all related papers filed by any party, including motions for orders shortening the amount of notice and stipulations resolving that motion, shall include the same number." LBR 9014-1(c)(4). See LBR 9004-2(b)(6). Here, the moving party used the same docket control number, WLG-1, as was used for a prior motion for relief from stay that the court denied without prejudice. See Doc. ##18-22, 29-30. Because the prior motion for relief from stay with the DCN of WLG-1 was fully resolved by a court order, this motion for relief from stay should have a different DCN.

The court encourages counsel to review the local rules to ensure compliance in future matters or those matters may be denied without prejudice for failure to comply with the local rules.

The movant, Geneva Capital LLC ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a M&R Diamondback 10/8 2008 Press, S/N 02875653D (the "Equipment"). Doc. #23.

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 any 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 the debtor has failed to make any post-petition payments. Decl. of Amy Stanley, Doc. #25. Pre-petition, the debtor leased the Equipment from Movant. Id. Also pre-petition, on August 27, 2024, Movant obtained a judgment in the District Court, Seventh Judicial District of Douglas County, Minnesota, against the debtor for damages under the lease with Movant and for possession of the Equipment ("Judgment"). Id. Movant believes the debtor is still in possession of the Equipment. Id. In addition, Movant does not have proof of insurance with respect to the Equipment and believes the Equipment may be uninsured. Id. According to the debtor's Statement of Intention, the Equipment will be surrendered. Doc. #1.

The court also finds that the debtor does not have any equity in the Equipment and the Equipment is not necessary to an effective reorganization because the debtor is in chapter 7. The debtor's possession of the Equipment stems from a lease agreement with Movant that was terminated pre-petition pursuant to the Judgment. Stanley Decl., Doc. #25.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) to permit Movant to gain immediate possession of the Equipment pursuant to applicable law. No other relief is awarded.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the debtor has failed to make any post-petition payments to Movant in accordance with the lease agreement and/or Judgment and there is a lack of insurance.

9. [20-10271](#)-A-7 **IN RE: JEFFREY KERBO**

MOTION TO AVOID LIEN OF BANK OF AMERICA
12-15-2024 [\[64\]](#)

JEFFREY KERBO/MV
NICHOLAS WAJDA/ATTY. FOR DBT.

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

DISPOSITION: Overruled as moot.

ORDER: The court will issue an order.

This motion to avoid lien is OVERRULED AS MOOT. The debtor filed a new motion to avoid lien on January 30, 2025 (WLG-2, Doc. #77) and set that motion for hearing on March 19, 2025 at 1:30 p.m. WLG-2, Doc. ##77-81.

MOTION TO AVOID LIEN OF FINANCIAL CREDIT NETWORK INC.
1-7-2025 [\[12\]](#)

MARIA PROVENCIO/MV
NEIL SCHWARTZ/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of 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 Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Maria Provencio ("Debtor"), the debtor in this chapter 7 case, moves pursuant to 11 U.S.C. § 522(f) and Federal Rules of Bankruptcy Procedure 4003(d) and 9014 to avoid the judicial lien of Financial Credit Network, Inc. ("Creditor") on the residential real property commonly referred to as 2711 Kentucky St., Bakersfield, California 93306 (the "Property"). Doc. #12; Schedule C & D, Doc. #1.

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

Debtor filed the bankruptcy petition on October 16, 2024. Doc. #1. A judgment was entered against Debtor in the amount of \$63,778.92 in favor of Creditor on November 26, 2008. Ex. A, Doc. #16. The abstract of judgment was recorded pre-petition in Kern County on May 8, 2012, as document number 0212062152. Ex. A, Doc. #16. The lien attached to Debtor's interest in the Property located in Kern County. Doc. #12. The Property also is encumbered by a lien in favor of PPH Mortgage Service in the amount \$64,897.00. Schedule D, Doc. #1. Debtor claimed an exemption of \$699,421.00 in the Property under California Code of Civil Procedure § 704.730. Schedule C, Doc. #1. Debtor asserts a market value for the Property as of the petition date at \$191,268.00. Schedule A/B, Doc. #1.

Applying the statutory formula:

Amount of Creditor's judicial lien		\$63,778.92
Total amount of all other liens on the Property (excluding junior judicial liens)	+	\$64,897.00
Amount of Debtor's claim of exemption in the Property	+	\$699,421.00
		\$828,096.92
Value of Debtor's interest in the Property absent liens	-	\$191,268.00
Amount Creditor's lien impairs Debtor's exemption		\$636,828.92

After application of the arithmetical formula required by § 522(f)(2)(A), the court finds there is insufficient equity to support Creditor's judicial lien. Therefore, the fixing of this judicial lien impairs Debtor's exemption in the Property and its fixing will be avoided.

Debtor has established the four elements necessary to avoid a lien under 11 U.S.C. § 522(f)(1). Accordingly, this motion is GRANTED. The proposed order shall state that Creditor's judicial lien is avoided on the subject Property only and include a copy of the abstract of judgment as an exhibit.