



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

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

DAY: TUESDAY
DATE: FEBRUARY 18, 2025
CALENDAR: 10:30 A.M. CHAPTER 7 CASES

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

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.

1. [19-26714](#)-A-7 **IN RE: STEVEN/SHARON HARPER**
[GMR-2](#)

MOTION FOR COMPENSATION FOR GABRIELSON & COMPANY,
ACCOUNTANT(S)
1-17-2025 [\[85\]](#)

NIKKI FARRIS/ATTY. FOR DBT.
DEBTORS DISCHARGED: 02/24/20

Final Ruling

Application: Allowance of Final Compensation and Expense
Reimbursement

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

Disposition: Approved

Order: Civil minute order

Compensation: \$1,359.50

Reimbursement of expenses: \$51.84

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 application was required not less than 14 days before the hearing on the application. 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).

COMPENSATION AND EXPENSES

In this Chapter 7 case, Gabrielson & Company, accountants for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$1,359.50 and reimbursement of expenses in the amount of \$51.84.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis.

SERVICE

As of November 1, 2022, the court adopted Local Bankruptcy Rules 2002-3, 9036-1 and 7005-1 (requiring attorneys and trustees to use a standardized Certificate of Service, EDC 7-005).

The form certificate of service is intended to allow parties to memorialize service efficiently and accurately, and to aid the court in ensuring sufficient service is achieved in each proceeding.

In this case service of the motion was proper, however the memorialization of the service is incorrect.

The motion for compensation is governed by Fed. R. Bankr. P. 2002. Accordingly, service under Rule 7004 is incorrect. The movant should have checked Box 6(B)(1)(a), indicating that all creditors and parties interest appearing on the matrix were served with the motion by first class mail, under Fed. R. Bankr. P. 7005 as *incorporated by Fed. R. Civ. 5.*

Instead, the movant has check Box 6(A)(1) indicating that all creditors and parties in interest were served under Rule 7004 by first class mail.

Because all interested parties received proper notice of the motion by first class mail the court will grant the motion. In the future the movant should properly memorialize service as indicated in this ruling.

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.

Gabrielson & Company's application for allowance of final compensation and reimbursement of expenses 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 application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$1,359.50 and reimbursement of expenses in the amount of \$51.84.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

2. [24-25516](#)-A-7 **IN RE: JUSTIN JOHN SILVESTRE**
[RDW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
1-24-2025 [\[13\]](#)

ELIZABETH CARLSEN/ATTY. FOR DBT.
REILLY WILKINSON/ATTY. FOR MV.
KEYPOINT CREDIT UNION VS.

Tentative Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: 2016 Lexus RC

Cause: Delinquent payments; 3 pre-petition and 2 post-petition
totaling \$2,125.75.

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).

Keypoint Credit Union 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).

"[U]nder section 362(d)(1), the stay must be terminated for 'cause.' Lack of adequate protection is but one example of "cause" for relief from stay." *In re Ellis*, 60 B.R. 432, 435 (B.A.P. 9th Cir. 1985). The panel in the *Ellis* case rejected the argument that under

§ 362(d)(1) "the stay can only be terminated if [the movant-creditors] show a lack of adequate protection." *Id.*

The debtor has missed three pre-petition and two post-petition payments 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.

Keystone Credit Union'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 Lexus RC, 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.

3. [24-24818](#)-A-7 **IN RE: LENORA GILKES**
[PGM-1](#)

MOTION TO REDEEM
1-13-2025 [\[18\]](#)

PETER MACALUSO/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

Subject: 2008 Chevrolet Silverado

Redemption price: \$4,000.00

The debtor seeks an order authorizing redemption of a 2008 Chevrolet Silverado. The debtor proposes to redeem the vehicle from respondent OneMain Financial Group, LLC, for the sum of \$4,000.

The motion will be denied without prejudice as the debtor has failed to prove a prima facie case for the relief requested.

REDEMPTION

Pursuant to § 722, an individual debtor in Chapter 7 may redeem tangible personal property from a lien on such property by paying the lienholder the amount of the allowed secured claim. 11 U.S.C. § 722. The tangible personal property must be "intended primarily for personal, family, or household use." *Id.*

Additionally, the property must have been exempted under § 522 or abandoned under § 554. *Id.* And the lien on the property must "secur[e] a "dischargeable consumer debt." *Id.*

The redemption price is the amount of the allowed secured claim, which amount is "determined based on the replacement value of such property as of the date of the filing of the petition without deduction for costs of sale or marketing." *Id.* § 506(a)(2).

Property Not Properly Claimed Exempt

The debtor requests authority to redeem tangible personal property, described in the motion, from the lien on such property. See Fed. R. Bankr. P. 6008. The property has not been properly claimed exempt (or abandoned) as required. On December 18, 2024, the debtor filed an amended Schedule C, ECF No. 16. The debtor has failed to claim any amount exempt in the Chevrolet Silverado which is the subject of this motion. *Id.*

Vehicle Must be For Debtor's Personal Use

To redeem the property, the debtor must prove that the vehicle is primarily for her personal use. 11 U.S.C. § 727. The declaration in support of the motion is insufficient in this case as it states:

I have personal knowledge of the vehicle because I drive this vehicle regularly since its purchase and this refinance.

Declaration of Lenora Louise Gilkes, 1:23-25, ECF No. 20.

CIVIL MINUTE ORDER

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

The debtor's motion to redeem personal property has been presented to the court. Having considered the motion together with papers filed in support and opposition, and having heard the arguments of counsel, if any,

IT IS ORDERED that the motion is denied without prejudice.

4. [21-21537](#)-A-7 **IN RE: NELYA FEYGIN**
[DNL-5](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF DESMOND, NOLAN,
LIVAICH & CUNNINGHAM FOR J. RUSSELL CUNNINGHAM, TRUSTEES
ATTORNEY(S)
1-21-2025 [\[83\]](#)

MARK SHMORGON/ATTY. FOR DBT.
DEBTORS DISCHARGED: 08/02/21

Final Ruling

Application: Allowance of First and Final Compensation and Expense Reimbursement

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

Required Service: Fed. R. Civ. P. 5, Fed. R. Bankr. P. 7005

Disposition: Approved

Order: Civil minute order

Compensation Allowed: \$17,961.99

Reimbursement of Expenses: \$38.01

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 application was required not less than 14 days before the hearing on the application. 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).

COMPENSATION AND EXPENSES

In this Chapter 7 case, Desmond, Nolan, Livaich & Cunningham, attorneys for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the "capped" amount of \$18,000 and has allocated the compensation and expenses as required by the Clerk of the Court. The motion itemizes costs and requests reimbursement of costs in the amount of \$38.01. The motion seeks approval of \$17,961.99 in compensation.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis.

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.

Desmond, Nolan, Livaich & Cunningham's application for allowance of final compensation and reimbursement of expenses 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 application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$17,961.99 and reimbursement of expenses in the amount of \$38.01.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

5. [22-21649](#)-A-7 **IN RE: MARY KATTENHORN**
[WF-8](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH ETHAN J. BIRNBERG
1-28-2025 [\[176\]](#)

RICHARD HALL/ATTY. FOR DBT.
JASON ELDRED/ATTY. FOR MV.
DEBTOR DISCHARGED: 10/11/2022;

Final Ruling

Motion: Approve Compromise or Settlement of Controversy
Notice: LBR 9014-1(f)(2); no written opposition required
Disposition: Denied without prejudice
Order: Civil minute order

Parties to Compromise: Chapter 7 Trustee Nickki B. Farris; Trustee
Ethan J. Birnberg

Dispute Compromised: Agreement to equally distribute proceeds from
sale of vacant land (APN 052-020-023 & 052-020-050)

Summary of Material Terms: Allocation of \$46,192 from the trust
account of Strasser Law Corporation

Chapter 7 trustee, Nikki B. Farris, seeks an order approving the
settlement agreement reached between the Chapter 7 trustee and
Trustee Ethan J. Birnberg.

The hearing on the motion will be denied without prejudice as
follows.

JUDICIAL NOTICE

The court takes judicial notice of the voluntary petition,
schedules, and statements filed in this case, as well as judicial
notice of their contents. Fed. R. Evid. 201. The contents of the
schedules and statements are non-hearsay admissions of the debtors
to the extent they are offered against the debtors in this matter.
Fed. R. Evid. 801(d)(2)(A), (D).

The court also takes judicial notice of the petition, schedules, and
statements filed in *In re Phillip Kattenhorn*, Case No. 24-24573,
E.D. Cal. Bankr. (2023).

BACKGROUND

Prior to the filing of the instant case, Debtor petitioned for the
dissolution of marriage from her husband Mr. Kattenhorn. On
September 14, 2021, the state court in the dissolution proceeding
ordered the sale of vacant lots owned in equal interest by the
debtor and Mr. Kattenhorn. The sale proceeds, \$92,385.22, were
deposited into the trust account of the Strasser Law Corporation. On
June 30, 2022, Debtor filed a voluntary petition for relief under
Chapter 7. On October 11, 2024, Mr. Kattenhorn filed a voluntary
petition for relief under Chapter 7. See Case No. 24-24573; ECF No.

1. Trustee Ethan J. Birnberg was appointed as trustee in Mr. Kattenhorn's case.

Trustees Farris and Birnberg agreed to divide the \$92,385.22 in sale proceeds evenly between each bankruptcy estate. The settlement agreement has been filed concurrently with this motion as Exhibit A, ECF No. 179.

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.*

Character of the Property/Proceeds is Unclear

The court notes that the debtor's schedules in the instant case do not identify the sale proceeds as community property. Amended Schedules A/B, ECF No. 27. Additionally, the court has reviewed the schedules filed in Phillip Kattenhorn's case, and notes that the funds are not identified as community property in that case either. *In re Phillip Kattenhorn*, Case No. 24-24573, E.D. Cal. Bankr., (2024), ECF No. 1.

A review of the docket in the instant case shows that the debtor attempted a motion to abandon the estate's interest in real property. The motion was opposed by Chapter 7 trustee, Nikki Farris. In her opposition Trustee Farris states:

Trustee has been informed that Debtor may be entitled to reduce her ex-husband's interest in either the Property or the *Trust Fund Proceeds due to her ex-husband's alleged breaches of fiduciary duties*.

Motion, 2:3-5, ECF No. 71 (emphasis added).

The evidence in support of the premise supporting the proposed 50/50 division of proceeds between the two bankruptcy estates consists of Trustee Farris' declaration which contends that the proceeds held in trust are community property. However, there is no admissible evidence in support of this premise. The evidence in Trustee Farris' declaration implies that a

different division may be appropriate given a possible breach of fiduciary duty owed to Mary Kattenhorn by Phillip Kattenhorn. The motion fails to address this issue.

Accordingly, the movant has failed to state a prima facie case for approval of the settlement agreement between the parties, as required by *In re A & C Props.*, 784 F.2d 1377, 1381 (9th Cir. 1986).

Accordingly, the motion will be denied without prejudice.

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.

Trustee Nikki B. Farris' motion to approve a compromise has been presented to the court. Having considered the record,

IT IS ORDERED that the motion is denied without prejudice.

6. [24-25449](#)-A-7 **IN RE: PHILLIP COURTNEY**
[SKI-1](#)

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

SHERYL ITH/ATTY. FOR MV.
TD BANK, N.A. VS.

Tentative Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: 2019 Chevrolet Malibu

Cause: Delinquent payments; 2 months, totaling \$708.60

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).

TD Bank, N.A., 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).

"[U]nder section 362(d)(1), the stay must be terminated for 'cause.' Lack of adequate protection is but one example of "cause" for relief from stay." *In re Ellis*, 60 B.R. 432, 435 (B.A.P. 9th Cir. 1985). The panel in the *Ellis* case rejected the argument that under § 362(d)(1) "the stay can only be terminated if [the movant-creditors] show a lack of adequate protection." *Id.*

The debtor has missed 1 pre-petition and 1 post-petition payments 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.

TD Bank N.A.'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 2019 Chevrolet Malibu, 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.

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

CONTINUED 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.

No Ruling

Chapter 7 trustee, Ethan Birnberg is ordered to appear at the hearing on this motion on February 28, 2025, at 9:00 a.m. The appearance may be made in person, via Zoom or CourtCall.

8. [24-24467](#)-A-7 **IN RE: STEPHEN SHAIDELL**
[JJS-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
2-3-2025 [[39](#)]

PATRICIA WILSON/ATTY. FOR DBT.
JEFFERY SWANSON/ATTY. FOR MV.
CORNERSTONE COMMUNITY BANK VS.

***[Since posting its original rulings, the court has changed its intended ruling on this matter].**

No Ruling

9. [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.
RESPONSIVE PLEADING

No Ruling

10. [23-20793](#)-A-7 **IN RE: DOUGLAS RODRIGUEZ**
[DNL-5](#)

MOTION FOR COMPENSATION FOR NICHOLAS BRYMAN, SPECIAL
COUNSEL(S)

1-16-2025 [\[83\]](#)

PETER MACALUSO/ATTY. FOR DBT.

DEBTOR DISCHARGED: 08/15/23

Final Ruling

Application: Allowance of Final Compensation and Expense
Reimbursement

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

Disposition: Approved

Order: Civil minute order

Compensation: \$52,000.00

Reimbursement of Expenses: \$10,663.70

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 application was required not less than 14 days before the hearing on the application. 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).

COMPENSATION AND EXPENSES

In this Chapter 7 case, Vaziri Law Group, APC, special counsel for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The compensation and expenses requested are based on a contingent fee approved pursuant to § 328(a) of the Bankruptcy Code. The applicant requests that the court allow compensation in the amount of \$52,000.00 and reimbursement of expenses in the amount of \$10,663.70.

Debtor filed a Response on February 4, 2025, and stated his support for the motion.

CONTINGENT COMPENSATION

The applicant represented the bankruptcy estate in resolving the personal injury cause of action between the debtor and Defendants Celine Faulkner and Cory Michael Bishof. The motion to approve the settlement (DNL-6) is being heard concurrently with this motion.

The court approved employment of the applicant and the contingent fee compensation requested in this motion on October 17, 2023. See Order Approving Employment, ECF No. 63.

"Section 328(a) permits a professional to have the terms and conditions of its employment pre-approved by the bankruptcy court, such that the bankruptcy court may alter the agreed-upon compensation only 'if such terms and conditions prove to have been improvident in light of developments not capable of being anticipated at the time of the fixing of such terms and conditions.' In the absence of preapproval under § 328, fees are reviewed at the conclusion of the bankruptcy proceeding under a reasonableness standard pursuant to 11 U.S.C. § 330(a)(1)." *In re Circle K Corp.*, 279 F.3d 669, 671 (9th Cir. 2002) (footnote omitted) (quoting 11 U.S.C. § 328(a)). "Under section 328, where the bankruptcy court has previously approved the terms for compensation of a professional, when the professional ultimately applies for payment, the court cannot alter those terms unless it finds the original terms to have been improvident in light of developments not capable of being anticipated at the time of the fixing of such terms and conditions." *Pitrat v. Reimers (In re Reimers)*, 972 F.2d 1127, 1128 (9th Cir. 1992) (internal quotation marks omitted).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis.

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.

Viziri Law Group, APC's application for allowance of final compensation and reimbursement of expenses 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 application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$52,000.00 and reimbursement of expenses in the amount of \$10,663.70.

IT IS FURTHER ORDERED that the trustee is authorized without further order of this court to pay from the estate the aggregate amount allowed by this order in accordance with the Bankruptcy Code and the distribution priorities of § 726.

11. [23-20793](#)-A-7 **IN RE: DOUGLAS RODRIGUEZ**
[DNL-6](#)

MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH CELINE FAULKNER AND CORY MICHAEL BISCHOF
1-16-2025 [\[89\]](#)

PETER MACALUSO/ATTY. FOR DBT.
J. CUNNINGHAM/ATTY. FOR MV.
DEBTOR DISCHARGED: 08/15/23

Final Ruling

Motion: Approve Compromise of Controversy

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

Disposition: Granted

Order: Civil minute order

Parties: Chapter 7 Trustee; Defendant Celine Faulkner (Mid Century Insurance Company and/or Farmers Insurance Exchange); Defendant Cory Michael Bischof (State Farm Insurance Company).

Terms: Settlement of Personal Injury Cause of Action for \$130,000.

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).

J. Michael Hopper, Chapter 7 Trustee, seeks approval of the settlement agreement between the bankruptcy estate and the Defendants Celine Faulkner (Mid Century Insurance Company and/or Farmers Insurance Exchange) and Cory Michael Bischof (State Farm Insurance Company). The bankruptcy estate will receive \$130,000 in settlement of the personal injury claim. The estate's share of the settlement agreement will pay all creditors in full.

Debtor filed a Response on February 4, 2025, and stated his support for the motion.

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 concurrently with the motion as Exhibit A, ECF No. 92. 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.

J. Michael Hopper'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. 92.

12. [24-25338](#)-A-7 **IN RE: WIMPY'S CALIFORNIA DELTA RESORT,**
LLC
[MB-2](#)

MOTION FOR ORDER AUTHORIZING TRUSTEE TO OPERATE BUSINESSES
ON INTERIM BASIS UNTIL AUGUST 31, 2025 NUNC PRO TUNC TO
FEBRUARY 5, 2025 O.S.T.
2-12-2025 [\[73\]](#)

PETER MACALUSO/ATTY. FOR DBT.
HAGOP BEDOYAN/ATTY. FOR MV.

No Ruling