UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Sacramento, California

February 24, 2016 at 10:00 a.m.

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

1. Matters resolved without oral argument:

Unless otherwise stated, the court will prepare a civil minute order on each matter listed. If the moving party wants a more specific order, it should submit a proposed amended order to the court. In the event a party wishes to submit such an Order it needs to be titled 'Amended Civil Minute Order.'

If the moving party has received a response or is aware of any reason, such as a settlement, that a response may not have been filed, the moving party must contact Nancy Williams, the Courtroom Deputy, at (916) 930-4580 at least one hour prior to the scheduled hearing.

2. The court will not continue any short cause evidentiary hearings scheduled below.

3. If a matter is denied or overruled without prejudice, the moving party may file a new motion or objection to claim with a new docket control number. The moving party may not simply re-notice the original motion.

4. If no disposition is set forth below, the matter will be heard as scheduled.

1.	15-25906-D-7 JLK-1	ESTHER BAEZ	OBJECTION TO CLAIM OF MIDLAND CREDIT MANAGEMENT, INC., CLAIM NUMBER 1 1-11-16 [35]

Final ruling:

This is the debtor's objection to the claim of Midland Credit Management, Inc. (the "Claimant"), Claim No. 1 on the court's Claims Register. On February 8, 2016, the Claimant withdrew the claim. As a result, the court will overrule the objection by minute order as moot. No appearance is necessary.

2. 15-25906-D-7 ESTHER BAEZ — OBJECTION TO CLAIM OF TOLER
JLK-2 — BAIL BONDS, CLAIM NUMBER 3
1-11-16 [39]

Tentative ruling:

This is the debtor's objection to the claim of Toler Bail Bonds, Claim No. 3 on the court's Claims Register. The objection will be overruled because the debtor has failed to demonstrate that she has standing to object to a claim filed in this case and because service was inadequate.

"Standing is a jurisdictional requirement which is open to review at all stages of litigation. . . . The burden to establish standing remains with the party claiming that standing exists." Max Recovery v. Than (In re Than), 215 B.R. 430, 434 (9th Cir. BAP 1997). In general, "'debtors only have standing to object to claims where there is 'a sufficient possibility' of a surplus to give them a pecuniary interest.'" Law v. Golden (In re Eisen), 2007 Bankr. LEXIS 4864, at *21, quoting Heath v. Am. Express Travel Related Servs. Co. (In re Heath), 331 B.R. 424, 429 (9th Cir. BAP 2005); see also In re Sandwich Islands Distilling Corp., 2009 Bankr. LEXIS 3692, at *7-8 (Bankr. D. Haw. 2009) [chapter 7 debtor has standing to object to claim only if it retains a pecuniary interest in the estate]; Dellamarggio v. B-Line, LLC (In re Barker), 306 B.R. 339, 346 (Bankr. E.D. Cal. 2004) [chapter 7 debtors typically lack standing to object to claims because they have no economic interest in whether the claim is allowed or disallowed].

The debtor asserts she has standing to object to this claim because her claim of exemption of funds she received in settlement of a motor vehicle accident claim, $65,000, has been disallowed except to the extent of $15,000. In the debtor's view: "With $25,674.76 in total claims as of the bar date for this case, then, this is a surplus case. Since debtor has the right to recover surplus funds, she has standing to object to claims that would be barred by non-bankruptcy statute of limitation laws. Any funds not paid to creditors in this case would go to debtor." Debtor's Obj., filed Jan. 11, 2016, at 2:5-8.

This position assumes the case will be a surplus case, whereas the trustee has not recovered the non-exempt portion of the settlement proceeds or any part of them, and there is nothing in the record to suggest there are any other assets available for liquidation and distribution to creditors. The trustee has commenced an adversary proceeding against the debtor's granddaughter, to whom the debtor transferred the funds before this bankruptcy case was filed. The defendant has filed an answer; the matter is set for a continued status conference on March 17, 2016. The court has no information concerning the likelihood of the trustee recovering funds sufficient to pay the claims and return a surplus to the debtor. Thus, the debtor has failed to show there is a sufficient possibility of a surplus to entitle her to object to claims at this stage. Nothing in this ruling prevents the debtor from filing an objection to the claim if a real possibility of a surplus becomes apparent and, so far as the court is aware, nothing prevents the trustee from filing an objection at this time.[1]

The court notes also that the proof of service evidences service of the objection only and not the notice of hearing or exhibit. In addition, the proof of service describes the document served as "Debtor's Objection to Allowance of Claim of Toler Bail Bonds" whereas the actual title is "Debtor's Opposition to Allowance of Claim of Toler Bail Bonds."

For the reasons stated, the court intends to overrule the objection. The court will hear the matter.

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1 The court has considered the possibility of continuing the hearing to permit the trustee to join in the objection; however, the rules providing for joinder of parties (Fed. R. Civ. P. 19 and 20, incorporated in adversary proceedings by Fed. R. Bankr. P. 7019 and 7020) do not apply in contested matters. See Fed. R. Bankr. P. 9014(c).

3. 15-25906-D-7 ESTHER BAEZ — OBJECTION TO CLAIM OF LVNV FUNDING, LLC, CLAIM NUMBER 4
JLK-3 — 1-11-16 [43]

Tentative ruling:

This is the debtor's objection to the claim of LVNV Funding, LLC (the "Claimant"), Claim No. 4 on the court's Claims Register. The objection will be overruled because the debtor has failed to demonstrate that she has standing to object to a claim filed in this case and because service was inadequate.

"Standing is a jurisdictional requirement which is open to review at all stages of litigation. . . . The burden to establish standing remains with the party claiming that standing exists." Max Recovery v. Than (In re Than), 215 B.R. 430, 434 (9th Cir. BAP 1997). In general, "'debtors only have standing to object to claims where there is 'a sufficient possibility' of a surplus to give them a pecuniary interest.'" Law v. Golden (In re Eisen), 2007 Bankr. LEXIS 4864, at *21, quoting Heath v. Am. Express Travel Related Servs. Co. (In re Heath), 331 B.R. 424, 429 (9th Cir. BAP 2005); see also In re Sandwich Islands Distilling Corp., 2009 Bankr. LEXIS 3692, at *7-8 (Bankr. D. Haw. 2009) [chapter 7 debtor has standing to object to claim only if it retains a pecuniary interest in the estate]; Dellamarggio v. B-Line, LLC (In re Barker), 306 B.R. 339, 346 (Bankr. E.D. Cal. 2004) [chapter 7 debtors typically lack standing to object to claims because they have no economic interest in whether the claim is allowed or disallowed].

The debtor asserts she has standing to object to this claim because her claim of exemption of funds she received in settlement of a motor vehicle accident claim, $65,000, has been disallowed except to the extent of $15,000. In the debtor's view: "With $25,674.76 in total claims as of the bar date for this case, then, this is a surplus case. Since debtor has the right to recover surplus funds, she has standing to object to claims that would be barred by non-bankruptcy statute of limitation laws. Any funds not paid to creditors in this case would go to debtor." Debtor's Obj., filed Jan. 11, 2016, at 2:5-9.

This position assumes the case will be a surplus case, whereas the trustee has not recovered the non-exempt portion of the settlement proceeds or any part of them, and there is nothing in the record to suggest there are any other assets available for liquidation and distribution to creditors. The trustee has commenced an adversary proceeding against the debtor's granddaughter, to whom the debtor transferred the funds before this bankruptcy case was filed. The defendant has filed an answer; the matter is set for a continued status conference on March 17, 2016. The court has no information concerning the likelihood of the trustee recovering funds sufficient to pay the claims and return a surplus to the debtor. Thus, the debtor has failed to show there is a sufficient possibility of a surplus

to entitle her to object to claims at this stage. Nothing in this ruling prevents the debtor from filing an objection to the claim if a real possibility of a surplus becomes apparent and, so far as the court is aware, nothing prevents the trustee from filing an objection at this time.[1]

The court notes also that the proof of service evidences service of the objection only and not the notice of hearing or exhibit. In addition, the proof of service describes the document served as "Debtor's Objection to Allowance of Claim of LVNV Funding, LLC" whereas the actual title is "Debtor's Opposition to Allowance of Claim of LVNV Funding, LLC." Finally, the debtor served the Claimant at the address on its proof of claim but did not also serve the Claimant at the different address on the debtor's Schedule F, as required by LBR 3007-1(c).

For the reasons stated, the court intends to overrule the objection. The court will hear the matter.

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1 The court has considered the possibility of continuing the hearing to permit the trustee to join in the objection; however, the rules providing for joinder of parties (Fed. R. Civ. P. 19 and 20, incorporated in adversary proceedings by Fed. R. Bankr. P. 7019 and 7020) do not apply in contested matters. See Fed. R. Bankr. P. 9014(c).

4.	15-29809-D-7 NICHOLAS/SAMANTHA BAKER APN-1 SANTANDER CONSUMER USA, INC. VS.	MOTION FOR RELIEF FROM AUTOMATIC STAY 1-15-16 [16]

Final ruling:

This matter is resolved without oral argument. This is Santander Consumer USA, Inc.'s motion for relief from automatic stay. The court's records indicate that no timely opposition has been filed. The motion along with the supporting pleadings demonstrate that there is no equity in the subject property and debtor is not making post petition payments. The court finds there is cause for relief from stay, including lack of adequate protection of the moving party's interest. As the debtors are not making post-petition payments and the creditor's collateral is a depreciating asset, the court will also waive FRBP 4001(a)(3). Accordingly, the court will grant relief from stay and waive FRBP 4001(a)(3) by minute order. There will be no further relief afforded. No appearance is necessary.

5.	16-20021-D-7 LAWRENCE HARTZOG KAZ-1 U.S. BANK TRUST, N.A. VS.	MOTION FOR RELIEF FROM AUTOMATIC STAY 1-15-16 [17]

Final ruling:

This matter is resolved without oral argument. This is U.S. Bank Trust, N.A.'s motion for relief from automatic stay. The court records indicate that no timely opposition has been filed. The motion along with the supporting pleadings demonstrate that there is no equity in the subject property and the property is not necessary for an effective reorganization. Accordingly, the court finds there is cause for granting relief from stay. The court will grant relief from stay by minute order. There will be no further relief afforded. No appearance is necessary.

6. 15-29031-D-7 OKSANA KOPCHUK MOTION TO DISMISS CASE
1-27-16 [29]

7. 15-29649-D-7 ADAM/GLORIA LOPEZ MOTION TO COMPEL ABANDONMENT
NF-1 1-26-16 [13]

Final ruling:

The matter is resolved without oral argument. There is no timely opposition to the debtors' motion to compel the trustee to abandon property and the trustee has filed a no asset report. Accordingly, the motion will be granted and the property that is the subject of the motion will be deemed abandoned by minute order. No appearance is necessary.

8. 15-29649-D-7 ADAM/GLORIA LOPEZ MOTION TO REDEEM
NF-2 1-26-16 [18]

9. 15-29453-D-11 SILVERHAWK INC. MOTION TO DISMISS CASE
NEU-2 1-27-16 [29]

Tentative ruling:

This is the motion of creditor Richard Gonzales to dismiss this chapter 11 case. The debtor has filed opposition and the moving party has filed a reply. The grounds for the motion are straight-forward: (1) that the debtor had failed to timely file the required monthly operating report for December 2015, due January 14, 2016; and (2) that the debtor has been using cash collateral without seeking or obtaining authority to do so.[1] The debtor's response to these charges is troubling, at best. The debtor has now filed the monthly operating report, albeit almost a month late. The debtor claims it failed to file the report on time because its counsel was preoccupied with caring for her elderly and ill father during his stays in the hospital and rehabilitation facilities in November, December, and January, and because counsel has a demanding caseload as a sole practitioner. The debtor's counsel did not mention these issues at the initial status conference held January 13, 2016, the day before the date the monthly operating report was due.

The court has several problems with this explanation. First, it is unusual for a chapter 11 debtor to have its counsel prepare its monthly operating reports, and the debtor has provided no explanation as to why the report could not have been prepared on time by the debtor's principal, by a bookkeeper, or by the CPA who, according to the debtor's Statement of Financial Affairs, continues to maintain the debtor's books and records "to [the] present." In fact, according to the monthly operating report, the debtor paid that CPA $2,000 on December 9, 2015 and $2,182 on December 25, 2015 for "bookkeeping & other accounting services rendered for 2015." Leaving aside for the moment the debtor's payments to this professional without prior court approval of his employment and of his fees, the fact that the debtor continues to use the CPA for bookkeeping services belies the explanation that the delay in filing the monthly operating report was due to counsel's circumstances.

Second, the court is uncomfortable with the notion that the debtor's attorney agreed to represent the debtor in this case when the balance of her caseload was demanding and after her father had been hospitalized for the first time. It is also of significant concern that the debtor's counsel, as an insider of the debtor, is not eligible to be employed by the estate under § 327, et al., and that, although she was cautioned of that circumstance at the initial status conference, on January 13, 2016, apparently no steps have been taken to obtain replacement counsel. The debtor brushes this issue aside in its opposition to the motion, stating only that the motion is premature "pending appointment of new Counsel." Debtor's Opposition, filed Feb. 10, 2016 ("Opp."), at 5:4. The debtor has now been a debtor-in-possession in this case for two and one-half months with representation solely by an attorney who is clearly not disinterested.[2] Counsel testifies her father was discharged from the hospital to a rehabilitation facility on December 30, 2015, yet in the several weeks since then, the debtor has apparently taken no steps toward retaining replacement counsel.[3]

The court is also very concerned about the debtor's use of cash collateral – the collateral of the moving party and of the State Water Resources Control Board, both by virtue of UCC-1 financing statements, for over two and one-half months without the consent of the creditors and without court approval. The debtor responds as follows: "Gonzalez has not stated any facts to support his conclusory allegation that the unauthorized use of cash collateral is substantially harmful to one or more creditors." Opp. at 2:15-17. This reflects a serious lack of appreciation and understanding of the bedrock chapter 11 principle that a debtor-in-possession may not use cash collateral without either the consent of the creditor having an interest in it or the approval of the court. § 363(c)(2), made applicable to debtors-in-possession by § 1107(a).

Although § 1112(b)(4)(D) defines cause for dismissal or conversion as including the unauthorized use of cash collateral that is substantially harmful to one or more creditors, the burden should not fall primarily on creditors to demonstrate that the unauthorized use of cash collateral has caused substantial harm to creditors. After all, it is debtors, not creditors, who have access to the financial information necessary to determine the effects of such use. And here, the first monthly operating report was filed substantially after its due date. Thus, the debtor used cash collateral without authority for the first two months of the case without any accounting of such use to the affected creditors.

What the court can now determine from the monthly operating report is the following. According to the report, in December alone, the debtor used $95,818 in cash receipts without court approval or creditor consent. The bank statements filed

with the report show that the debtor continues to use the same three pre-petition bank accounts listed on its Schedule A/B; that is, it has not opened debtor-in-possession accounts, as required by LBR 2015-2(a). There were three significant withdrawals that are completely unexplained: there were withdrawals from account number -0185 described as a "bank debit" on December 10, for $17,030; an "outgoing wire" on December 16, for $16,000; and an "outgoing wire" on December 28, for $16,000. These monies were not deposited into either of the other two accounts and there is no indication in the attachments to the report of where these monies went. The total is close to the amount listed on the operating report for gas expenses, $50,113, but it cannot be determined from the bank statements that the "bank debit" and "outgoing wires" went to Chevron. In addition, a total of 55 checks were paid out of the three accounts in December, but there are copies of only seven of them. The payees of the remaining 48 checks cannot be determined.

There is a serious unexplained discrepancy between the figures on the monthly operating report and those disclosed by the bank statements. The fifth page of the report, DN 40, lists the end-of-month balance in account number -6978 as $126,074; it also adds that figure to the totals listed for the other two accounts to arrive at "Total Funds on Hand for all Accounts" of $132,723. The ending balances for the other two accounts are the same as the balances shown on the bank statements; however, according to the bank statement for account number -6978, the ending balance was $126.74, not $126,074. Thus, the ending balances for the three accounts actually totaled $6,775, not $132,723. Further, whereas the fifth page of the operating report shows a total of $132,723, and whereas the bank statements show a total of $6,775, the first and third pages of the monthly operating report (DNs 36, 38) show a total end-of-month cash balance of $45,696, and the fourth page – the balance sheet, DN 39, shows total cash, including bank accounts, of $28,269. These discrepancies are also unexplained. Given all of these circumstances, the court has no hesitation in concluding that one or more secured creditors; namely, the moving party and the Water Board are being substantially harmed by the unauthorized use of their cash collateral.

Apparently in an attempt to justify its failure to seek approval to use cash collateral, the debtor devotes the majority of its opposition to a relatively detailed analysis of its position that the moving party is not actually a creditor, and thus, has no standing to bring this motion. The debtor's premise is that the moving party sold the business to the debtor ten years ago at a grossly inflated price and has been paid "far in excess of what the business was ever worth." Opp. at 4:24. The debtor concludes: "Consequently, thus no further monies are owed to him, as he is no longer a creditor and does not have standing to bring this Motion. Ricardo Gonzales is racing to the finish line so that this case can be dismissed before a Motion to avoid his lien is determined." Id. at 4:24-27.

This response raises additional concerns. First, the entire discussion is hearsay and unauthenticated, and therefore, the court will not consider the factual allegations in it. Second, the debtor supports the argument with a copy of a cross-complaint the debtor has filed in the moving party's pre-petition state court action, which itself raises more issues. The cross-complaint indicates that the debtor's counsel and her spouse are defendants and cross-complainants in the action: these circumstances merely add to the reasons counsel is ineligible to represent the debtor here. In addition, as a cross-complainant, the debtor seeks compensatory and punitive damages based on nine different causes of action, yet where required on its Schedule A/B to list "Causes of action against third parties (whether or not a lawsuit has been filed)," "Other contingent and unliquidated claims or causes of action of every nature, including counterclaims of the debtor and rights to set off

claims," and "Other property of any kind not already listed," the debtor listed nothing. Nor are the causes of action listed on the debtor's balance sheet filed with its December operating report.

Returning to the debtor's argument that the moving party is not a creditor and has no standing, under the Code's very broad definition of "creditor," the moving party is unequivocally a creditor. See § 101(5) and (10). That a claim is disputed does not mean the claimant is not a "creditor" as defined by the Bankruptcy Code for the purpose of standing to move for dismissal or conversion of the case. De la Salle v. U.S. Bank, N.A. (In re De la Salle), 461 B.R. 593, 604-05 (9th Cir. BAP 2011) (chapter 13); In re Johnston, 149 B.R. 158, 161 (9th Cir. BAP 1992) (chapter 11). In addition, the debtor misunderstands the nature of its remedy for determining the moving party's secured status. Compare § 522(f) and Fed. R. Bankr. P. 4003(d) with Fed. R. Bankr. P. 7001(2).

The court has had concerns about this case from its first review of the schedules. At the initial status conference, the court noted the absence of creditors of the type the court would expect to see in a case involving a gas station and convenience store. The debtor has scheduled no franchise agreement with Chevron, only a fuel supply agreement, despite the fact that the debtor's dba indicates it does business under the Chevron name. There are no trade creditors scheduled; no leases of, for example, an ice machine or other equipment; no merchandise license agreements for food, beverage, beer and wine, or tobacco products; and no contract with the California Lottery, although the debtor does a significant business in lottery tickets and Scratchers. The court emphasized its significant concerns at the status conference that the debtor had failed to list Chevron on the master address list and that the debtor was using cash collateral without authority. Neither problem has been remedied. The facts discussed in this ruling serve only to aggravate the court's doubts about the case.

For the reasons set forth above, the court finds that ample cause exists to dismiss or convert this case or to appoint a chapter 11 trustee. The court will entertain the views of creditors and the United States Trustee at the hearing. The court will hear the matter.

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1 The debtor stated in its status report, filed December 30, 2015, that it "will soon file a motion for approval of the use of cash collateral." Debtor's Status Report, filed Dec. 30, 2015, at 2:12. To date, it has not done so.

2 The debtor's counsel is the spouse of the debtor's president, sole officer and director, and sole shareholder.

3 The debtor has offered no explanation of its principal's failure to seek other counsel. It appears from the December operating report that the debtor has at least one employee other than its principal (it paid $3,884 in wages to employees other than its "Owner(s)/Officer(s)"), so presumably, the debtor's owner and sole officer would have had time to make at least preliminary inquiries.

10. 14-31159-D-7 ELISA SOTO
APN-2
BMW BANK OF NORTH AMERICA
VS.

MOTION FOR RELIEF FROM AUTOMATIC STAY
1-11-16 [107]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion is supported by the record. The debtor received her discharge on February 10, 2016 and, as a result, the stay is no longer in effect as to the debtor (see 11 U.S.C. § 362(c)(3)). Accordingly, the motion will be denied as to the debtor as moot. The court will grant relief from stay as to the trustee and the estate, and will waive FRBP 4001(a)(3). This relief will be granted by minute order. There will be no further relief afforded. No appearance is necessary.

11. 15-29062-D-7 DAVID/THERESA MAINO
PPR-1

MOTION TO APPROVE LOAN MODIFICATION
1-12-16 [15]

Final ruling:

This is the motion of Bank of America (the "Bank") for an order permitting the debtors to enter into a loan modification as to the loan secured by a lien on the debtors' residence. It appears from the motion that the Bank is seeking a comfort order.[1] The motion adds that if the court finds the motion to be "unnecessary to effectuate the loan modification agreement," the parties would like an order "stating that permission is not needed by the Court to enter into the instant loan modification agreement." Mot. at 2:2-5.

The deadline for objections to the debtors' discharge was February 16, 2016. None has been filed; thus, the discharge will be entered shortly. The moving party has provided the court with no authority for any of the relief requested. Specifically, there is no authority for the court to issue an order determining the loan modification agreement to be "valid notwithstanding the automatic stay" or determining prospectively that the Bank will not be liable for violations of the stay. Nor is there authority for the court to issue an order deeming the motion unnecessary to "effectuate" the loan modification agreement. In short, there is no authority for the relief requested, and as the deadline to object to discharge has passed with no objections filed, the motion appears unnecessary. Accordingly, the motion will be denied by minute order. No appearance is necessary.

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1 The motion states, "WHEREAS, the loan modification agreement will be valid notwithstanding the automatic stay provisions of 11 U.S.C. § 362(a), and the Creditor will not be liable for violations of the stay for communications in furtherance of that purpose, execution of the applicable documents or recording of the documents during the Debtors' case." Mot. at 2:21-24.

12. 14-27267-D-7 SARAD/USHA CHAND
HSM-11

MOTION TO SELL FREE AND CLEAR OF LIENS AND/OR MOTION TO PAY
1-26-16 [221]

13. 13-23371-D-11 JUAN/MARGARITA RAMIREZ
BHT-1
BSI FINANCIAL SERVICES VS.

MOTION FOR RELIEF FROM AUTOMATIC STAY
1-13-16 [278]

Final ruling:

This matter is resolved without oral argument. This is BSI Financial Services' motion for relief from automatic stay. The court records indicate that no timely opposition has been filed. The motion along with the supporting pleadings demonstrate that there is no equity in the subject property and the property is not necessary for an effective reorganization. Accordingly, the court finds there is cause for granting relief from stay. The court will grant relief from stay by minute order. There will be no further relief afforded. No appearance is necessary.

14. 15-28774-D-7 OTASHE GOLDEN
TMG-1

OBJECTION TO TRUSTEE'S REPORT OF NO DISTRIBUTION FILED BY DAMERON HOSPITAL ASSOCIATION
1-15-16 [19]

15. 15-21876-D-7 LILLIAN PENTON
BHS-1

MOTION TO EMPLOY BARRY H. SPITZER AS ATTORNEY AND/OR MOTION FOR COMPENSATION FOR BARRY H. SPITZER, TRUSTEE'S ATTORNEY
1-25-16 [56]

16. 15-21876-D-7 LILLIAN PENTON — MOTION TO SELL
BHS-2 — 1-25-16 [62]

17. 15-27284-D-11 CONSOLIDATED RELIANCE, INC. — MOTION FOR RELIEF FROM AUTOMATIC STAY
APN-3 — 1-26-16 [257]
THE LEGACY GROUP, INC. VS.

18. 15-28896-D-7 JENNIFER/JAIME HANNA — MOTION TO COMPROMISE CONTROVERSY/APPROVE SETTLEMENT AGREEMENT WITH DEBTORS, JENNIFER ASLYNN HANNA, JAMIE OWEN HANNA AND DEBTORS' COUNSEL SETH HANSON
DMW-1 — 1-25-16 [14]

Final ruling:

The matter is resolved without oral argument. There is no timely opposition to the trustee's motion to approve compromise of controversy, and the trustee has demonstrated the compromise is in the best interest of the creditors and the estate. Specifically, the motion demonstrates that when the compromise is put up against the factors enumerated in In re Woodson, 839 F.2d 610 (9th Cir. 1988), the likelihood of success on the merits, the complexity of the litigation, the difficulty in collectability, and the paramount interests of creditors, the compromise should be approved. Accordingly, the motion is granted and the compromise approved. The moving party is to submit an appropriate order. No appearance is necessary.

19. 15-28717-D-7 GILBERT/LISA ESCALANTE
CJO-1
FEDERAL NATIONAL MORTGAGE ASSOCIATION VS.

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY
12-24-15 [25]

Tentative ruling:

This is Wells Fargo Bank's (the "Movant") motion for relief from stay. The Movant asserts, and it is not disputed, that it acquired ownership to the real property that is the subject of this motion at a pre-petition foreclosure sale. Movant further asserts that as a result of this pre-petition foreclosure sale the debtor has only have a possessory interest in the property. Accordingly, cause exists for relief from stay under Bankruptcy Code § 362(d)(1). The debtor opposes the motion and asserts that as a result of the Movant's promise to postpone the scheduled foreclosure sale that the pre-petition trustee sale was unlawful, and as such, the subsequent unlawful detainer action void. Pursuant to Code § 362(g) the moving party has the burden of proof to demonstrate that there is no equity in the property, and the debtor has the burden of proof on all other issues.

The debtor's assertion that the pre-petition foreclosure sale was unlawful is not a meritorious defense to the motion. Stay litigation is limited in scope to issues of adequate protection, equity in the property, and whether the property is necessary for an effective reorganization. The validity of the claim, or contract underlying the claim, is not litigated during a relief from stay hearing. In re Johnson, 759 F.2d 738 (9th Cir. 1985). Stay relief hearings do not involve a full adjudication on the merits of the claims, defenses, or counter-claims, but simply a determination as to whether creditor has a colorable claim. In re Robins, 310 B.R. 626 (9th Cir. BAP 2004).

As Movant has established it foreclosed on the property pre-petition and the debtor has only a possessory interest in the property, relief from stay will be granted under Code § 362(d)(1) by minute order.

The court will hear the matter.

20. 15-29031-D-7 OKSANA KOPCHUK
DNL-1

MOTION TO EMPLOY J. LUKE HENDRIX AS ATTORNEY
2-3-16 [37]

21.	15-29971-D-7 SNM-3	ELIZABETH SULLIVAN	CONTINUED MOTION TO COMPEL ABANDONMENT 1-4-16 [15]
22.	15-27284-D-11 APN-2 THE LEGACY GROUP, INC. VS.	CONSOLIDATED RELIANCE, INC.	MOTION FOR RELIEF FROM AUTOMATIC STAY 2-8-16 [278]
23.	15-27284-D-11 JKB-4 TRUST COMPANY OF AMERICA VS.	CONSOLIDATED RELIANCE, INC.	MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR ADEQUATE PROTECTION 2-5-16 [264]
24.	16-20086-D-7	MARLON QUINTANILLA	MOTION FOR WAIVER OF THE CHAPTER 7 FILING FEE OR OTHER FEE 2-1-16 [32]

25.	15-29890-D-11 FWP-7	GRAIL SEMICONDUCTOR	MOTION TO SELL FREE AND CLEAR OF LIENS 2-3-16 [87]