UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable Jennifer E. Niemann
Hearing Date: Wednesday, February 26, 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.

9:30 AM

1. 24-12873-A-11 **IN RE: GRIFFIN RESOURCES, LLC**
WJH-10

MOTION FOR COMPENSATION FOR IMPOSSIBLE SERVICES GROUP, INC., CONSULTANT(S)
1-29-2025 [178]

IMPOSSIBLE SERVICES GROUP, INC./MV
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.

Impossible Services Group, Inc. dba Chambers Business Solutions ("Movant"), consultant for Griffin Resources, LLC ("Debtor"), requests allowance of interim compensation and reimbursement for expenses for services rendered from October 3, 2024 through December 31, 2024. Doc. #178. Movant provided consulting services valued at $28,160.00, and requests compensation for that amount. Id. Movant incurred expenses in the amount of $351.08 and requests reimbursement for that amount. Id. Debtor has reviewed the application and has no objection. Doc. #180. This is Movant's first fee application.

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) preparing budgets and projections regarding borrowings and Debtor's plan; (2) evaluating sales and asset dispositions; (3) consulting on issues relating to regulatory compliance; (4) preparing and filing monthly operating reports; and (5) assisting Debtor in communications with counsel, the Subchapter V trustee, and creditors. Ex. A, Doc. #181; Decl. of Aaron G. Chambers, Doc. #182. 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 $28,160.00 and reimbursement for expenses in the amount of $351.08, for a total combined payment of $28,511.08. 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. Debtor 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.

2. 25-10074-A-12 **IN RE: CAPITAL FARMS, INC**
CAE-1

STATUS CONFERENCE RE: CHAPTER 12 VOLUNTARY PETITION
1-10-2025 [1]

PETER FEAR/ATTY. FOR DBT.

NO RULING.

3. 23-12784-A-11 **IN RE: KODIAK TRUCKING INC.**
RHB-1

AMENDED MOTION FOR ADMINISTRATIVE EXPENSES
1-29-2025 [402]

SCHLUMBERGER TECHNOLOGY CORPORATION/MV
PETER FEAR/ATTY. FOR DBT.
ROBERT BRUMFIELD/ATTY. FOR MV.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Denied.

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

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 debtor timely filed written opposition on February 12, 2025. Doc. ##414-415. 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). Therefore, the defaults of the non-responding parties in interest are entered.

Schlumberger Technology Corporation ("Movant"), a creditor and former post-petition lessor to Kodiak Trucking, Inc. ("Debtor"), moves the court ("Motion") for an order authorizing Movant's chapter 11 administrative expense claim in the aggregate amount of $118,792.04 pursuant to 11 U.S.C. §§ 365(d)(3) and 503(b) for unpaid post-petition rent from December 15, 2023 through February 23, 2024 ($48,796.72), remediation costs for storing, handling and disposing of hazardous material on the rented premises ($168,520.32), and

replacement costs for an allegedly stolen power washer ($7,500.00). Doc. #402. While the Motion includes several exhibits (Doc. #390), there are no declarations filed by Movant in support of the Motion to authenticate the exhibits or provide evidence to establish the factual allegations set forth in the Motion. See LBR 9014-1(d)(3)(D).

Claims for post-petition rent arising under 11 U.S.C. § 365(d)(3) are entitled to administrative priority. Temecula v. LPM Corp. (In re LPM Corp,), 300 F.3d 1134, 1138 (9th Cir. 2002).

11 U.S.C. § 503(b)(1) provides that, after notice and a hearing, administrative expenses shall be allowed for "the actual, necessary costs and expenses of preserving the estate[.]" To be deemed an administrative expense under section 503(b), the claim must have arisen from a transaction with the debtor in possession (or other person qualified as a trustee under 11 U.S.C. § 322) and directly and substantially benefitted the estate. Boeing N. Am., Inc. v. Ybarra (In re Ybarra), 424 F.3d 1018, 1025 (9th Cir. 2005) (citing Abercrombie v. Hayden Corp. (In re Abercrombie), 139 F.3d 755, 756 (9th Cir. 1998)).

"The burden of proving an administrative expense claim is on the claimant." Microsoft Corp. v. DAK Indus. (In re DAK Indus.), 66 F.3d 1091, 1094 (9th Cir. 1995). "The bankruptcy court has broad discretion whether to grant such a claim[,]" and only "the actual, necessary costs and expenses of preserving the estate" shall be approved. DAK Indus., 66 F.3d at 1094.

Pre- and post-petition, Debtor was a sublessee of Movant for a commercial property located at 34967 Imperial Street, Bakersfield, California 93307 ("Premises"). Doc. #402. Debtor opposes the Motion on four grounds. Doc. #414.

First, Movant has failed to provide any evidence in support of the Motion, so the Motion should be denied in full.

Second, Debtor vacated the Premises on December 31, 2023, so, assuming the Motion can be granted without any supporting evidence, Movant should have an administrative claim for post-petition rent of not more than $10,739.61, which is the amount of rent for the post-petition period from December 16, 2023 through December 31, 2023. Decl. of Marco Arambula, Doc. #415.

Third, after Debtor vacated the Premises, Debtor fully and extensively cleaned the Premises, including soil remediation and pressure washing both the inside and outside of the Premises. Arambula Decl, Doc. #415. On or about January 23, 2024, Debtor notified Movant that Debtor had completed cleaning the Premises and Movant could retake the Premises. Id. Movant elected to retake the Premises effective February 23, 2024. Id. On February 29, 2024, Debtor's principal met with Movant's property manager at the Premises to return the keys to the Premises. At that meeting, Movant's property manager confirmed to Debtor's principal that the condition of the Premises was satisfactory and in the same condition as when Debtor started the sublease. Id. Accordingly, Debtor does not believe that any of the remediation costs asserted by Movant in the Motion are Debtor's responsibility.

Fourth, Debtor did not steal a power washer as alleged by Movant. Arambula Decl., Doc. #415.

Because Movant failed to provide the necessary evidence to support the factual allegations asserted in the Motion, Movant has failed to carry its burden of proof. Accordingly, the Motion is DENIED.

1. 24-13615-A-7 **IN RE: EVELYN GREATHOUSE**

PRO SE REAFFIRMATION AGREEMENT WITH SANTANDER CONSUMER USA INC.
2-5-2025 [21]

NO RULING.

2. 24-13144-A-7 **IN RE: ROSALINDA REYES**

REAFFIRMATION AGREEMENT WITH AMERICAN HONDA FINANCE CORPORATION
1-23-2025 [17]

TIMOTHY SPRINGER/ATTY. FOR DBT.

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

DISPOSITION: Denied.

ORDER: The court will issue an order.

The debtor's counsel will inform the debtor that no appearance is necessary.

The debtor was represented by counsel when the debtor entered into the reaffirmation agreement. Pursuant to 11 U.S.C. § 524(c)(3), "'if the debtor is represented by counsel, the agreement *must* be accompanied by an affidavit of the debtor's attorney' attesting to the referenced items before the agreement will have legal effect." In re Minardi, 399 B.R. 841, 846 (Bankr. N.D. Okla. 2009). In this case, the debtor's attorney affirmatively represented that the agreement established a presumption of undue hardship and, in his opinion, the debtor is not able to make the required payments. Therefore, the agreement does not meet the requirements of 11 U.S.C. § 524(c) and is not enforceable.

1:30 PM

1. 24-13402-A-7 **IN RE: DOUGLAS HANING**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
2-4-2025 [50]

WILEY RAMEY/ATTY. FOR DBT.
$34.00 FILING FEE PAID 2/6/25

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

DISPOSITION: The order to show cause will be vacated.

ORDER: The court will issue an order.

The record shows that the filing fee due for the amended schedules has been paid.

2. 25-10107-A-7 **IN RE: ALFRED SULLIVAN AND DIANA JIMENEZ**
KTS-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
2-6-2025 [22]

ASPECT ACQUISITION LLC/MV
CALVIN CLEMENTS/ATTY. FOR MV.
DISMISSED 2/14/25

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

DISPOSITION: Denied as moot.

ORDER: The court will issue an order.

An order dismissing the bankruptcy case was entered on February 14, 2025. Doc. #30. Therefore, the motion for relief from the automatic stay will be DENIED AS MOOT.

3. 24-13421-A-7 **IN RE: SHANDA/MICHAEL STINSON**
JDS-4

MOTION FOR RELIEF FROM AUTOMATIC STAY
1-22-2025 [15]

ROADRUNNER FINANCIAL/MV
BENNY BARCO/ATTY. FOR DBT.
JACQUELINE SERRAO/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 and failure to comply with the court's Local Rules of Practice ("LBR").

The certificate of service filed in connection with the amended notice of hearing (Doc. #24) does not include the required attachment listing the names and addresses of the parties being served. Thus, the court cannot confirm that proper notice of the hearing was provided. In addition, the certificate of service was filed as a fillable version of the court's Official Certificate of Service form (EDC Form 7-005, Rev. 10/2022) instead of being printed prior to filing with the court. The version that was filed with the court can be altered because it is still the fillable version. In the future, the declarant should print the completed certificate of service form prior to filing and not file the fillable version.

As a procedural matter, LBR 9004-1(c) requires affidavits filed with the court to be signed by the person offering the evidentiary material contained in the document. Here, the declaration of Christopher Young is not signed by the declarant. Decl. of Christoper Young, Doc. #18. Rather, the declaration is notarized by a notary public in the place where the declarant's signature should be. While a declaration is not required to be notarized, the notary public signature alone without the signature of the party offering the evidentiary material does not satisfy the requirements of LBR 9004-1(c).

As a further procedural matter, the notice of hearing (Doc. #23) filed in connection with this motion does not comply with LBR 9014-1(d)(3)(B)(i), which requires the notice include the names and addresses of persons who must be served with any opposition.

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. The rules can be accessed on the court's website at https://www.caeb.uscourts.gov/LocalRulesAndGeneralOrders.

4. 24-13022-A-7 **IN RE: MARIA VINLUAN**
UST-1

CONTINUED 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.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted pursuant to 11 U.S.C. § 707(b)(2).

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

Tracy Hope Davis, the United States Trustee ("UST"), filed, served and set this motion for hearing with at least 28 days' notice prior to the hearing date as required by Local Rule of Practice ("LBR") 9014-1(f)(1). Doc. ##16-22. On January 29, 2025, the court entered an order permitting the debtor to file additional papers no later than February 12, 2025, and permitting UST to file

additional reply papers no later than February 19, 2025. Doc. #26. The court continued the hearing on the motion to dismiss to February 26, 2025 at 1:30 p.m. Doc. #26. Both the debtor and UST timely filed additional papers, and this matter will proceed as scheduled.

UST moves the court to dismiss the chapter 7 bankruptcy case of Maria Joy Vinluan ("Debtor") for abuse under 11 U.S.C. § 707(b)(1), (2), and (3)(B). UST's Mem., Doc. #20. The court "may dismiss a case filed by an individual debtor under this chapter whose debts are primarily consumer debts . . . if it finds that the granting of relief would be an abuse of the provisions of" Chapter 7. 11 U.S.C. § 707(b)(1). The court may find abuse if the presumption of abuse arises pursuant to § 707(b)(2) or, under § 707(b)(3)(B), if the totality of the circumstances of the debtor's financial situation demonstrates abuse. 11 U.S.C. § 707(b)(3); In re Katz, 451 B.R. 512, 515 (Bankr. C.D. Cal. 2011). UST demonstrates, and Debtor agrees, that the presumption of abuse under § 707(b)(2) applies to the facts of Debtor's case. Doc. #20; Debtor's Resp., Doc. #27.

The provisions of § 707(b)(2) create a formulaic test to determine whether Debtor's chapter 7 bankruptcy case is presumed abusive. Whether the presumption of abuse arises and the chapter 7 case should be dismissed depends on the means test calculation. Reed v. Anderson (In re Reed), 422 B.R. 214, 221 (C.D. Cal. 2009). The means test is a mechanical computation that demonstrates either the presumption of abuse or not, and the court has minimal discretion. See Katz, 451 B.R. at 519. Section 707(b)(2)(A) establishes a presumption of abuse "if the debtor's current monthly income ["CMI"] reduced by the amounts determined under clauses (ii), (iii), and (iv), and multiplied by 60 is not less than the lesser of [] 25% of the debtor's nonpriority unsecured claims in the case, or $8,175, whichever is greater, or [] $13,650." 11 U.S.C. § 707(b)(2)(A)(i). Based on this calculation, if a debtor's monthly disposable income exceeds $227.50 per month (or $13,650 over a period of 60 months), "a presumption of abuse arises and the debtor's case can be dismissed under § 707(b)(2)." Reed, 422 B.R. at 221.

Debtor's chapter 7 bankruptcy case was filed on October 18, 2024. Doc. #1. Effective April 1, 2022, and applicable to chapter 7 cases commenced on or after such date until April 1, 2025, 11 U.S.C. § 707(b)(2) establishes a presumption of abuse if Debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv), and multiplied by 60 is not less than the lesser of [] 25% of the debtor's nonpriority unsecured claims in the case, or $8,175, whichever is greater, or [] $15,150." 11 U.S.C. § 707(b)(2)(A)(i). Therefore, based on this calculation, if Debtor's monthly disposable income exceeds $252.50 per month (or $15,150 over a period of 60 months), a presumption of abuse arises, and Debtor's case can be dismissed under § 707(b)(2).

Section 101(10A)(A), as applied to this case, defines current monthly income ("CMI") as "the average monthly income from all sources that the debtor receives . . . without regard to whether such income is taxable income, derived during the 6-month period ending on [] the last day of the calendar month immediately preceding the date of commencement of the case . . . ." 11 U.S.C. § 101(10A)(A)(i).

Debtor's CMI listed on Form 122A-1 filed on October 18, 2024 is $22,124.28. Doc. #1. Debtor's allowed deductions listed on Form 122A-2 also filed on October 18, 2024 is $17,168.75. Id. Accordingly, Debtor's monthly disposable income after the statutory deductions is $4,955.53, which totals $297,331.80 when multiplied by 60. Id. Because Debtor's monthly disposable income, multiplied by 60 months, is greater than $15,150.00, the presumption of abuse under § 707(b)(2) arises.

The presumption of abuse under § 707(b)(2) "may only be rebutted by demonstrating special circumstances, such as a serious medical condition or a call or order to active duty in the Armed Forces, to the extent such special circumstances that [sic] justify additional expenses or adjustments of current monthly income for which there is no reasonable alternative." 11 U.S.C. § 707(b)(2)(B)(i). The debtor must demonstrate special circumstances by "itemiz[ing] each additional expense or adjustment of income and [providing] documentation for such expense or adjustment to income [and] a detailed explanation of the special circumstances that make such expenses or adjustment to income necessary and reasonable." 11 U.S.C. § 707(b)(2)(B)(ii). The debtor must also "attest under oath to the accuracy of any information provided to demonstrate that additional expenses or adjustments to income are required." 11 U.S.C. § 707(b)(2)(B)(iii).

Part 4 of Form 122A-2, the Chapter 7 Means Test Calculation form, provides a space for the debtor to indicate whether special circumstances justify additional expenses or adjustments to CMI for which there is no reasonable alternative. Debtor lists an expected decrease in her gross monthly income from $22,124.88 to $11,300.00 due to health concerns. Doc. #1. In support of the special circumstance, Debtor provided a letter to UST from a licensed clinical social worker recommending Debtor reduce her work hours for a minimum of six months. UST's Mem., Doc. #20. However, UST asserts the letter provides insufficient information, and the recommendation appears to be a voluntary/temporary reduction in work hours left to Debtor's discretion. Id. UST also has recalculated Debtor's net monthly income based on documents Debtor provided to UST. Decl. of Cecilia Jimenez, Doc. #19. Based on that analysis, UST calculates that Debtor has a net monthly income after expenses of at least $1,342.93. Id.

In Debtor's opposition, Debtor acknowledges that UST articulates what UST believes should be paid to creditors in a chapter 13 case but ignores the fact that it is uncertain what amount of income actually would be available to pay creditors over the next three to five years. Doc. #27; Decl. of Maria Joy Vinluan, Doc. #29. Debtor is a single mother of two young children and the primary provider for Debtor's 72-year-old mother and is their sole provider who needs her income to pay living expenses more than large institutional creditors will need to be paid. Doc. #27; Vinluan Decl., Doc. #29. Further, regarding the special circumstances, Debtor argues that Debtor is under the care of a mental health professional who has advised Debtor to reduce her work hours due to the stress in Debtor's life, and Debtor has begun implementing her therapist's advice. Doc. #27; Vinluan Decl., Doc. #29; Decl. of Janelle Goh, Doc. #27. Debtor's schedules reflect Debtor's net income is expected to be only $325.30 per month instead of $1,342.93 per month as UST calculates. Doc. #27; Vinluan Decl., Doc. #29. Finally, Debtor asserts that her mental and physical health has reduced her income from a gross average of $22,124.28 for the six months preceding the filing of Debtor's bankruptcy petition to a net monthly income of $13,928.70 in January 2025. Id.; Schedules I & J, Doc. #1.

UST has reviewed the submitted declaration of the licensed clinical social worker indicating Debtor should reduce their work hours for a minimum of six months. Doc. #32. However, Debtor did not provide any evidence that her gross income has or will decrease to $11,300.00 a month. Id. Debtor's paystubs reflect that while Debtor has reduced her work hours and income, Debtor has not reduced her disposable income significantly enough to rebut the presumption and to grant relief under chapter 7. Exs. 6 & 7, Doc. #21; Doc. #32.

In Part 4 of Form 122A-2, Debtor asserts that her gross monthly income post-petition will be reduced post-petition to $11,300.00. However, that has not been the case based both on Debtor's post-petition bi-weekly pay advices as well as Debtor's own admission that Debtor's net monthly income for

January 2025 was $13,928.70. According to Debtor's opposition papers, Debtor's net monthly income for January 2025 was $13,928.70, which is consistent with a gross monthly income of $18,527.59 and net monthly income of $12,272.51 listed in Debtor's Schedule I. Both of these numbers are higher than the $11,300 in gross monthly income Debtor claims in the special circumstances portion of Form 122A-2.

Based on Debtor's post-petition pay advices included in the motion (Ex. 2, Doc. #27), the court calculates Debtor's post-petition gross bi-weekly income to be:

Advice Date	Total Earnings	Overtime	Total Gross Income
11/01/2024	$6,072.05	$0.00	$6,072.05
11/15/2024	$6,778.82	$0.00	$6,778.82
11/29/2024	$7,505.01	$0.00	$7,505.01
12/13/2024	$10,662.61	$0.00	$10,662.61
12/27/2024	$10,428.86	$176.09	$10,604.95
1/10/2025	$7,282.45	$0.00	$7,282.45
			$48,905.89

Based on the above chart, the court calculates Debtor's average post-petition gross bi-weekly income to be $8,150.98 ($48,905.89 divided by 6 pay advices). Because Debtor is paid bi-weekly, the court multiplies Debtor's average post-petition gross bi-weekly income by 26 (the total number of pay periods in a year) and divides that number by 12 to calculate Debtor's average post-petition gross monthly income of $17,660.46.

Taking Debtor's average post-petition gross monthly income of $17,660.46 and deducting all of Debtor's Form 122A-2 deductions totaling $17,168.75, Debtor would have monthly disposable income of $491.71, totaling $29,502.60 over the course of 60 months. This is greater than the statutory maximum disposable income of $252.50 per month ($15,150.00 over 60 months), and the presumption of abuse persists.

Based on (a) Debtor's average post-petition gross monthly income as calculated for Debtor's actual post-petition pay advices, (b) Debtor's net monthly income for January 2025 and (c) Debtor's projected gross and net monthly income as set forth in Debtor's Schedule I, the court finds that Debtor has not demonstrated that her gross monthly income is $11,300 as set forth in the special circumstances portion of Part 4 of Form 122A-2 and has not rebutted the presumption of abuse. Because Debtor has not rebutted the presumption of abuse as required by Bankruptcy Code § 707(b)(2)(B), UST's motion to dismiss for abuse under § 707(b)(2) is GRANTED.

Because this case can be dismissed for abuse under § 707(b)(2), the court will not consider dismissal under § 707(b)(3)'s totality of the circumstances analysis.

The court will consider delaying dismissal of Debtor's case for 21 days if Debtor wants to convert her case instead of having her case dismissed.

5. 25-10136-A-7 **IN RE: HARPAL SINGH AND SUKHVIR NAHAL**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
2-10-2025 [17]

LAYNE HAYDEN/ATTY. FOR DBT.

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

DISPOSITION: Dropped as moot.

NO ORDER REQUIRED.

An order vacating the order to show cause was entered on February 19, 2025. Doc. #21. The hearing on the order to show cause will be dropped as moot. No appearance is necessary.

6. 24-13441-A-7 **IN RE: RICARDO ROBLES**
YW-1

MOTION TO EXTEND DEADLINE TO FILE A COMPLAINT OBJECTING TO DISCHARGEABILITY OF A DEBT
1-22-2025 [15]

SILVIA LARES, GUARDIAN AD LITEM FOR MINOR ANA
VINCENT GORSKI/ATTY. FOR DBT.
LEONARD WELSH/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, 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.

Ana Hernandez, by and through her Guardian ad Litem Rudy Hernandez, Yubani Lares, Roque Lares, and Silvia Lares (together, "Movants") move the court for an order extending the time to file a complaint to determine dischargeability of debt of Ricardo Robles ("Debtor") pursuant to Federal Rule of Bankruptcy Procedure ("Rule") 4007(c). Doc. #15. Movants request an extension of the time to file a complaint to determine dischargeability of debt to 90 days after a

judgment is entered in a state court action that underlies Movants' claim against Debtor.

Rule 4007(c) provides that a "complaint to determine whether a debt is dischargeable under § 523(c) must be filed within 60 days after the first date set for the § 341(a) meeting of creditors. Here, the deadline to file a complaint to determine dischargeability of debt is March 4, 2025. On motion of a party in interest filed before the time expires, the court may, after notice and a hearing and for cause, extend the time to file." Movants' motion was filed within sixty days of the first date set for the meeting of creditors and is timely.

After review of the included evidence, the court finds that "cause" exists to extend the filing deadlines because Movants' claim against Debtor arises from a motor vehicle accident where a personal injury complaint was filed in Kern Superior Court, Case No. BCV-23-101127 ("State Court Action"), and is still pending. Doc. #15; Decl. of Leonard k. Welsh, Doc. #17. Movants intend to file a motion for relief from the automatic stay to permit the State Court Action to proceed to trial in the state court and conclude. Doc. #15. Movants' motion for relief from the automatic stay was filed on January 23, 2025, was set for hearing on this calendar, and has been granted (see calendar matter #7, below). Doc. ##20-25. The State Court Action will not be concluded before the deadline for filing a complaint for determining discharge of debt, and Movants believe this motion to extend time to file a complaint is necessary to allow Movants the opportunity to protect their rights and interest. Doc. #15; Welsch Decl., Doc. #17

Accordingly, this motion is GRANTED. The time for Movants to file a complaint for determining discharge of debt of Debtor is extended to 90 days after a judgment is entered in the State Court Action.

7. 24-13441-A-7 **IN RE: RICARDO ROBLES**
YW-2

MOTION FOR RELIEF FROM AUTOMATIC STAY
1-23-2025 [20]

SILVIA LARES, GUARDIAN AD LITEM FOR MINOR ANA
VINCENT GORSKI/ATTY. FOR DBT.
LEONARD WELSH/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, 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.

Ana Hernandez, by and through her Guardian ad Litem, Rudy Hernandez, Yubani Lares, Roque Lares, and Silvia Lares (together, "Movants") seek relief from the automatic stay under 11 U.S.C. § 362(d)(1) to permit Movants to proceed to judgment with a state court action pending in Kern County Superior Court, Case No. BCV-23-101127 (the "State Court Action"), against debtor Ricardo Robles ("Debtor"). Doc. #20. The State Court Action is in reference to a motor vehicle accident caused by Debtor that resulted in property damage, physical injury, wrongful death, and other damages to Movants. Id.

Debtor filed this chapter 7 bankruptcy case on November 27, 2024. Doc. #1. Prepetition, on April 12, 2023, Movants filed the State Court Action, but the State Court Action has been stayed due to Debtor filing for bankruptcy. Doc. #20; Ex. A, Doc. #22. Movants intend to object to the discharge of their claim against Debtor but believe that the legal basis for Debtor's liability to Movants and the amount of damages must be established before Movants can file a complaint for determination of dischargeability of debt under 11 U.S.C. § 523. Doc. #20; Decl. of Leonard K. Welsh, Doc. #23.

11 U.S.C. § 362(d)(1) Analysis

11 U.S.C. § 362(d)(1) allows the court to grant relief from the automatic stay for cause. "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). When a movant prays for relief from the automatic stay to initiate or continue non-bankruptcy court proceedings, a bankruptcy court may consider the "Curtis factors" in making its decision. In re Kronemyer, 405 B.R. 915, 921 (9th Cir. B.A.P. 2009). "[T]he Curtis factors are appropriate, nonexclusive, factors to consider in determining whether to grant relief from the automatic stay" to allow litigation in another forum. Id. The Curtis factors include: (1) whether the relief will result in a partial or complete resolution of the issues; (2) the lack of any connection with or interference with the bankruptcy case; (3) whether the non-bankruptcy forum has the expertise to hear such cases; (4) whether litigation in another forum would prejudice the interests of other creditors; and (5) the interest of judicial economy and the expeditious and economical determination of litigation for the parties. In re Curtis, 40 B.R. 795, 799-800 (Bankr. D. Utah 1984).

Here, granting Movants relief from the automatic stay will allow Movants to proceed with their litigation against Debtor and will result in a complete resolution of the matter. Doc. #20; Welsh Decl., Doc. #23. Further, Movants believe that judicial economy will be promoted by allowing Movants and other defendants named in the State Court Action to be tried in one forum and one action. Id.; Decl., Doc. #23. Movants are ready to proceed with discovery and proceed to trial to resolve the issues exclusively filed in state court. Id. Finally, granting Movants relief from the automatic stay will not prejudice Debtor or any other party. Id.

For these reasons, the court finds that cause exists to lift the stay to permit Movants to proceed to judgment in the State Court Action.

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Conclusion

Accordingly, the motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) to permit Movants to proceed under applicable nonbankruptcy law to judgment in the State Court Action. No other relief is awarded.

8. 24-11545-A-7 **IN RE: RIDGELINE CAPITAL INVESTMENTS, LLC**

ORDER TO SHOW CAUSE
1-30-2025 [217]

MICHAEL TOTARO/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Bankr. Case No. 24-04715, currently pending in the United States Bankruptcy Court for the Southern District of California, will be transferred to this court.

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

This matter is set for hearing pursuant to a sua sponte court-issued order to show cause as to why the chapter 11 bankruptcy case of Ridgeline Capital Investments, Inc. ("Debtor"), Case No. 24-04715, pending in the United States Bankruptcy Court for the Southern District of California ("San Diego Case"), should not be transferred to this court pursuant to Federal Rule of Bankruptcy Procedure ("Rule") 1014(b). Doc. #217. The OSC required any written response to be filed and served on or before February 19, 2025. Id. Debtor, Metro R.E. 2023-2024, LLC ("Metro") and Peter L. Fear ("Trustee") each filed timely responses to the OSC. Doc. ##220, 224-225, 227. This matter will proceed as scheduled.

As a procedural matter, the exhibits filed in connection with the declaration of Debtor's counsel, Michael R. Totaro, in response to the OSC (Doc. #220) as well as the exhibits filed in connection with the declaration of Metro's counsel, Michael M. Wintringer, in response to the OSC (Doc. #225) do not comply with Local Rule of Practice ("LBR") 9004-2(d)(1), which requires exhibits to be filed as a separate document. The exhibits attached to both declarations also do not include an exhibit index and have not been properly numbered as required by LBR 9004-2(d)(2). 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 rules can be accessed on the court's website at https://www.caeb.uscourts.gov/LocalRulesAndGeneralOrders.

Relevant Background

On June 4, 2024, Debtor filed a single asset real estate chapter 11 bankruptcy case, Case No. 24-11545, in the United States Bankruptcy Court for the Eastern District of California ("Fresno Case"). Doc. #1. The Fresno Case was filed on the eve of a foreclosure sale of residential real property located at 45200 Oak Manor Court, Temecula, California (the "Property") scheduled by Debtor's secured creditor, Metro. Ex. M to Metro Motion for Relief from Stay, Doc. #152. The Property is Debtor's primary asset. Decl. of Shaun M. Reynolds in support of Initial Status Report, Doc. #45.

On July 30, 2024, in the Fresno Case, Debtor filed a motion to sell the Property free and clear of liens to Rayma and Jeffery Dohrman. Doc. #49. That motion was subsequently withdrawn before being granted. Doc. #109.

On October 21, 2024, in the Fresno Case, Metro filed a motion for relief from the automatic stay to foreclose on the Property ("Stay Motion"). Doc. #150. On November 20, 2024, the Stay Motion was granted over Debtor's opposition. Doc. #178. On November 25, 2024, this court entered an order granting the Stay Motion. Doc. #183.

On November 27, 2024, in the Fresno Case, Debtor filed a motion to dismiss the Fresno Case ("Dismissal Motion") and set the Dismissal Motion for hearing on December 11, 2024. Doc. #184. On December 11, 2024, the court denied the Dismissal Motion without prejudice for Debtor's failure to notice the Dismissal Motion properly pursuant to Rule 2002(a)(4). Doc. ##189, 191.

On January 16, 2025, Debtor's Fresno Case was converted to chapter 7 pursuant to a motion to dismiss or convert filed by the Office of the United States Trustee. Doc. ##196, 204. Trustee was appointed as the chapter 7 trustee in Debtor's bankruptcy case. Debtor's chapter 7 Fresno Case remains pending in this district.

On December 10, 2024, while the Fresno Case was pending, after this court had granted relief from the automatic stay to Metro in the Fresno Case to permit foreclosure of the Property, and the day before Metro's re-scheduled foreclosure sale of the Property, Debtor filed the San Diego Case. Metro Reply to OSC, Doc. #224. On January 10, 2025, in the San Diego Case, the Office of the United States Trustee filed a motion to dismiss the San Diego Case for bad faith filing ("UST Motion") and set a hearing on the UST Motion for March 3, 2025. Id. On January 21, 2025, in the San Diego Case, Metro filed a motion for *in rem* and prospective relief from the automatic stay ("In Rem Motion"). Id. Opposition to the In Rem Motion was due on February 3, 2025. Id.

On January 30, 2025, this court sua sponte issued the OSC staying all proceedings in the San Diego Case and ordering Debtor and Trustee to show cause why the San Diego Case should not be transferred to this court pursuant to Rule 1014(b). Doc. #217. Pursuant to the OSC, among other things, the filing of opposition and the hearings on the UST Motion and the In Rem Motion currently pending in the San Diego Case have been stayed. Id.

The OSC required any written response to be filed and served on or before February 19, 2025. Doc. #217. Debtor, Metro and Trustee all filed timely responses to the OSC.

On January 31, 2025, counsel for Debtor, Michael R. Totaro, filed a response to the OSC. Decl. of Michael R. Totaro, Doc. #220. In his declaration, Mr. Totaro asserts the status of the Fresno Case weighs in favor of not transferring the San Diego Case to this court. Specifically, there is nothing for Trustee to administer in the Fresno Case because this court previously granted Metro relief from the automatic stay to foreclose on the Property. At the time Debtor filed the San Diego Case, Mr. Totaro believed that Debtor owned the Property and held a 90% ownership interest in residential real property located at 15599 Running Deer Trail, Poway, California (the "Poway Property"). Id. However, after filing the San Diego Case, Mr. Totaro learned that Debtor had no interest in the Poway Property, so Debtor's only significant asset is the Property. Id. As a reason for filing the San Diego Case, Mr. Totaro asserts that this court granting relief from the automatic stay to Metro removed the Property from the Fresno Case. Id. Because there is no property to administer in the Fresno Case, Mr. Totaro believes that Trustee will file a no asset report in the Fresno Case and the Fresno Case will be closed and dismissed. Id.

On February 14, 2025, Metro filed a response to the OSC. Doc. #224. Per its response, Metro asserts that the loan between Debtor and Metro secured by the Property matured by its terms on April 1, 2023, and Metro has been attempting to complete a non-judicial foreclosure sale of the Property since June 5, 2024. Id. Metro is most concerned that Debtor will continue to file additional bankruptcy cases to preclude the prompt foreclosure of the Property unless the In Rem Motion is granted or the San Diego Case is dismissed with prejudice. Id. Metro does not oppose the transfer of the San Diego Case to this court if this court is able to rule promptly on the In Rem Motion or, alternatively, the UST Motion. Id.

On February 19, 2025, Trustee filed a response to the OSC. Doc. #227. Trustee has no position on whether venue is proper in this district. Id. While the 341 meeting of creditors has not yet been conducted, Trustee does not believe that there are any assets to be liquidated for the benefit of unsecured creditors based on Trustee's initial investigation of the assets in this case. Id. Based on Trustee's investigation, the Property is Debtor's only significant asset. Id.

Legal Analysis

Based on the responses to the OSC, the status of Debtor's bankruptcy case pending in this court and the status of the San Diego Case, the court will transfer the San Diego Case to this court.

Pursuant to 28 U.S.C. § 1412, a bankruptcy case may be transferred to another district "in the interest of justice or for the convenience of the parties." Rule 1014(b) implements 28 U.S.C. § 1412 when, among other things, there are bankruptcy cases filed in different districts by the same debtor. Fed. R. Bankr. P. 1014(b)(1).

"The § 1412 'interest of justice' basis for transfer has attracted little explication in reported decisions." In re Bula Devs., Inc., 2025 Bankr. LEXIS 234, *8 (Bankr. E.D. Cal. Feb. 5, 2025) (Klein, J.). However, "[t]he justice system has a strong interest in preventing abusive litigation practices." Id. at *9. This court can transfer the San Diego Case to this court on account of the "interest of justice" to prevent abusive litigation without considering the "convenience of the parties." Id. at *10.

Without citing to any authority, Debtor contends that the Property ceased to be property of the Fresno Case once relief from stay was granted to Metro. Doc. #220. However, that is not the case. "Despite the lifting of a stay, agreed or otherwise, property of the debtor remains in the bankruptcy estate until removed by judicial process or abandonment." In re San Felipe @ Voss, Ltd., 115 B.R. 526, 528 (S.D. Tex. 1990) (citations omitted). Thus, it is only after Metro completes its foreclosure of the Property that the Property would cease to be property of Debtor's bankruptcy estate established in the Fresno Case. Because Metro's foreclosure of the Property has not been completed, the Property remains property of the Fresno Case.

Property cannot be an asset of two bankruptcy estates simultaneously. Bateman v. Grover (In re Berg), 45 B.R. 899, 903 (B.A.P. 9th Cir. 1984). Because the Property is still property of the Fresno Case bankruptcy estate, the Property cannot be an asset of the San Diego Case. Thus, jurisdiction over the Property remains in the Fresno Case.

Here, it is in the interest of justice to transfer the San Diego Case to the Eastern District of California to prevent further abusive bankruptcy filings by Debtor before Metro can foreclose on the Property. Once the San Diego Case is transferred to this court, Metro can set the In Rem Motion for hearing on at

least 14 days' notice pursuant to LBR 9014-1(f)(2). Transfer of the San Diego Case to the Eastern District of California is appropriate even without considering the convenience of the parties. However, the convenience of the parties also supports transfer of the San Diego Case to the Eastern District of California.

In considering the "convenience of the parties" aspect of 28 U.S.C. § 1412, reported decisions "describe a variety of factors on the theme of totality of circumstances tailored to the particular situation. Common lists include location of parties, location of assets, location of persons necessary to administration of estate, and forum that would permit efficient and economical administration of the case." Bula Devs., 2025 Bankr. LEXIS 234 at *8.

Here, none of the parties responding to the OSC have objected to the transfer sue to the inconvenience of the parties. Debtor originally filed its bankruptcy case in this district, so transferring the San Diego Case to this district presumably will not inconvenience Debtor. Similarly, Metro has participated in the Fresno Case fully, so transferring the San Diego Case to this district presumably will not inconvenience Metro. Finally, Trustee is located in this district.

Conclusion

For the foregoing reasons, Bankr. Case No. 24-04715, currently pending in the United States Bankruptcy Court for the Southern District of California, will be transferred to this court.

9. 24-13597-A-7 **IN RE: BRADLEY MEDINA**
MPS-1

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY
1-2-2025 [24]

RHB PM VISALIA, INC./MV
MICHAEL SMITH/ATTY. FOR MV.
RESPONSIVE PLEADING

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 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). The initial hearing on this motion was held on January 29, 2025 and was continued to February 26, 2025 to allow the debtor to file and serve a written response. Order, Doc. #34. Bradley Medina ("Debtor") filed timely written opposition on February 10, 2025. Doc. #37. The moving party filed its timely reply on February 19, 2025. Doc. ##41-43. This matter will proceed as scheduled.

As a procedural matter, the exhibits filed in connection with the declaration of Richard Anderson in support of the reply (Doc. #43) do not comply with LBR 9004-2(d)(1), which requires exhibits to be filed as a separate document. The exhibits attached to the declaration also do not include an exhibit index and have not been properly numbered as required by LBR 9004-2(d)(2).

As an informative matter, the certificate of service filed in connection with this motion (Doc. #29) was filed as a pdf of the fillable version of the court's Official Certificate of Service form (EDC Form 7-005, Rev. 10/2022) with the attachments filed as part of a separate document (Doc. #30) instead of being printed using the print button at the bottom of the last page of the court's form and the appropriate attachment attached to the pdf prior to the certificate of service form being filed with the court.

RHB PM Visalia, Inc. dba Bruce Evans Property Management ("Movant") seeks relief from the automatic stay under 11 U.S.C. § 362 with respect to real property located at 3024 South Byrd Court, Visalia, California 93292 (the "Property"). Doc. #24. Bradley Milhous Medina ("Debtor") filed this chapter 7 bankruptcy case on December 13, 2024. Doc. #1. Movant requests relief from the automatic stay to continue with an unlawful detainer action filed in state court against Debtor pre-petition, RHB PM Visalia, Inc. dba Bruce Evans Property Management v. Bradley Medina, et al., Case No. VCL314318, Superior Court of California, County of Tulare ("State Court Action"), and to proceed under applicable non-bankruptcy law to enforce Movant's remedies to gain possession of the Property. Doc. ##24, 27.

The motion does not specify under which subsection of 11 U.S.C. § 362(d) Movant seeks relief from the automatic stay. Ideally, the motion would request relief under one of the subsections of 11 U.S.C. § 362(d) and provide an analysis pertaining to the specific subsection(s). Based on Movant's papers, the court finds that Movant has provided sufficient information to grant relief from the automatic stay under 11 U.S.C. § 362(d)(1).

Relevant Background

Movant is a property management company. Decl. of Ron Byrd, Doc. #27. On January 1, 2024, Debtor and the owner of the Property, Richard Anderson ("Property Owner"), entered into a written agreement by which Debtor was to pay $3,000.00 a month in rent to Property Owner. Byrd Decl., Doc. #27; Ex. 1, Doc. #28. On March 20, 2024, Movant and Property Owner entered into an agreement for Movant the manage the Property on behalf of Property Owner. Byrd Decl., Doc. #27; Ex. 2, Doc. #28. Debtor was given notice of Movant's management of the Property on March 22, 2024. Byrd Decl., Doc. #27; Ex. 3, Doc. #28. After July 5, 2024, Debtor ceased making rental payments for the Property. Byrd Decl., Doc. #27. As of December 31, 2024, Debtor owed $16,050.00 in outstanding rent and late fees. Byrd Decl., Doc. #27; Ex. 6, Doc. #28.

On October 11, 2024, Debtor was served with a 3-day notice to pay past due rent in the amount of $6,000.00 or quit. Byrd Decl., Doc. #27; Ex. 4, Doc. #28. On November 1, 2024, Movant commenced the State Court Action. Byrd Decl., Doc. #27; Ex. 5, Doc. #28. On December 13, 2024, before the commencement of trial in the State Court Action, Debtor filed the instant bankruptcy case. Byrd Decl., Doc. #27.

In Debtor's opposition, Debtor states that Debtor has substantial equity with Movant. Doc. #37. Debtor asserts that Movant obtained substantial equity through an instrument that was not signed by the parties. Id. Debtor asserts that because, under common law, an option to purchase property must be signed to be enforceable, Movant was unjustly enriched by a lease that is unenforceable under the statute of frauds. Id. Debtor asserts that he has paid a $9,000 deposit and $36,000 in consideration to which Debtor was not obligated to consent. Id. Debtor requests that his equity be applied to his chapter 7 case as a pro rata share. Id. Debtor provided no documentation in support of his contention that he paid a $9,000 deposit and $36,000 in consideration for his occupancy of the Property.

Movant replies that Debtor has not paid $45,000 in consideration with respect to the Property as asserted by Debtor in his opposition. Doc. #41. Rather, Movant contends that Debtor and non-debtor tenant Svetlana Krivencheva have paid a total of $29,445.00 for their occupancy of the Property. Reply Decl. of Ron Byrd, Doc. #42. Specifically, Property Owner received a total of $17,445.00 on behalf of Debtor and non-debtor tenant Svetlana Krivencheva for their occupancy of the Property, and Movant receive an additional $12,000.00. Decl. of Richard Anderson, Doc. #43; Byrd Reply Decl., Doc. #42. Movant provides supporting documentation of the amounts claimed by Movant to have been paid by Debtor and non-debtor tenant Svetlana Krivencheva for their occupancy of the Property. Ex. 6, Doc. 28; Ex. 9 & 10, Doc. #43. Movant asserts that Debtor and non-debtor tenant Svetlana Krivencheva currently owe $23,355.00 in unpaid rent and late fees for their occupancy of the Property. Byrd Reply Decl., Doc. #42.

11 U.S.C. § 362(d)(1) Analysis

11 U.S.C. § 362(d)(1) allows the court to grant relief from the automatic stay for cause. "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). When a movant prays for relief from the automatic stay to initiate or continue non-bankruptcy court proceedings, a bankruptcy court may consider the "Curtis factors" in making its decision. In re Kronemyer, 405 B.R. 915, 921 (B.A.P. 9th Cir. 2009). "[T]he Curtis factors are appropriate, nonexclusive, factors to consider in determining whether to grant relief from the automatic stay" to allow litigation in another forum. Id. The Curtis factors include: (1) whether the relief will result in a partial or complete resolution of the issues; (2) the lack of any connection with or interference with the bankruptcy case; (3) whether the non-bankruptcy forum has the expertise to hear such cases; (4) whether litigation in another forum would prejudice the interests of other creditors; and (5) the interest of judicial economy and the expeditious and economical determination of litigation for the parties. In re Curtis, 40 B.R. 795, 799-800 (Bankr. D. Utah 1984).

Here, granting Movant's relief from the stay will completely resolve the issue of Debtor's unlawful possession of the Property. Movant manages the Property, and Debtor failed to pay rent for August 2024 and thereafter. On November 1, 2024, Movant initiated the State Court Action to enforce its interest in the Property against Debtor and others. Byrd Decl., Doc. #27; Ex. 5, Doc. #28

The state court has expertise in unlawful detainer actions with respect to unpaid rent and allowing Movant to pursue a judgment in the State Court Action will not prejudice the interests of other creditors. The interests of judicial economy favor granting relief from the automatic stay so that Movant can regain possession of the Property caused by the unlawful detention of the Property by Debtor and others. Finally, granting relief from the automatic stay does not mean that this court is deciding the merits of the State Court Action. Granting the motion merely means that this court is allowing the state court to proceed with the State Court Action, which this court is inclined to do based on the discrepancies in facts presented by both Movant and Debtor as well as other considerations.

For these reasons, the court finds that cause exists under § 362(d)(1) to lift the stay to permit Movant to proceed with the State Court Action in state court and enforce any resulting judgment.

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Conclusion

Accordingly, pending opposition being raised at the hearing, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) to permit Movant to proceed under applicable nonbankruptcy law to continue to prosecute the State Court Action against Debtor and to enforce any resulting judgment for unlawful detainer, including all necessary steps to obtain possession of the Property from Debtor. No other relief is awarded.

Because Debtor has not paid rent on the Property since August 2024, the 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived to permit Movant to proceed promptly with the State Court Action in state court.

10. 23-10498-A-7 **IN RE: MARK/CATALINA MENDEZ**
SKI-1

MOTION FOR RELIEF FROM AUTOMATIC STAY, AND MOTION/APPLICATION TO CONFIRM TERMINATION OR ABSENCE OF STAY
1-21-2025 [27]

SANTANDER CONSUMER USA INC./MV
GRISELDA TORRES/ATTY. FOR DBT.
SHERYL ITH/ATTY. FOR MV.
DISCHARGED 07/24/2023

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 as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtors, 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 movant make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The motion will be GRANTED IN PART as to the trustee's interest and DENIED AS MOOT IN PART as to the debtors' interest pursuant to 11 U.S.C. § 362(c)(2)(C). The debtors' discharge was entered on July 24, 2023. Doc. #22. The motion will be GRANTED IN PART for cause shown as to the chapter 7 trustee.

The movant, Santander Consumer USA Inc. ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2020 Ford Explorer, VIN: 1FMSK7DH2LGB82920 ("Vehicle"). Doc. #27.

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 debtors have failed to make at least five complete pre- and post-petition payments. Movant has produced evidence that the debtors are delinquent by at least $2,265.66, which includes plus recovery fees of $285.00. Decl. of Christopher Little, Doc. #31. According to the debtors' Statement of Intention, the Vehicle will be surrendered. Doc. #1. The Vehicle was voluntarily surrendered to Movant on December 13, 2024. Little Decl., Doc. #31.

The court also finds that the debtors do not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because the debtors are in chapter 7. The Vehicle is valued at $23,525.00 and the debtors owe $29,010.65. Little Decl., Doc. #31.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) 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 Vehicle is a depreciating asset and the debtors have already voluntarily surrendered the Vehicle to Movant.

11. 24-13399-A-7 **IN RE: JOSE FONSECA**
RLG-1

MOTION TO AVOID LIEN OF CITIBANK, N.A.
1-17-2025 [13]

JOSE FONSECA/MV
STEVEN ALPERT/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.

Jose Socorro Fonseca ("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 Citibank, N.A. ("Creditor") on the residential real property commonly referred to as 235 South King Street, Bakersfield, California 93307 (the "Property"). Doc. #13; 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)).

Where the movant seeks to avoid multiple liens as impairing the debtor's exemption, the liens must be avoided in the reverse order of their priority. Bank of Am. Nat'l Tr. & Sav. Ass'n v. Hanger (In re Hanger), 217 B.R. 592, 595 (B.A.P. 9th Cir. 1997). Liens already avoided are excluded from the exemption-impairment calculation with respect to other liens. Id.; 11 U.S.C. § 522(f)(2)(B). The court "must approach lien avoidance from the back of the line, or at least some point far enough back in line that there is no nonexempt equity in sight." All Points Cap. Corp. v. Meyer (In re Meyer), 373 B.R. 84, 88 (B.A.P. 9th Cir. 2007). "[J]udicial liens are avoided in reverse order until the marginal lien, i.e., the junior lien supported in part by equity, is reached." Id.

Debtor filed the bankruptcy petition on November 22, 2024. Doc. #1. A judgment was entered against Debtor in the amount of $3,465.54 in favor of Creditor on January 24, 2020. Ex. 3, Doc. #16. The abstract of judgment was recorded pre-petition in Kern County on November 13, 2020, as document number 220172932. Ex. 3, Doc. #16. The lien attached to Debtor's interest in the Property located in Kern County. Doc. #13. There appears to be one junior judicial lien on the Property. The junior judicial lien was recorded in Kern County on December 9, 2020 with respect to a lien in favor of Capital One Bank (USA) N.A. entered on March 11, 2020. Ex. 3, Doc. #21. The court has granted Debtor's motion to avoid the junior judicial lien. See calendar matter #12, below. The Property is not encumbered by any other lien. Schedule D, Doc. #1. Debtor claimed an exemption of $200,000.00 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 $200,000.00. Schedule A/B, Doc. #1.

Applying the statutory formula:

Amount of Creditor's judicial lien		$3,465.54
Total amount of all other liens on the Property (excluding junior judicial liens)	+	$0
Amount of Debtor's claim of exemption in the Property	+	$200,000.00
		$203,465.54
Value of Debtor's interest in the Property absent liens	-	$200,000.00
Amount Creditor's lien impairs Debtor's exemption		$3,465.54

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.

12. 24-13399-A-7 **IN RE: JOSE FONSECA**
RLG-2

MOTION TO AVOID LIEN OF CAPITAL ONE BANK (USA) N.A.
1-17-2025 [18]

JOSE FONSECA/MV
STEVEN ALPERT/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.

Jose Socorro Fonseca ("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 Capital One Bank (USA) N.A. ("Creditor") on the residential real property commonly referred to as 235 South King Street, Bakersfield, California 93307 (the "Property"). Doc. #18; 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)).

Where the movant seeks to avoid multiple liens as impairing the debtor's exemption, the liens must be avoided in the reverse order of their priority. Bank of Am. Nat'l Tr. & Sav. Ass'n v. Hanger (In re Hanger), 217 B.R. 592, 595 (B.A.P. 9th Cir. 1997). Liens already avoided are excluded from the exemption-impairment calculation with respect to other liens. Id.; 11 U.S.C. § 522(f)(2)(B). The court "must approach lien avoidance from the back of the line, or at least some point far enough back in line that there is no nonexempt equity in sight." All Points Cap. Corp. v. Meyer (In re Meyer), 373 B.R. 84, 88 (B.A.P. 9th Cir. 2007). "[J]udicial liens are avoided in reverse order until the marginal lien, i.e., the junior lien supported in part by equity, is reached." Id.

Debtor filed the bankruptcy petition on November 22, 2024. Doc. #1. A judgment was entered against Debtor in the amount of $5,871.65 in favor of Creditor on March 11, 2020. Ex. 3, Doc. #21. The abstract of judgment was recorded pre-petition in Kern County on December 9, 2020, as document number 220191145. Ex. 3, Doc. #21. The lien attached to Debtor's interest in the Property located in Kern County. Doc. #18. There appears to be one senior judicial lien on the Property. The senior judicial lien was recorded in Kern County on November 13, 2020 with respect to a lien in favor of Citibank, N.A. entered on January 24, 2020 in the amount of $3,465.54. Ex. 4, Doc. #21. The Property is not encumbered by any other lien. Schedule D, Doc. #1. Debtor claimed an exemption of $200,000.00 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 $200,00.00. Schedule A/B, Doc. #1.

Applying the statutory formula:

Amount of Creditor's judicial lien		$5,871.65
Total amount of all other liens on the Property (excluding junior judicial liens)	+	$3,465.54
Amount of Debtor's claim of exemption in the Property	+	$200,000.00
		$209,337.19
Value of Debtor's interest in the Property absent liens	-	$200,000,00
Amount Creditor's lien impairs Debtor's exemption		$9,337.19

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.