



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

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

**DAY: MONDAY**  
**DATE: MARCH 11, 2024**  
**CALENDAR: 10:30 A.M. CHAPTER 7 CASES**

---

Unless otherwise ordered, all matters before Chief Judge Fredrick E. Clement shall be simultaneously: (1) **IN PERSON** at Sacramento Courtroom No. 28, (2) via **ZOOMGOV VIDEO**, (3) via **ZOOMGOV TELEPHONE**, and (4) via **COURTCALL**.

You may choose any of these options unless otherwise ordered or stated below.

All parties who wish to appear at a hearing remotely must sign up by 4:00 p.m. **one business** day prior to the hearing.

Information regarding how to sign up can be found on the **Remote Appearances** page of our website at:

<https://www.caeb.uscourts.gov/Calendar/RemoteAppearances>.

Each party who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

If the deadline to sign up has passed, parties who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest may connect to the video or audio feed free of charge and should select which method they will use to appear when signing up.
- Members of the public and the press appearing by **ZoomGov** may only listen in to the hearing using the zoom telephone number. Video appearances are not permitted.
- Members of the public and the press may not listen in to the trials or evidentiary hearings, though they may appear in person in most instances.

To appear remotely for law and motion or status conference proceedings, you must comply with the following guidelines and procedures:

- Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
- Review the court's [Zoom Procedures and Guidelines](#) for these, and additional instructions.
- Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#).

If you are appearing by ZoomGov phone or video, please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

**Unauthorized Recording is Prohibited:** Any recording of a court proceeding held by video or teleconference, including screen shots or other audio or visual copying of a hearing is prohibited. Violation may result in sanctions, including removal of court-issued media credentials, denial of entry to future hearings, or any other sanctions deemed necessary by the court. For more information on photographing, recording, or broadcasting Judicial Proceedings, please refer to Local Rule 173(a) of the United States District Court for the Eastern District of California.

---

## PRE-HEARING DISPOSITION INSTRUCTIONS

---

### RULINGS

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling.

**"No Ruling"** means the likely disposition of the matter will not be disclosed in advance of the hearing. The matter will be called; parties wishing to be heard should rise and be heard.

**"Tentative Ruling"** means the likely disposition, and the reasons therefor, are set forth herein. The matter will be called. Aggrieved parties or parties for whom written opposition was not required should rise and be heard. Parties favored by the tentative ruling need not appear. However, non-appearing parties are advised that the court may adopt a ruling other than that set forth herein without further hearing or notice.

**"Final Ruling"** means that the matter will be resolved in the manner, and for the reasons, indicated below. The matter will not be called; parties and/or counsel need not appear and will not be heard on the matter.

### CHANGES TO PREVIOUSLY PUBLISHED RULINGS

On occasion, the court will change its intended ruling on some of the matters to be called and will republish its rulings. The parties and counsel are advised to recheck the posted rulings after 3:00 p.m. on the next business day prior to the hearing. Any such changed ruling will be preceded by the following bold face text: **"[Since posting its original rulings, the court has changed its intended ruling on this matter]"**.

### ERRORS IN RULINGS

Clerical errors of an insignificant nature, e.g., nomenclature ("2017 Honda Accord," rather than "2016 Honda Accord"), amounts, ("\$880," not "\$808"), may be corrected in (1) tentative rulings by appearance at the hearing; or (2) final rulings by appropriate ex parte application. Fed. R. Civ. P. 60(a) *incorporated by* Fed. R. Bankr. P. 9024. All other errors, including those occasioned by mistake, inadvertence, surprise, or excusable neglect, must be corrected by noticed motion. Fed. R. Bankr. P. 60(b), *incorporated by* Fed. R. Bankr. P. 9023.

---

1. [24-20302](#)-A-7     **IN RE: JAIME/IRMA ANDUJO**  
[JCW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
2-9-2024    [\[14\]](#)

CHAD JOHNSON/ATTY. FOR DBT.  
JENNIFER WONG/ATTY. FOR MV.  
WELLS FARGO BANK, N.A. VS.

### **Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 424 Seville Place, Vacaville, California

Cause: Delinquency - \$7,884.78; 3 payments from November mber 2023 through January 2024

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Wells Fargo Bank, N.A., seeks an order for relief from the automatic stay of 11 U.S.C. § 362(a).

### **STAY RELIEF**

Subsection (d)(1) of § 362 of Title 11 provides for relief from stay for "cause, including the lack of adequate protection of an interest in property of such party." 11 U.S.C. § 362(d)(1). Adequate protection may consist of a lump sum cash payment or periodic cash payments to the entity entitled to adequate protection "to the extent that the stay . . . results in a decrease in the value of such entity's interest in property." 11 U.S.C. § 361(1).

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

The debtor has missed 3 payments due on the debt secured by the moving party's lien. This constitutes cause for stay relief.

The court does not address grounds for relief under § 362(d)(2) as relief is warranted under § 362(d)(1). The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

**CIVIL MINUTE ORDER**

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Wells Fargo Bank, N.A.'s motion for relief from the automatic stay has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as 424 Seville Place, Vacaville, California, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

2. [23-23129](#)-A-7    **IN RE: JOHN/ANGELA BOWMAN**  
[TBG-2](#)

MOTION TO AVOID LIEN OF TRI COUNTIES BANK  
1-31-2024    [\[43\]](#)

STEPHAN BROWN/ATTY. FOR DBT.  
DEBTORS DISCHARGED: 12/26/23

### **Final Ruling**

**Motion:** Avoid Lien that Impairs Exemption

**Disposition:** Denied without prejudice

**Order:** Civil minute order

The debtors seek an order avoiding the judicial lien of Tri Counties Bank, under 11 U.S.C. § 522(f).

The court will deny the motion without prejudice on grounds of insufficient service of process on the responding party. A motion to avoid a lien is a contested matter requiring service of the motion in the manner provided by Federal Rule of Bankruptcy Procedure 7004. Fed. R. Bankr. P. 4003(d), 9014(b); see also *In re Villar*, 317 B.R. 88, 92 n.6 (B.A.P. 9th Cir. 2004). Under Rule 7004, service on FDIC-insured institutions must "be made by certified mail addressed to an officer of the institution" unless one of the exceptions applies. Fed. R. Bankr. P. 7004(h).

Service of the motion was insufficient. Service of the motion was not made by certified mail or was not addressed to an officer of the responding party. No showing has been made that the exceptions in Rule 7004(h) are applicable. See Fed. R. Bankr. P. 7004(h)(1)-(3).

### **CIVIL MINUTE ORDER**

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

The debtor's Motion to Avoid Judicial Lien has been presented to the court. Given the procedural deficiencies discussed by the court in its ruling,

IT IS ORDERED that the motion is denied without prejudice.

3. [23-23129](#)-A-7     **IN RE: JOHN/ANGELA BOWMAN**  
[TBG-3](#)

MOTION TO AVOID LIEN OF AMUR EQUIPMENT FINANCE, INC.  
1-31-2024    [\[47\]](#)

STEPHAN BROWN/ATTY. FOR DBT.  
DEBTORS DISCHARGED: 12/26/23

**Final Ruling**

**Motion:** Avoid Lien that Impairs Exemption

**Disposition:** Denied without prejudice

**Order:** Civil minute order

The debtors seek an order avoiding the judicial lien of Amur Equipment Finance, Inc., under 11 U.S.C. § 522(f).

The court will deny the motion without prejudice on grounds of insufficient service of process on the responding party. A motion to avoid a lien is a contested matter requiring service of the motion in the manner provided by Federal Rule of Bankruptcy Procedure 7004. Fed. R. Bankr. P. 4003(d), 9014(b); see also *In re Villar*, 317 B.R. 88, 92 n.6 (B.A.P. 9th Cir. 2004). Under Rule 7004, service on corporations and other business entities must be made by mailing a copy of the motion "to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process." Fed. R. Bankr. P. 7004(b) (3).

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

**CIVIL MINUTE ORDER**

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

The debtor's Motion to Avoid Judicial Lien has been presented to the court. Given the procedural deficiencies discussed by the court in its ruling,

IT IS ORDERED that the motion is denied without prejudice.

4. [24-20529](#)-A-7     **IN RE: OCTOPUS P AND L INVESTMENTS LLC**  
[FEC-1](#)

ORDER TO SHOW CAUSE  
2-14-2024    [9]

**Final Ruling**

**Motion:** Order to Show Cause  
**Disposition:** Sustained and case dismissed  
**Order:** Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c); LBR 9001-1(d), (n) (contested matters include objections). Written opposition to the sustaining of this objection was required not less than 14 days before the hearing on this objection. None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

On February 14, 2024, the court issued an Order to Show Cause for Failure of Corporate Debtor to Appear Through Counsel and Sign Petition, LBR 1001-1(c); Notice of Intent to Grant Sua Sponte Motion to Dismiss Petition under Fed. R. Bankr. P. 1017(c).

**CORPORATION MUST BE REPRESENTED BY COUNSEL**

On February 12, 2024, the debtor, Octopus P AND L Investments, LLC, filed a Chapter 7 bankruptcy petition. The petition was not signed by an attorney, ECF No. 1. The debtor is a limited liability company (LLC).

Rule 183 of the Local Rules of Practice of the United States District Court for the Eastern District of California incorporated and made applicable in bankruptcy cases by Local Bankruptcy Rule 1001-1(c), states that a corporation or other entity may appear only by an attorney.

Additionally, "[i]t is a longstanding rule that corporations and other unincorporated associations must appear in court through an attorney", *D-Beam Ltd. P'ship v. Roller Derby Skates, Inc.*, 366 F.3d 972, 973-74 (9th Cir. 2004). An attorney must sign the petition on behalf of the debtor, and the debtor may only proceed with this bankruptcy case if represented by an attorney because "an LLC, by virtue of its structure and limited liability features, fits comfortably within the Bankruptcy Code's definition of 'corporation....' ", *Gilliam v. Speier (In re KRSM Props., LLC)*, 318 B.R. 712, 717 (9th Cir. BAP 2004).

Because the petition was not signed by an attorney the court issued its order to show cause ordering the debtor to take action as follows:



not later than 14 days prior to the hearing, the debtor shall file written opposition to the order to show cause, and any such opposition shall be supported by specific and admissible evidence as to why the bankruptcy petition should not be dismissed, and/or monetary sanctions imposed;

absent good and sufficient reason supported by admissible evidence, the court will resolve the order to show cause without further notice or hearing; and

should the debtor fail to prove representation by an attorney in this bankruptcy proceeding, the court will issue an order dismissing the petition without further notice or hearing under Fed. R. Bankr. P. 1017(c).

Order to Show Cause, 2:9-20, ECF No. 9.

The debtor has failed to file any documents in opposition to the order to show cause. Additionally, the debtor's representative has not substituted a licensed attorney in his stead to represent the corporation in this proceeding as required.

The court will sustain the order to show cause and dismiss the case.

**CIVIL MINUTE ORDER**

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Having considered the Order to Show Cause, oppositions, and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the Order to Show Cause is sustained, and the case is dismissed.

5. [22-21649](#)-A-7     **IN RE: MARY KATTENHORN**  
[WF-2](#)

MOTION TO EMPLOY REED BLOCK AS BROKER(S)  
2-16-2024    [\[120\]](#)

RICHARD HALL/ATTY. FOR DBT.  
JASON ELDRED/ATTY. FOR MV.  
DEBTOR DISCHARGED: 10/11/22

### **Tentative Ruling**

**Application:** Approval of Employment

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

**Disposition:** Approved

**Order:** Prepared by applicant pursuant to the instructions below

Unopposed applications are subject to the rules of default. Fed. R. Civ. P. 55, incorporated by Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 7 trustee, Nikki Farris, seeks an order approving the employment of Reed Block Realty to: (1) market and sell O Cuckoo Lane, Lot No. 3, Colfax, California; and (2) provide expert testimony at trial. The requested percentage for real estate commissions is 10%. Witness fees are to be charged at \$100 per hour.

### **EMPLOYMENT**

The court may approve employment of professional persons who "do not hold or represent an interest adverse to the estate, and that are disinterested persons." 11 U.S.C. § 327(a); see also *id.* § 101(14) (defining "disinterested person"). From the factual information provided in the motion and supporting papers, the court will approve the employment.

The order shall contain the following provision: "Nothing contained herein shall be construed to approve any provision of any agreement between [professional's name] and the estate for indemnification, arbitration, choice of venue, jurisdiction, jury waiver, limitation of damages, or similar provision." The order shall also state its effective date, which date shall be 30 days before the date the employment application was filed except that the effective date shall not precede the petition date.

6. [22-20861](#)-A-7     **IN RE: RODNEY GREER**  
[DNL-4](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF DESMOND, NOLAN,  
LIVAICH & CUNNINGHAM FOR BENJAMIN C. TAGERT, TRUSTEES  
ATTORNEY(S)  
2-9-2024    [\[46\]](#)

TIMOTHY WALSH/ATTY. FOR DBT.  
DEBTOR DISCHARGED: 08/30/22

### **Final Ruling**

**Application:** Allowance of First and Final Compensation and Expense Reimbursement

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

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

**Disposition:** Approved

**Order:** Civil minute order

**Compensation Allowed:**   \$4,482.60

**Reimbursement of Expenses:**   \$2,517.40

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this application was required not less than 14 days before the hearing on the application. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

### **COMPENSATION AND EXPENSES**

In this Chapter 7 case, Desmond, Nolan, Livaich & Cunningham attorney for the trustee, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the "capped" amount of \$7,000.00. The motion itemizes costs and requests reimbursement of costs in the amount of \$2,517.40. The court will apportion the award and approve \$4,482.60 as compensation and reimbursement of expenses in the amount of \$2,517.40.

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

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

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

#### **CIVIL MINUTE ORDER**

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

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Desmond, Nolan, Livaich & Cunningham's application for allowance of final compensation and reimbursement of expenses has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$4,482.60 and reimbursement of expenses in the amount of \$2,517.40.

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

7. [24-20666](#)-A-7     **IN RE: JENNIE/JEREMY WOLFE**  
[MOH-1](#)

MOTION TO COMPEL ABANDONMENT  
2-23-2024     [\[14\]](#)

MICHAEL HAYS/ATTY. FOR DBT.

#### **Final Ruling**

**Motion:** Compel Abandonment of Property of the Estate  
**Notice:** LBR 9014-1(f)(2); no written opposition required  
**Disposition:** Continued to April 22, 2024, at 10:30 a.m.  
**Order:** Civil Minute Order

The debtors seek an order compelling the Chapter 7 trustee to abandon the estate's interest in the debtors' three sole proprietorship businesses.

The petition was filed on February 22, 2024. On February 25, 2024, the Notice of Meeting of Creditors was served, ECF No. 11. The certificate of service filed in this case states that most of the parties served were not served until February 26, 2024. Certificate of Service, No. 4, ECF No. 19. This only provides 14 days' notice to all creditors and the trustee. The meeting of creditors is to be held on April 17, 2024.

In the motion debtors' counsel states that he anticipates the hearing on this motion will be continued to allow for the trustee's examination of the debtors at the meeting of creditors. Motion, 2:24-29, ECF No. 14. The court will continue the hearing in this matter to allow the creditors and the trustee an opportunity to question the debtors at the meeting of creditors.

#### **CIVIL MINUTE ORDER**

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

IT IS ORDERED that the motion to compel abandonment is continued to April 22, 2024, at 10:30 a.m. Opposition may be presented at the hearing on the motion.

8. [23-23376](#)-A-7     **IN RE: JOSEPH/RACHEL DIAZ**  
[KMT-3](#)

MOTION TO EMPLOY TMC AUCTION, INC. AS AUCTIONEER,  
AUTHORIZING SALE OF PROPERTY AT PUBLIC AUCTION AND  
AUTHORIZING PAYMENT OF AUCTIONEER FEES AND EXPENSES  
2-6-2024     [\[52\]](#)

SIMRAN HUNDAL/ATTY. FOR DBT.  
GABRIEL HERRERA/ATTY. FOR MV.  
DEBTORS DISCHARGED: 01/23/24

#### **Tentative Ruling**

**Motion:** Sell Property and Compensate Auctioneer

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Property:** 2013 Toyota Yaris; 2021 Dodge Durango; 2010 Dodge Avenger;  
2003 Toyota Echo

**Buyer:** Debtors

**Sale Price:** (a) \$3,500 - 2013 Toyota Yaris; (b) \$16,000 - Dodge Durango (less \$7,500 on account of the Debtors' exemption); (c) \$1,200 - 2010 Dodge Avenger; and (d) \$2,000 - 2003 Toyota Echo.

**Sale Type:** Private sale subject to overbid opportunity

**Auctioneer:** TMC Auction, Inc.

**Approved Compensation:** \$250

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Chapter 7 trustee, Nikki B. Farris seeks an order approving the sale of the following vehicles to the debtors: (a) \$3,500 - 2013 Toyota Yaris; (b) \$16,000 - Dodge Durango (less \$7,500 on account of the Debtors' exemption); (c) \$1,200 - 2010 Dodge Avenger; and (d) \$2,000 - 2003 Toyota Echo.

The trustee also seeks to employ and compensate Auctioneer, TMC Auction, Inc., on a flat fee basis of \$250.00 for the time spent by the auctioneer travelling to the debtors' residence, investigating and researching the value for the vehicles, and providing estimates to the trustee regarding the likely sale price for the vehicles.

The trustee has already received the proceeds which were paid by the debtors' parent.

### **SALES**

Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b)(1); see also *In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). The moving party is the Chapter 7 trustee and liquidation of property of the estate is a proper purpose. See 11 U.S.C. § 704(a)(1). As a result, the court will grant the motion. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

### **SECTION 328(a) EMPLOYMENT AND COMPENSATION**

The Chapter 7 trustee may employ an auctioneer that does not hold or represent an interest adverse to the estate and that is disinterested. 11 U.S.C. §§ 101(14), 327(a). The auctioneer satisfies the requirements of § 327(a), and the court will approve the auctioneer's employment.

Federal Rule of Bankruptcy Procedure 6005, moreover, requires the court to "fix the amount or rate of compensation" whenever the court authorizes the employment of an auctioneer. Section 328(a) authorizes employment of a professional on any reasonable terms and conditions of employment. Such reasonable terms include a fixed or percentage fee basis. The court finds that the compensation sought is reasonable and will approve the application.

The trustee shall submit an order consistent with the court's ruling.