



UNITED STATES BANKRUPTCY COURT
Eastern District of California
HONORABLE RENÉ LASTRETO II
Tuesday, March 28, 2023
Department B – Courtroom #13
Fresno, California

Unless otherwise ordered, all hearings before Judge Lastreto are simultaneously: (1) **IN PERSON** in Courtroom #13 (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.

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

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
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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.

Post-Publication Changes: 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 any possible updates.

9:30 AM

1. [23-10219](#)-B-11 **IN RE: WPI WATER RESOURCES, INC.**
[CAE-1](#)

STATUS CONFERENCE RE: CHAPTER 11 SUBCHAPTER V VOLUNTARY PETITION
2-6-2023 [[1](#)]

LEONARD WELSH/ATTY. FOR DBT.

NO RULING.

2. [23-10224](#)-B-11 **IN RE: WILLIAM MILLER**
[CAE-1](#)

STATUS CONFERENCE RE: CHAPTER 11 SUBCHAPTER V VOLUNTARY PETITION
2-7-2023 [[1](#)]

PETER FEAR/ATTY. FOR DBT.

NO RULING.

3. [22-11540](#)-B-11 **IN RE: VALLEY TRANSPORTATION, INC.**
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 SUBCHAPTER V
VOLUNTARY PETITION
9-1-2022 [[1](#)]

RILEY WALTER/ATTY. FOR DBT.

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

DISPOSITION: Continued to May 9, 2023 at 9:30 a.m.

ORDER: The court will issue an order.

On March 1, 2023, the court issued an order continuing the hearing on the debtor's motion to confirm its subchapter V plan to May 9, 2023. Doc. #362. Accordingly, this status conference will be CONTINUED to May 9, 2023 at 9:30 a.m. to be heard in connection with the plan confirmation hearing.

4. [22-11540](#)-B-11 **IN RE: VALLEY TRANSPORTATION, INC.**
[WJH-15](#)

CONTINUED FURTHER SCHEDULING CONFERENCE RE: MOTION FOR
ESTIMATION OF DISPUTED CLAIM
12-16-2022 [\[174\]](#)

VALLEY TRANSPORTATION, INC./MV
RILEY WALTER/ATTY. FOR DBT.
CONT'D TO 5/9/23 PER ECF ORDER #388

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

DISPOSITION: Continued to May 9, 2023 at 9:30 a.m.

NO ORDER REQUIRED.

On March 15, 2023, the court issued an order continuing the hearing on
this matter to May 9, 2023 at 9:30 a.m. Doc. #388.

5. [22-11540](#)-B-11 **IN RE: VALLEY TRANSPORTATION, INC.**
[WJH-16](#)

CONTINUED FURTHER SCHEDULING CONFERENCE RE: MOTION FOR
ESTIMATION OF DISPUTED CLAIM (PROOF OF CLAIM 10 FILED BY
RODNEY HEINTZ)
12-21-2022 [\[191\]](#)

VALLEY TRANSPORTATION, INC./MV
RILEY WALTER/ATTY. FOR DBT.
CONT'D TO 5/9/23 PER ECF ORDER #389

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

DISPOSITION: Continued to May 9, 2023 at 9:30 a.m.

NO ORDER REQUIRED.

On March 15, 2023, the court issued an order continuing the hearing on
this matter to May 9, 2023 at 9:30 a.m. Doc. #389.

6. [22-11540](#)-B-11 **IN RE: VALLEY TRANSPORTATION, INC.**
[WJH-8](#)

CONTINUED CONFIRMATION HEARING RE: CHAPTER 11 SMALL BUSINESS
SUBCHAPTER V PLAN
11-29-2022 [[149](#)]

RILEY WALTER/ATTY. FOR DBT.
CONT'D TO 5/9/23 PER ECF ORDER #362

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

DISPOSITION: Continued to May 9, 2023 at 9:30 a.m.

NO ORDER REQUIRED.

On March 7, 2023, the court issued an order continuing the hearing on this matter to May 9, 2023 at 9:30 a.m. Doc. #362.

7. [22-11540](#)-B-11 **IN RE: VALLEY TRANSPORTATION, INC.**
[WJH-9](#)

CONTINUED FURTHER SCHEDULING CONFERENCE RE: OBJECTION TO
CLAIM OF ANDREW MENDOZA, CLAIM NUMBER 8
11-9-2022 [[116](#)]

VALLEY TRANSPORTATION, INC./MV
RILEY WALTER/ATTY. FOR DBT.
CONT'D TO 5/9/23 PER ECF ORDER #387

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

DISPOSITION: Continued to May 9, 2023 at 9:30 a.m.

NO ORDER REQUIRED.

On March 15, 2023, the court issued an order continuing the hearing on this matter to May 9, 2023 at 9:30 a.m. Doc. #387.

8. [23-10457](#)-B-11 **IN RE: MADERA COMMUNITY HOSPITAL**
[WJH-10](#)

MOTION TO ASSUME LEASE OR EXECUTORY CONTRACT
3-14-2023 [[62](#)]

MADERA COMMUNITY HOSPITAL/MV
RILEY WALTER/ATTY. FOR DBT.

NO RULING.

Debtor in possession Madera Community Hospital ("Debtor") seeks authority to assume a Consulting Agreement with Impossible Services Group, Inc. ("ISG") pursuant to 11 U.S.C. §§ 105 and 365(a) and Fed. R. Bankr. P. ("Rule") 6006 and 9014. Doc. #66. The Consulting Agreement secured the services of Aaron Chambers as Controller and Shondale Seymour as Chief Financial Officer.

Written opposition was not required and may be presented at the hearing.

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

On or about December 28, 2022, Debtor and ISG executing the Consulting Agreement by which Aaron Chambers and Shondale Seymour would provide Controller and CFO services, respectively. Copies of their resumes and the Consulting Agreement have been included with the motion as exhibits. See, *Exs. A-C*, Doc. #65. Debtor's board of trustees approved the agreement. Doc. #64.

Under the Consulting Agreement, Mr. Chambers and Ms. Seymour agreed to provide the following services to Debtor: (1) preparing for the chapter 11 filing; (2) preparing the bankruptcy schedules, (3) assisting and evaluating possible new suitors and related proposals, (4) facilitating the cash management system, (5) overseeing billings and collections, (6) complying with chapter 11 rules and administrative requirements such as monthly operating reports, (7) evaluating hundreds of employee paid time off and other employee benefit claims, (8) evaluating vendor claims, (9) identifying Section 503(b)(9) claims, (10) preparing cash collateral budgets and projections, (11) preparing the disclosure statement and plan, and (12) engaging in collection efforts pertaining to FEMA, and more. *Id.* Mr. Chambers and Ms. Seymour charge an hourly rate of \$175.00. *Id.* Karen Paolinelli, Debtor's Chief Executive Officer, believes this is a reasonable hourly rate because comparable services usually cost between \$250-\$350 per hour, especially a professional with experience in dealing with chapter 11 debtors. *Id.*

Since Mr. Chamber's and Ms. Seymour's services are vital to facilitate Debtor's chapter 11 objections, Debtor seeks to assume the Consulting Agreement with ISG. Doc. #66.

11 U.S.C. § 1107 gives a chapter 11 debtor in possession all rights and powers of a trustee and shall perform all functions and duties of a trustee, certain exceptions notwithstanding.

11 U.S.C. § 365(a) provides that a trustee [or debtor in possession] may assume or reject any executory contract or unexpired lease of the debtor.

An "executory contract" is a contract "on which performance remains due to some extent on both sides." *Unsecured Creditors' Comm. V. Southmark Corp. (In re Robert L. Helms Constr. & Dev. Co.)*, 139 F.3d 702, 705 (9th Cir. 1998) (cleaned up). Contracts have been defined as executory when "the obligations of both parties are so unperformed that the failure of either party to complete performance would constitute a material breach and thus excuse the performance of the other." *Id.* at 705; see also, Countryman, *Executory Contracts in Bankruptcy*, 57 Minn. L. 439, 446 (1973).

In evaluating a decision to reject an executory contract or unexpired lease in the Ninth Circuit, "the bankruptcy court should presume that the debtor-in-possession acted prudently, on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the bankruptcy estate." *Agarwal v. Pomona Valley Med. Group, Inc. (In re Pomona Valley Med. Group, Inc.)*, 476 F.3d 665, 670 (9th Cir. 2007) (citations omitted). Even though this motion is to assume, not reject, the analysis is identical. "[C]ourts are no more equipped to make subjective business decisions for . . . businesses[.]" *Agarwal v. Pomona Valley Med. Group, Inc. (In re Pomona Valley Med. Group, Inc.)*, 476 F.3d 665, 670 (9th Cir. 2007) (citations omitted). *Id.*

Although Debtor's decision to assume the Consulting Agreement appears to be consistent with the business judgment rule, the services provided by Mr. Chambers and Ms. Seymour involve assisting the Debtor in operating its business and carrying out its duties as debtor in possession. Therefore, it appears approval of Mr. Chambers' and Ms. Seymour's employment under 11 U.S.C. § 327(a) may be appropriate. Since neither Ms. Seymour nor Mr. Chambers are paid by the debtor as salaried employees, the "safe harbor" of § 327(b) is inapplicable.

This matter will be called as scheduled to inquire whether any party in interest opposes. The court will also inquire whether Debtor intends to seek authorization to employ Ms. Seymour and Mr. Chambers, or on what basis such authorization is not required.

9. [23-10457](#)-B-11 **IN RE: MADERA COMMUNITY HOSPITAL**
[WJH-3](#)

CONTINUED MOTION TO USE CASH COLLATERAL AND/OR MOTION FOR
ADEQUATE PROTECTION
3-13-2023 [[18](#)]

MADERA COMMUNITY HOSPITAL/MV
RILEY WALTER/ATTY. FOR DBT.

NO RULING.

10. [23-10457](#)-B-11 **IN RE: MADERA COMMUNITY HOSPITAL**
[WJH-4](#)

CONTINUED MOTION FOR MAINTENANCE OF EXISTING BANK ACCOUNTS
AND/OR MOTION FOR CONTINUED USE OF EXISTING CASH MANAGEMENT
SYSTEM , MOTION FOR CONTINUED USE OF BUSINESS FORMS
3-13-2023 [[23](#)]

MADERA COMMUNITY HOSPITAL/MV
RILEY WALTER/ATTY. FOR DBT.

NO RULING.

1:30 PM

1. [22-11907](#)-B-7 **IN RE: FREON LOGISTICS**
[MAH-2](#)

MOTION TO APPROVE STIPULATION FOR RELIEF FROM THE AUTOMATIC
STAY
2-23-2023 [[878](#)]

WELLS FARGO EQUIPMENT FINANCE, INC./MV
LEONARD WELSH/ATTY. FOR DBT.
MARSHA HOUSTON/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 motion will be DENIED WITHOUT PREJUDICE for failure to comply with the Local Rules of Practice ("LBR").

For motions filed on 28 days' notice, LBR 9014-1(f)(1)(B) requires the movant to notify respondents that any opposition to the motion must be in writing and filed with the court at least 14 days preceding the date of the hearing.

Here, the motion and supporting documents were filed and served on February 23, 2023 and set for hearing on March 28, 2023. Docs. ##878-83. February 23, 2023 is thirty-three (33) days before March 28, 2023. Therefore, this motion was set for hearing on 28 or more days of notice under LBR 9014-1(f)(1). Nevertheless, the notice provided:

PLEASE TAKE FURTHER NOTICE that opposition, if any, to the granting of the Motion shall be presented at the hearing of this Motion. Failure of the responding party to attend the hearing may be deemed a waiver of any opposition to the granting of the motion or may result in the imposition of sanctions, the motion being resolved without oral argument and the striking of untimely opposition.

Notice ¶¶ 2:21-26, Doc. #879. This is incorrect. Since the hearing was set on more than 28 days' notice, LBR 9014-1(f)(1) is applicable. The notice should have stated that written opposition was required and must be filed at least 14 days before the hearing, and failure to timely file written opposition may be deemed a waiver of any opposition to the granting of the motion. Instead, the respondents were told not to file and serve written opposition even though it was

necessary. Therefore, the notice was materially deficient. If the movant gives 28 days or more of notice of the hearing, there is no option to simply pretend that the motion was set for hearing on less than 28 days of notice to dispense with the court's requirement that any opposition must be in writing and filed with the court. Additionally, under LBR 9014-1(d)(3)(B)(i), the motion must include the names and addresses of the persons who must be served with such opposition.

For the above reason, this motion will be DENIED WITHOUT PREJUDICE.

2. [23-10210](#)-B-7 **IN RE: KEVIN/DANIELLE FOUSE**
[DJP-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-10-2023 [\[12\]](#)

EDUCATIONAL EMPLOYEES CREDIT UNION/MV
JOEL WINTER/ATTY. FOR DBT.
DON POOL/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

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

Educational Employees Credit Union ("Movant") seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2021 Kawasaki Ninja 650 ("Vehicle"). Doc. #12. Movant also requests waiver of the 14-day stay of Fed. R. Bankr. P. ("Rule") 4001(a)(3). *Id.* Kevin Fouse and Danielle N. Fouse (collectively "Debtors") did not oppose.

Written opposition was not required and may be presented at the hearing. In the absence of opposition, the court is inclined to GRANT this motion.

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

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary

relief from the stay must be determined on a case-by-case basis." *In re Mac Donald*, 755 F.2d 715, 717 (9th Cir. 1985).

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtors do not have an 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 Debtors have missed at least three (3) pre-petition payments totaling \$730.14, plus late fees of \$21.90. Doc. #14.

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 debtor is in chapter 7. Movant values the Vehicle at \$5,345.00 and the amount owed to Movant is \$8,150.07, so Movant is undersecured. *Id.*; Doc. #17.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) to permit the movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. Adequate protection is unnecessary in light of the relief granted herein.

The 14-day stay of Rule 4001(a)(3) will be ordered waived because the debtors have failed to make at least three pre-petition payments and the Vehicle is a depreciating asset.

3. [19-15246](#)-B-7 **IN RE: ANDREA CASTILLO**
[SKI-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
2-22-2023 [\[58\]](#)

SANTANDER CONSUMER USA INC./MV
TIMOTHY SPRINGER/ATTY. FOR DBT.
SHERYL ITH/ATTY. FOR MV.
DISCHARGED 6/1/21

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

DISPOSITION: Granted in part and denied as moot in part.

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

Santander Consumer USA, Inc. dba Chrysler Capital ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to a 2018 Jeep Grand Cherokee ("Vehicle"). Doc. #58. Movant also requests waiver of the 14-day stay of Fed. R. Bankr. P. ("Rule") 4001(a)(3). *Id.* Andrea Marie Castillo ("Debtor") did not oppose.

No party in interest timely filed written opposition. This motion will be GRANTED IN PART as to the trustee and DENIED AS MOOT IN PART as to Debtor.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the chapter 7 trustee, 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 amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

11 U.S.C. § 362(c)(2)(C) provides that the automatic stay of § 362(a) continues until a discharge is granted. Debtor's discharge was entered on June 1, 2021. Doc. #50. Therefore, the automatic stay terminated with respect to Debtor on June 1, 2021. This motion will be DENIED AS MOOT IN PART as to Debtor's interest.

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).

After review of the included evidence, the court finds that "cause" exists to lift the stay with respect to the chapter 7 trustee because Debtor has failed to make 32 post-petition payments of \$487.17, totaling \$15,986.14. Movant has produced evidence that Debtor owes \$15,986.14 to Movant. Docs. #60, #63.

The court declines finding that Debtor does not have any equity in the Vehicle. Although the Vehicle is not necessary to an effective reorganization because this is a chapter 7 case, Movant values the Vehicle at \$24,900.00 and Debtor owes \$15,986.14, which leaves Movant over secured.

Accordingly, the motion will be GRANTED IN PART as to the trustee pursuant to 11 U.S.C. § 362(d)(1) to permit the movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. The motion will be DENIED AS MOOT IN PART as to Debtor's interest.

The 14-day stay of Rule 4001(a)(3) will be ordered waived because the Vehicle is a depreciating asset.

4. [23-10153](#)-B-7 **IN RE: LORENA SOSA**
[KEH-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
2-22-2023 [[12](#)]

BALBOA THRIFT & LOAN/MV
R. BELL/ATTY. FOR DBT.
KEITH HERRON/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.

Balboa Thrift & Loan ("Movant") seeks relief from the automatic under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a 2018 Nissan Sentra SV Sedan 4D ("Vehicle"). Doc. #12. Movant also requests waiver of the 14-day stay of Fed. R. Bankr. P. ("Rule") 4001(a)(3). *Id.* Lorena Patricia Sosa ("Debtor") did not oppose.

No party in interest timely filed written opposition. This motion will be GRANTED.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

As a preliminary matter, the motion does not comply with the local rules.

First, LBR 9014-1(d)(3)(B)(i) requires the notice of hearing to include the names and addresses of persons who must be served with any opposition. Here, the notice of hearing omitted the names and addresses of parties to whom opposition must be served. Doc. #13.

Second, LBR 7005-1 requires service of pleadings and other documents in adversary proceedings, contested matters in the bankruptcy case, and all other pleadings in the Eastern District of California Bankruptcy Court by attorneys, trustees, or other Registered Electronic Filing System Users using the Official Certificate of Service Form, EDC 007-005 (Rev. 10/2022). Unless six or fewer parties in interest are served, the form shall have attached to it the Clerk of the Court's Official Matrix, as appropriate: (1) for the case or adversary proceeding; (2) list of ECF Registered Users; (3) list of persons who have filed Requests for Special Notice; and/or (4) the list of Equity Security Holders. LBR 7005-1(a). The Clerk's Matrix of Creditors shall be downloaded not more than seven days prior to the date of serving the pleadings and other documents and shall reflect the date of download. LBR 7005-1(d).

Here the certificates of service filed in connection with this motion used an older version of the court's *Official Certificate of Service* form (EDC Form 7-005, New 06/2022), rather than the most updated version of the form (EDC Form 7-005, Rev. 10/22). Also, Movant did not attach the Clerk's official matrix for ECF Registered users. Docs. #16-17. The correct form can be accessed on the court's website.¹

Third, LBR 9004-2(a)(6), (b)(5), (b)(6), (e)(3), LBR 9014-1(c), and (e)(3) are the rules about Docket Control Numbers ("DCN"). These rules require a DCN to be in the caption page on all documents filed in every matter with the court and each new motion requires a new DCN. Here, the DCN for Movant's certificates of service is MC-1, but the DCN for Movant's motion and related documents is KEH-1. The certificates of service also should have contained the KEH-1 DCN.

Typically, these procedural deficiencies would result in denial of the motion without prejudice. However, since this is Movant's counsel's first certificate of service defect and Debtor intends to surrender the Vehicle, denial in this instance would unduly delay the efficient administration of this case. Accordingly, the court will exercise its power under LBR 1001-1(f) to *sua sponte* suspend the above local rules in this instance only. Movant's counsel is advised to review the local rules and ensure procedure compliance in future matters.²

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case-by-case basis." *In re Mac Donald*, 755 F.2d 715, 717 (9th Cir. 1985).

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtors do not have an 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 with respect to the chapter 7 trustee because Debtor has failed to make 4 pre-petition payments totaling \$1,291.28 and 2 post-petition payments totaling \$645.64. Docs. ##14-15. Movant has produced evidence that Debtor is delinquent \$1,936.92 and owes a total of \$14,900.06 to Movant. *Id.* Additionally, Debtor has stated an intent to surrender Vehicle to Movant. Doc. #1.

The court also finds that Debtor does have any equity in the Vehicle. Vehicle is not necessary to an effective reorganization because this is a chapter 7 case. Movant values the Vehicle at \$9,943.00 and Debtor owes \$14,900.06, which leaves Movant under secured.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) to permit the movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. Adequate protection is unnecessary in light of the relief granted herein.

The 14-day stay of Rule 4001(a)(3) will be ordered waived because Debtor has failed to make post-petition payments, Debtor intends to surrender Vehicle, and Vehicle is a depreciating asset.

¹ See, Official Certificate of Service Form Information (Bankr. E.D. Cal.), <https://www.caeb.uscourts.gov/CertificateOfServiceForm> (visited Mar. 21, 2023).

² Local Rules of Practice (Bankr. E.D. Cal.), <https://www.caeb.uscourts.gov/documents/Forms/LocalRules/LocalRulesFeb2023.pdf> (visited Mar. 21, 2023).

5. [21-11354](#)-B-7 **IN RE: ELTON VASQUEZ MEMBRENO AND EVELYN SERRANO**
[KMM-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
2-27-2023 [[34](#)]

U.S. BANK NATIONAL ASSOCIATION/MV
RAYMOND PEREZ/ATTY. FOR DBT.
KIRSTEN MARTINEZ/ATTY. FOR MV.
DISCHARGED 8/17/2021

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

DISPOSITION: Granted in part; denied as moot in part.

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

U.S. Bank National Association ("Movant") seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to a piece of real property located at 2947 East Holland Avenue in Fresno, California 93726 ("Property"). Doc. #34. Elton Rolando Vasquez Membreno and Evelyn Janeth Serrano (collectively "Debtors") did not oppose.

No party in interest timely filed written opposition. This motion will be GRANTED IN PART as to the trustee and DENIED AS MOOT as to the Debtors.

As an informative matter, the certificate of service filed in connection with this motion (Doc. #39) 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. Thus, the version that was filed with the court can be altered. In the future, the declarant should print the completed certificate of service form prior to filing and not file the fillable version.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The motion will be 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 August 17, 2021. Doc. #29.

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 an 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 with respect to the trustee because Debtors have failed to make at least 21 complete post-petition payments. The Movant has produced evidence the debtors are delinquent at least \$30,314.57 and the entire balance of \$175,405.90 is due. Doc. #38.

The court declines finding that the debtors do not have any equity in the Property. Although this is a chapter 7 case and the Property is not necessary for an effective reorganization, the moving papers indicate that Debtors have approximately \$12,267.00 in equity after accounting for a second lien in the amount of \$72,327.10. Doc. #36. Nevertheless, relief under § 362(d)(2) is moot because there is "cause" to grant the motion under § 362(d)(1).

Accordingly, the motion will be GRANTED IN PART as to the trustee pursuant to 11 U.S.C. § 362(d)(1) to permit the movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. The motion will be DENIED AS MOOT IN PART as to the Debtors because their discharge has been entered. The order shall also provide that the bankruptcy proceeding has been finalized for purposes of Cal. Civ. Code § 2923.5. No other relief is awarded.

6. [23-10054](#)-B-7 **IN RE: RASHPAL/JASVIR VIRK**
[JES-1](#)

TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO APPEAR AT SEC.
341(A) MEETING OF CREDITORS
2-19-2023 [[22](#)]

JUSTIN HARRIS/ATTY. FOR DBT.
OPPOSITION BY BOTH DEBTORS

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

DISPOSITION: Conditionally denied.

ORDER: The court will issue the order.

Chapter 13 trustee James E. Salven ("Trustee") seeks dismissal of this case for the debtors' failure to appear and testify at the § 341(a) meeting of creditors held on February 16, 2023. Doc. #21.

Rashpal Singh Virk and Jasvir Kaur Virk (collectively "Debtors") timely opposed. Docs. ##24-25. Debtors' native language is Punjabi and their relatives translate for them, so Debtors misunderstood the date of their meeting of creditors. Upon realization of the error, Debtors could not get to their attorney's office in time for the meeting.

This motion to dismiss will be CONDITIONALLY DENIED.

Debtors shall attend the meeting of creditors rescheduled for April 13, 2023 at 2:00 p.m. See, Doc. #21. If Debtors fail to appear and testify at the rescheduled meeting, Trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

The times prescribed in Fed. R. Bankr. P. 1017(e)(1) and 4004(a) for the Chapter 7 Trustee and U.S. trustee to object to Debtors' discharge or file motions for abuse, other than presumed abuse under § 707, are extended to 60 days after the conclusion of the meeting of creditors.

7. [22-10974](#)-B-7 **IN RE: FRANCISCO SAMANIEGO**
[FW-3](#)

MOTION TO SELL FREE AND CLEAR OF LIENS AND/OR MOTION TO PAY
2-28-2023 [\[71\]](#)

PETER FEAR/MV
T. O'TOOLE/ATTY. FOR DBT.
GABRIEL WADDELL/ATTY. FOR MV.

TENTATIVE RULING: This matter will proceed for higher and better bids, only.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order after hearing.

Chapter 7 trustee Peter L. Fear ("Trustee") seeks authorization to sell the estate's interest in real property located at 31761 Apache Road, Coarsegold, CA 93614 ("Property") to Amarjit Sidhu ("Proposed Buyer") for \$212,000.00, subject to higher and better bids at the hearing pursuant to 11 U.S.C. § 363(b). Doc. #71. Additionally, Trustee seeks to sell the Property free and clear of the interest of Marie Meza under 11 U.S.C. § 363(f)(4), requests to pay a broker commission of six percent (6%) under 11 U.S.C. § 328, to be split equally between the buyer's and seller's brokers, and asks for waiver of the 14-day stay of Fed. R. Bankr. P. ("Rule") 6004(h). *Id.*

No party in interest timely filed written opposition. This motion may be GRANTED. The court may solicit higher and better bids at the hearing.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1) and Rule 2002(a)(2) and (a)(6). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Therefore, the

defaults of the above-mentioned parties in interest are entered and the matter will proceed for higher and better bids only. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

BACKGROUND

Francisco Samaniego ("Debtor") filed chapter 13 bankruptcy on June 10, 2022. Doc. #1. The case was subsequently converted to chapter 7 on August 31, 2022. Docs. ##31-32. Trustee was appointed as interim chapter 7 trustee on that same day and became permanent trustee at the first meeting of creditors on September 29, 2022. Doc. #33.

Among the assets of the estate is Property, which is listed in the schedules with a value of \$200,000.00. *Sched. A/B*, Doc. #12. Though Debtor did not claim an exemption in Property, the following encumbrances were scheduled: (i) a tax lien in favor of the Internal Revenue Service ("IRS") in the amount of \$129,222.02, (ii) a tax lien in favor of the State of California in the amount of \$105,395.10, and (iii) a first deed of trust in favor of Adrian Van Deer Graaf [*sic*] in the amount of \$195,500.00. *Sched. D, id.*

The two tax liens appear to also encumber Debtor's other real property located at 1930 W. Kearney Blvd., Fresno, CA 93706 ("Fresno Property"). *Id.* Both the IRS and the California Franchise Tax Board ("FTB") have filed proofs of claim. Adrian Van der Graaf has not filed a proof of claim – more on that later.

First, IRS's Proof of Claim No. 5-5 (amended February 8, 2023) asserts a claim of \$350,358.46, of which \$69,605.83 is secured and \$280,752.63 is unsecured. Claim 5-5. In the attachment to Claim 5-5, the IRS recorded liens in Fresno County in 2014 and 2021 for one assessment dated July 14, 2014 in the amount of \$39,699.07, and two assessments dated March 21, 2016 in the aggregate amount of \$280,302.23.³ *Id.* at 6-7. Although the IRS has the right to assert a lien under 26 U.S.C. § 6321 for unpaid taxes upon all of Debtor's property and rights to property, whether real or personal, the IRS's liens here have only been recorded in Fresno County, and thus, they appear to encumber Fresno Property only. Property is located in Coarsegold, Madera County, and therefore appears to be unaffected by the IRS liens.

Second, FTB's Proof of Claim No. 8-2 (amended January 30, 2023) asserts a claim of \$56,559.87, of which \$50,745.75 is secured and \$5,814.12 is unsecured. Claim 8-2. In the attachment to Claim 8-2, the FTB recorded liens in Fresno County in 2018 and 2020 for three assessments for tax years 2012, 2013, and 2015 in the aggregate amount of \$42,692.86, and one assessment for tax year 2017 in the amount of \$9,052.89.⁴ *Id.* at 1, 5. As with the IRS liens, the FTB liens appear to

only encumber Debtor's Fresno Property. Since Property is located in Madera County, it appears to be unaffected by the FTB liens.

Lastly, the schedules disclose the existence of a first deed of trust in favor of Adrian Van der Graaf in the amount of \$195,500.00, which was purportedly incurred in 2020. *Sched. D, Doc. #12*. Van der Graaf did not file a proof of claim. The court notes Van der Graaf, the IRS, and the FTB are listed in the master address list and were served with notice of this motion. Docs. #4; #77.

Since discussion related to Van der Graaf is omitted from this motion, the court reviewed very limited public records published by the Madera County Clerk-Recorder's office through their online index.⁵ Specifically, the court searched Debtor's name on the Madera County Clerk-Recorder's Name Search.⁶ There, a deed of trust and assignment of rents was recorded in favor of "ADRIAN VANDERGAAFF" as grantee on February 5, 2021.⁷ However, there is also a reconveyance in favor of Debtor as grantee, which was recorded on March 10, 2022.⁸ The identity of the grantor in the limited information related to the reconveyance is not stated. So, Van der Graaf's secured claim in Property may have previously been satisfied, but it is unclear whether he or she possesses a present interest in Property. The court will inquire about the interests encumbering Property at the hearing.

DISCUSSION

Proposed Sale of Property Free & Clear of the Meza Interest

Trustee seeks authorization to sell Property free and clear of liens pursuant to 11 U.S.C. § 363(b) and (f). Doc. #71.

11 U.S.C. § 363(b)(1) allows the trustee to "sell, or lease, other than in the ordinary course of business, property of the estate."

Proposed sales under 11 U.S.C. § 363(b) are reviewed to determine whether they are: (1) in the best interests of the estate resulting from a fair and reasonable price; (2) supported by a valid business judgment; and (3) proposed in good faith. *In re Alaska Fishing Adventure, LLC*, 594 B.R. 883, 887 (Bankr. D. Alaska 2018) citing *240 North Brand Partners v. Colony GFP Partners, Ltd. P'Ship (In re 240 N. Brand Partners)*, 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996); *In re Wilde Horse Enters., Inc.*, 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991). In the context of sales of estate property under § 363, a bankruptcy court "should determine only whether the trustee's judgment was reasonable and whether a sound business justification exists supporting the sale and its terms." *Alaska Fishing Adventure, LLC*, 594 B.R. at 889 quoting 3 Collier on Bankruptcy ¶ 363.02[4] (Richard Levin & Henry J. Sommer eds., 16th ed.). "[T]he trustee's business judgment is to be given great judicial deference.'" *Id.* citing *In re Psychometric Sys.*, 367 B.R. 670, 674 (Bankr. D. Colo. 2007); *In re Bakalis*, 220 B.R. 525, 531-32 (Bankr. E.D.N.Y. 1998).

Sales to an insider are subject to heightened scrutiny. *Alaska Fishing Adventure, LLC*, 594 B.R. at 887, citing *Mission Product Holdings, Inc. v. Old Cold, LLC (In re Old Cold LLC)*, 558 B.R. 500, 516 (B.A.P. 1st Cir. 2016). This sale is to Proposed Buyer. Nothing in the record suggests that Proposed Buyer is an insider with respect to Debtor or the estate. Proposed Buyer is neither listed in the schedules nor the master address list. Docs. #4; #12.

Trustee included as exhibits copies of the contract for sale of the Property to Proposed Buyer (the "Purchase Agreement") and the Preliminary Title Report. *Exs. A-B*, Doc. #75.

The Preliminary Title Report lists property taxes currently owed or in default on the Property, as well as a small utility lien held by the County of Madera. *Ex. B, id.* Trustee says the taxes and the utility lien will be paid through escrow. Doc. #74. As noted above, there is no discussion in the motion on whether IRS, FTB, or Van der Graaf hold security interests in Property. None of these parties are listed in the Preliminary Title Report, but that may be due to out-of-county recording by the IRS and FTB, or satisfaction of claim and subsequent reconveyance by Van der Graaf. The court will inquire about the status of these interests at the hearing.

Under 11 U.S.C. § 363(f), the trustee may sell property of the estate outside the ordinary course of business, after notice and a hearing, free and clear of "any interest in such property of an entity other than the estate, only if . . . such interest is in bona fide dispute." § 363(f) (4).

On February 24, 2023, Trustee filed an adversary proceeding against Marie Meza to determine the nature, extent, and validity of interests in Property under 11 U.S.C. § 541. *See*, Compl., Adv. Proc. No. 23-1019 (Bankr. E.D. Cal.), Doc. #1. Trustee filed the adversary proceeding after obtaining a copy of the Preliminary Title Report, which showed a transfer from Debtor to Meza on or about October 13, 2021 and recorded on or about November 16, 2021. *Id.* Meza subsequently transferred the Property back to Debtor on or about May 16, 2022 with a deed recorded on or about May 17, 2022. *Id.* Therefore, Trustee seeks a determination that Meza has no interest in Property, and, at the time Debtor filed bankruptcy, Debtor was the sole owner in fee simple of the Property. *Id.* The court notes Meza was properly served with the motion, notice, and supporting documents. Doc. #76.

Since Meza's interest in Property is in bona fide dispute, the court will order the sale of Property to be free and clear of only Meza's interest under 11 U.S.C. § 363(f) (4). Marie Meza's lien will transfer to the proceeds of the sale. After payment of consensual liens, taxes, and closing costs, the remaining net proceeds shall be held in trust and not disbursed without further court order until resolution of the adversary proceeding.

If sold at the proposed sale price, Trustee anticipates the following distributions from the sale of Property:

Sale Price	\$212,000.00
Estimated Taxes	- \$7,379.32
Estimated Madera County Utility Lien	- \$305.22
Estimated Costs of Sale	- \$4,240.00
Estimated Broker Fees (6% split)	- \$12,720.00
Estimated Net Proceeds	= \$187,355.46

Doc. #74.

The sale under these circumstances should maximize the potential recovery for the estate. If the IRS, FTB, and Van der Graaf interests are properly resolved, the sale of Property free and clear of Meza's lien would appear to be in the best interests of the estate because it will pay off taxes and a utility lien while providing liquidity to the estate that can be distributed for the benefit of unsecured claims. The sale appears to be supported by a valid business judgment and proposed in good faith. The sale appears to be an appropriate exercise of Trustee's business judgment, which will be given deference.

Other Liens

At the hearing, the court will inquire about the status of the deed of trust in favor of Adrian Van der Graaf, and the tax liens in favor of the IRS and the FTB. *Sched. D*, Doc. #12.

Trustee only seeks to sell Property free and clear of Meza's lien under § 363(f); there is no discussion on whether the other liens encumber Property. Trustee has also not filed any adversary proceedings against IRS or FTB to "marshal" their interests by requiring them to seek payment of their liens from Debtor's Fresno Property. *See, e.g., In re Spectra Prism Indus., Inc.*, 28 B.R. 397, 399 (B.A.P. 9th Cir. 1983) (equitable marshalling available when there are two or more funds, only one creditor with the right to resort to both funds, the absence of prejudice, and marshalling will avoid injustice to third parties).

Therefore, the court declines ordering how Adrian Van Der Graaf, the IRS, or the FTB must collect the balance of their security interests in Property, if any. The order will provide that the sale is free and clear of Marie Meza's lien only. Meza's interest will attach to the proceeds of the sale until resolution of the pending adversary proceeding. The court will not make any findings on the nature, extent, or validity of the interests of Adrian Van der Graaf, the IRS, or the FTB.

Real Estate Brokers' Compensation

This motion affects the proposed disposition of estate assets and the estate's real estate broker, Robert Casey of Berkshire Hathaway HomeServices California Realty ("Broker"). Under Fed. R. Civ. P. 21 (Rule 7021 incorporated in contested matters under Rule 9014(c)), the court will exercise its discretion to add Broker as a party.

LBR 9014-1(d)(5)(B)(ii) permits joinder of claims for authorization for the sale of real property and allowance of fees and expenses for such professional under 11 U.S.C. §§ 327-28, 330, 363, and Rule 6004.

On November 4, 2022, Trustee moved to employ Broker. Doc. #62. The court approved Broker's employment on November 7, 2022 under 11 U.S.C. §§ 327-28. Doc. #67.

Pursuant to the employment order, Trustee requests authority to compensate Broker and the buyer's broker with a 6% commission, to be evenly split at 3% each. Doc. #71. If sold at the proposed sale price, Broker and the buyer's broker will split a \$12,720.00 commission: \$6,360.00 each. *Id.* Proposed Buyer's broker is Sevan Khasharian, who also works for Berkshire Hathaway HomeServices California Realty. Purchase Agreement, *Ex. A*, Doc. #75.

Trustee believes this is a reasonable compensation for the services performed by Broker, including listing the Property for sale, soliciting offers, showing the Property, marketing the Property, and negotiating the terms of the sale with buyer. Casey Decl., Doc. #73; Trustee Decl., Doc. #74. This sale offer would not exist but for Broker's services. *Id.*

The court will authorize Trustee to pay the brokers' commission as prayed.

Waiver of the 14-day stay of Rule 6004(h)

Trustee requests waiver of the 14-day stay of Rule 6004(h), but Trustee has not provided any reason for such waiver. Doc. #71. Trustee's request for waiver of the 14-day stay of Rule 6004(h) will be DENIED because Trustee presents no legal or factual bases in support of such waiver. *See, e.g., Paladino v. S. Coast Oil Corp. (In re S. Coast Oil Corp.)*, 566 F. App'x 594, 595 (9th Cir. 2014) (affirming waiver of 14-day stay because time was of the essence due to regulatory deadlines); *In re Ormet Corp.*, 2014 LEXIS 3071 (Bankr. D. Del. July 17, 2014) (waiving 14-day stay because previous sale failed and new buyers required closing to occur before expiration of stay). There do not appear to be any circumstances here warranting waiver of the 14-day under Rule 6004(h).

Overbid Procedure

Any party wishing to overbid shall comply with the following requirements prior to the hearing:

1. Deposit with counsel for Trustee certified monies in the amount of \$6,360.00 prior to the time of the hearing. Unsuccessful bidders' deposits shall be returned at the conclusion of the hearing;
2. Provide proof in the form of a letter of credit, or some other written pre-qualification for any financing that may be required to complete the purchase of Property sufficient to cover the necessary overbid amount;
3. Provide proof that any successful overbidder can and will close the sale within 15 days of delivery of a certified copy of the court's order approving the sale and execute a Purchase Agreement for the Property;
4. Any successful overbid shall have the \$6,360.00 deposit applied to the successful overbid price;
5. In the event a successful overbidder fails to close the sale within 15 days of delivery of a certified copy of the court's order approving the sale and execute a Purchase Agreement for the Property, the \$6,360.00 deposit shall become non-refundable, and the next highest bidder shall become the buyer;
6. Any party wishing to overbid may do so by making an appearance at the hearing or having an authorized representative with written proof of authority to bid on behalf of the prospective overbidder;
7. All overbids shall be in the minimum amount of \$1,000.00 such that the first of any overbid shall be in the minimum amount of \$213,000.00; and
8. The sale of the Property is in "as-is, where-is" condition with no warranty or representations, express, implied, or otherwise by the bankruptcy estate, the Debtor, or their representatives.

CONCLUSION

No party in interest timely filed written opposition. The court will inquire at the hearing about the current status of the scheduled interests in Property in favor of the IRS, FTB, and Adrian Van der Graaf. If satisfactory, this motion may be GRANTED, and the court may solicit higher and better bids at the hearing.

Since Trustee has complied with all applicable notice and procedure requirements regarding the sale of Property, Trustee may be authorized to sell Property to the highest bidder as determined at the hearing, to pay all costs, commissions, consensual liens, and taxes directly from escrow, and to execute any documents necessary or convenient to close the sale.

The request for waiver of the 14-day stay of Rule 6004(h) will be DENIED WITHOUT PREJUDICE.

³ The IRS liens recorded in Fresno County bear the following document recording numbers: (a) 2014-0099563, and (b) 2021-0169965. Claim 5-5 at 6-7.

⁴ The FTB liens recorded in Fresno County bear the following document recording numbers: (a) 2018-0016423, and (b) 2020-0162710. Claim 8-2 at 5.

⁵ Madera County Clerk-Recorder's Online Index, <https://www.maderacounty.com/government/county-clerk-recorder-elections/online-index> (visited Mar. 21, 2023). The court may take judicial notice *sua sponte* of information published on government websites. Fed R. Evid. 201(c)(1); *Daniels-Hall v. Nat'l Educ. Ass'n*, 629 F.3d 992, 998-99 (9th Cir. 2010).

⁶ "SAMANIEGO FRANCISCO" on Name Search, <https://maderacountyca-web.tylerhost.net/web/search/DOCSEARCH201S5> (visited Mar. 21, 2023).

⁷ The deed of trust and assignment of rents in favor of Van der Graaf and recorded in Madera County bears document recording no. 2021-003701. *Id.*

⁸ The reconveyance in favor of Debtor recorded in Madera County bears document recording no. 2022-006688. *Id.*