UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Tuesday, April 14, 2020
Place: Department B – Courtroom #13
Fresno, California

Pursuant to District Court General Order 612, no persons are permitted to appear in court unless authorized by order of the court. All appearances of parties and attorneys shall be telephonic through CourtCall, which advises the court that it is waiving the fee for the use of its service by pro se (not represented by an attorney) parties through April 30, 2020. The contact information for CourtCall to arrange for a phone appearance is: (866) 582-6878.

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. 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. 20-10800-B-11 **IN RE: 4-S RANCH PARTNERS, LLC**

STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION
3-2-2020 [1]

RENO FERNANDEZ/ATTY. FOR DBT.

NO RULING.

2. 20-10800-B-11 **IN RE: 4-S RANCH PARTNERS, LLC**
WJH-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-16-2020 [21]

SANDTON CREDIT SOLUTIONS MASTER FUND IV, LP/MV
RENO FERNANDEZ/ATTY. FOR DBT.
KURT VOTE/ATTY. FOR MV.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: This matter will proceed as a scheduling conference.

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

The parties are advised that the Judicial Law Clerk for this Department, Mr. Leatham, has accepted a position with the Wanger Jones Helsley law firm. Mr. Leatham is screened from considering this and any other matter involving that firm until he is no longer employed by the court. The parties are urged to consult with their clients and determine whether they will ask the court to recuse from this matter notwithstanding the screening process involving Mr. Leatham. The court will inquire about this 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). The failure of the 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). Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). The debtor has opposed the motion. The default of all other responding parties is entered.

The movant, Sandton Credit Solutions Master Fund IV, LP, seeks relief from the automatic stay under 11 U.S.C. § 362(d)(2).

I. Service of process

First, the debtor contends that this motion was improperly served. Doc. #40. Under Bankruptcy Rule 4001(a)(1), a motion for relief from stay is a contested matter governed by Rule 9014, which requires that, in a Chapter 11 case, the motion be served upon the creditors committee or the holders of the 20 largest unsecured claims. Rule 7004(b)(3) provides that service of process upon a domestic corporation, partnership, or other unincorporated association may be completed by mailing a copy of the summons and complaint to the attention of an officer, a managing agent or general agent, or to any other agent authorized by appointment or by law to receive service of process.

As authority, the debtor proffers In re LSSR, LLC, an unpublished opinion, wherein the Ninth Circuit Bankruptcy Appellate Panel affirmed a lower court's decision to deny relief from the automatic stay without prejudice for, among other things, failure to properly serve the 20 largest unsecured claims as listed pursuant to Rule 1007(d). In re LSSR, LLC, No. BAP CC-12-1636-DKITA, 2013 WL 2350853 (BAP 9th Cir. May 29, 2013).

In response, the movant asserts that the motion was properly served on each of the 20 largest creditors at its registered address for service of process using the address list created by the debtor. The movant believes it complied with 7004(b)(3) by mailing a copy of the motion, notice, and other documents to the 20 largest unsecured creditors in this case, though without addressing each envelope specifically to the "agent for service of process." Doc. #33. As authority, the movant also submits an unpublished decision, In re Sazegar, wherein the Bankruptcy Appellate Panel held that a debtor "does not have standing to challenge service in relation to third parties" and therefore cannot rely upon In re LSSR, LLC to avoid annulment of the automatic stay. In re Sazegar, No. BAP CC-14-1188-TADPA, 2015 WL 728464 (BAP 9th Cir. Feb. 19, 2015).

This court is persuaded that the debtor does not have standing to challenge the service of process in relation to third parties. The debtor was served with the relief from stay motion as required by the local rules and has suffered no prejudice from the allegedly improper service on other parties in interest.

II. Relief from the automatic stay

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 that is the

subject of the motion and such property is not necessary to an effective reorganization.

The movant's claims against the debtor arise from a loan made in August 2017 that is secured by real property in Merced County. Doc. #23. The loan was secured by two properties, "4-S Property," which consists of 16 parcels and is owned by the debtor, and "Hamburg Ranch," which consists of 5 parcels and owned by Stephen W. Sloan, the sole owner of the debtor. Id. The 4-S Property is the subject of this motion for relief from the automatic stay. The loan included an option to defer payments for the first year, which the debtor exercised. This allowed the debtor to supposedly commoditize its water and effectuate a plan to transfer that water to buyers, including water districts across the state. Id.

The principal of the original loan was $33,075,887.92. Under the terms of the loan, the principal balance would accrue interest based on a 360-day year in two ways: (1) regular interest at a rate of 7% per annum ("Cash Interest"); and (2) deferred interest, or payment-in-kind interest, at a rate of 9% per annum ("PIK Interest"). Doc. #24, Ex. B. The promissory note provides that the debtor was to make regular monthly payments of all accrued Cash Interest throughout the life of the loan, with the balance of accrued PIK Interest due and payable on the maturity date. Id. at Ex. A. Additionally, the debtor also agreed to pay the movant 75% of its "Free Cash Flow," which is defined as earnings from sales of water, crops, rents, or other funds produced by the real property secured as collateral against the loan. Id. To substantiate the debtor's "Free Cash Flow," the debtor is required to regularly provide financial documents, including audited financial statements; quarterly financial statements; monthly reports regarding the amount of water sold and delivered from the properties; and the debtor's tax returns, which the movant alleges it did not receive, thereby further violating the terms of the loan agreement. Id. The promissory note also permitted the movant to recover reasonable attorneys' fees and costs expended or incurred in connection with the enforcement of the loan.

In the last three years, the debtor made a one-time payment in the amount of $200,000.00, which creditor applied to the outstanding Cash Interest. Doc. #23. There have also been four separate forbearance agreements, each postponing the enforcement proceedings while accruing additional fees and charges. Id. As of the commencement of this case, the outstanding balance owed to the movant totaled $57,264,545.53, which includes: (1) a principal balance of $47,469,035.59, including PIK Interest; (2) Cash Interest accrued in the amount of $4,479,364.84; (3) default Cash Interest in the amount of $1,906,576.74; (4) late charges of $225,710.71; (5) attorneys' fees of $183,857.65; and (6) the forbearance fees of $3,000,000.00. Id.

The movant obtained two separate appraisals, which gave the two properties a combined value of $27,505,000.00. Id. On October 24, 2019, 4-S Property was appraised at $14,985,000.00. Doc. #24, Ex. G. On September 30, 2019, Hamburg Ranch was appraised at $12,500,000.00. Id. at Ex. F. In light of these two appraisals,

the movant contends that the debtor has no equity in the two properties.

The debtor contests the accuracy of these appraisals. The debtor contends that the appraisers' respective methodologies failed to consider the value of all associated and appurtenant water, water rights, water-related assets, and water interest. Doc. #41. The debtor cites specific language in the appraisals noting the "extraordinary assumption that there are no subsurface rights inherent to title" in conducting the valuation. Id. Additionally, the debtor cites a 2010 appraisal of 4-S Property valuing the property at $236,500,000. Doc. #42, Ex. 1.

In response to the debtor's opposition, the movant argues that the 2010 appraisal is outdated because it was conducted before the enactment of the Sustainable Groundwater Management Act ("SGMA") in 2014. SGMA restricts pumping of groundwater on the debtor's land because it is located in a "critically overdrafted" portion of the state. Doc. #46.

The movant additionally contends that the debtor has no realistic prospect of using the 4-S Property to successfully reorganize. Movant argues that the debtor has controlled the 4-S Property for years and has yet to make substantial progress toward monetizing the water on the property. Doc. #23. The movant alleges that the debtor has not made any isolated water sales in years and failed to commoditize its water on a larger scale. Id.

The debtor concedes SGMA hinders the debtor's ability to pump and transfer groundwater. That said, the debtor claims to have forty statement of diversion permits recorded with the State Water Resources Control Board and is only one permit away from being fully operational. Doc. #41. Due to implementation of the SGMA and the COVID-19 pandemic, the debtor expects a delay of at least six months in processing this final permit. Id.

The movant disputes that the debtor will be able to commoditize the groundwater of the 4-S Property, and argues that the debtor has failed to sufficiently demonstrate that a reorganization involving the 4-S Property is plausible.

This matter is now deemed to be a contested matter. Pursuant to Federal Rule of Bankruptcy Procedure 9014(c), the federal rules of discovery apply to contested matters. The parties shall be prepared for the court to schedule upcoming events in this claim litigation.

Based on the record, the factual issues appear to include:

(1) The value of the 4-S Property; and

(2) Whether the water-related operations of 4-S Property may realistically produce sufficient revenue for an effective reorganization.

The legal issues appear to include:

(1) Whether reorganization is possible within a reasonable time, if at all;

(2) Whether the movant and debtor have met their burdens of proof under §362 (g); and
(3) Whether a successful reorganization is plausible.

III. 11 U.S.C. § 362(e)(1)

11 U.S.C. § 362(e)(1) provides that thirty days after a request under § 362(d) for relief from the stay against property of the estate is terminated with respect to the party in interest making such a request, unless the court, after notice and a hearing, orders such a stay continued in effect pending the conclusion of, or as a result of, a final hearing and determination under this section. A hearing under this subsection may be a preliminary hearing, or may be consolidated with the final hearing under subsection (d). The court shall order such a stay continued in effect pending the conclusion of the final hearing under subsection (d) of this section if there is a reasonable likelihood that the party opposing relief from such stay will prevail at the conclusion of such final hearing. If the hearing under this subsection is a preliminary hearing, then such final hearing shall be concluded not later than thirty days after the conclusion of such preliminary hearing, unless the 30-day period is extended with the consent of the parties in interest or for a specific time which the courts finds is required by compelling circumstances.

Because of the current COVID-19 pandemic, it is unlikely a final hearing can be conducted within thirty days of this hearing. The court will ask if the parties will stipulate to a hearing schedule outside of the 30-day limit of § 362(e)(1). Absent a stipulation, the court may find compelling circumstances warrant an extension of the 30 day hearing requirement.

3. 20-10809-B-11 **IN RE: STEPHEN SLOAN**

STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION
3-2-2020 [1]

PETER FEAR/ATTY. FOR DBT.

NO RULING.

4. 20-10809-B-11 **IN RE: STEPHEN SLOAN**
WJH-2

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-16-2020 [22]

SANDTON CREDIT SOLUTIONS MASTER FUND IV, LP/MV
PETER FEAR/ATTY. FOR DBT.
KURT VOTE/ATTY. FOR MV.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: This matter will proceed as a scheduling conference.

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

The parties are advised that the Judicial Law Clerk for this Department, Mr. Leatham, has accepted a position with the Wanger Jones Helsley law firm. Mr. Leatham is screened from considering this and any other matter involving that firm until he is no longer employed by the court. The parties are urged to consult with their clients and determine whether they will ask the court to recuse from this matter notwithstanding the screening process involving Mr. Leatham. The court will inquire about this 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). The failure of the 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). Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). The debtor has opposed the motion. The default of all other responding parties is entered.

The movant, Sandton Credit Solutions Master Fund IV, LP, seeks relief from the automatic stay under 11 U.S.C. § 362(d)(2).

I. Service of process

First, the debtor contends that this motion was improperly served. Doc. #51. Under Bankruptcy Rule 4001(a)(1), a motion for relief from stay is a contested matter governed by Rule 9014, which requires that, in a Chapter 11 case, the motion be served upon the creditors committee or the holders of the 20 largest unsecured claims. Rule 7004(b)(3) provides that service of process upon a domestic corporation, partnership, or other unincorporated association may be completed by mailing a copy of the summons and complaint to the attention of an officer, a managing agent or

general agent, or to any other agent authorized by appointment or by law to receive service of process.

As authority, the debtor proffers In re LSSR, LLC, an unpublished opinion, wherein the Ninth Circuit Bankruptcy Appellate Panel affirmed a lower court's decision to deny relief from the automatic stay without prejudice for, among other things, failure to properly serve the 20 largest unsecured claims as listed pursuant to Rule 1007(d). In re LSSR, LLC, No. BAP CC-12-1636-DKITA, 2013 WL 2350853 (BAP 9th Cir. May 29, 2013).

In response, the movant asserts that the motion was properly served on each of the 20 largest creditors at its registered address for service of process using the address list created by the debtor. The movant believes it complied with 7004(b)(3) by mailing a copy of the motion, notice, and other documents to the 20 largest unsecured creditors in this case, though without addressing each envelope specifically to the "agent for service of process." Doc. #33. As authority, the movant also submits an unpublished decision, In re Sazegar, wherein the Bankruptcy Appellate Panel held that a debtor "does not have standing to challenge service in relation to third parties" and therefore cannot rely upon In re LSSR, LLC to avoid annulment of the automatic stay. In re Sazegar, No. BAP CC-14-1188-TADPA, 2015 WL 728464 (BAP 9th Cir. Feb. 19, 2015).

This court is persuaded that the debtor does not have standing to challenge the service of process in relation to third parties. The debtor was served with the relief from stay motion as required by the local rules and has suffered no prejudice from the allegedly improper service on other parties in interest.

II. Relief from the automatic stay

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 that is the subject of the motion and such property is not necessary to an effective reorganization.

The debtor is the managing member and 100% owner of 4-S Ranch Partners, LLC ("4-S"). Doc. #52. The movant's claims against the debtor arise from a loan made in August 2017 that is secured by real property in Merced County. Doc. #24. The loan was secured by two properties, "4-S Property," which consists of 16 parcels and is owned by 4-S, and "Hamburg Ranch," which consists of 5 parcels and is owned by the debtor. Id. Hamburg Ranch is the subject of this motion for relief from the automatic stay. The loan included an option to defer payments for the first year, which the debtor exercised. This allowed the debtor to supposedly commoditize its water and effectuate a plan to transfer that water to buyers, including water districts across the state. Id.

The principal of the original loan was $33,075,887.92. Under the terms of the loan, the principal balance would accrue interest based on a 360-day year in two ways: (1) regular interest at a rate of 7% per annum ("Cash Interest"); and (2) deferred interest, or payment-

in-kind interest, at a rate of 9% per annum ("PIK Interest"). Doc. #25, Ex. B. The promissory note provides that the debtor was to make regular monthly payments of all accrued Cash Interest throughout the life of the loan, with the balance of accrued PIK Interest due and payable on the maturity date. Id. at Ex. A. Additionally, the debtor also agreed to pay the movant 75% of its "Free Cash Flow," which is defined as earnings from sales of water, crops, rents, or other funds produced by the real property secured as collateral against the loan. Id. To substantiate the debtor's "Free Cash Flow," the debtor is required to regularly provide financial documents, including audited financial statements; quarterly financial statements; monthly reports regarding the amount of water sold and delivered from the properties; and the debtor's tax returns, which the movant alleges it did not receive, thereby further violating the terms of the loan agreement. Id. The promissory note also permitted the movant to recover reasonable attorneys' fees and costs expended or incurred in connection with the enforcement of the loan.

In the last three years, the debtor made a one-time payment in the amount of $200,000.00, which creditor applied to the outstanding Cash Interest. Doc. #24. There have also been four separate forbearance agreements, each postponing the enforcement proceedings while accruing additional fees and charges. Id. As of the commencement of this case, the outstanding balance owed to the movant totaled $57,264,545.53, which includes: (1) a principal balance of $47,469,035.59, including PIK Interest; (2) Cash Interest accrued in the amount of $4,479,364.84; (3) default Cash Interest in the amount of $1,906,576.74; (4) late charges of $225,710.71; (5) attorneys' fees of $183,857.65; and (6) the forbearance fees of $3,000,000.00. Id.

The movant obtained two separate appraisals, which gave the two properties a combined value of $27,505,000.00. Id. On October 24, 2019, 4-S Property was appraised at $14,985,000.00. Doc. #24, Ex. H. On September 30, 2019, Hamburg Ranch was appraised at $12,500,000.00. Id. at Ex. G. In light of these two appraisals, the movant contends that the debtor has no equity in the two properties.

The debtor contests the accuracy of these appraisals. The debtor contends that the appraisers' respective methodologies failed to consider the value of all associated and appurtenant water, water rights, water-related assets, and water interest. Doc. #41. The debtor cites specific language in the appraisals noting the "extraordinary assumption that there are no subsurface rights inherent to title" in conducting the valuation. Id.; doc #24, Ex. G-H. Additionally, the debtor cites a 2010 appraisal of 4-S Property valuing the property at $236,500,000. Doc. #53, Ex. B. The debtor argues that it can demand the movant look first to 4-S Property for satisfaction before seeking to foreclose on Hamburg Ranch, provided that no third parties are prejudiced under Cal. Civil Code § 2899 ("Marshalling Liens"). Since the 4-S Property is allegedly worth more than the total outstanding lien claimed by the movant and there are relatively few other debts against the 4-S, the

movant must allocate most or all of its debt to the 4-S Property, which will leave substantial equity in Hamburg Ranch. Doc. #52.

In response to the debtor's opposition, the movant argues that the 2010 appraisal is outdated because it was conducted before the enactment of the Sustainable Groundwater Management Act ("SGMA") in 2014. SGMA restricts pumping of groundwater on the debtor's land because it is located in a "critically overdrafted" portion of the state. Doc. #74.

The movant additionally contends that the debtor has no realistic prospect of using Hamburg Ranch to successfully reorganize. Movant argues that the debtor has controlled Hamburg Ranch for years and has yet to make substantial progress toward generating substantial revenue since the loan was originated in August of 2017. Doc. #24.

The debtor opposes this contention. According to the debtor, Hamburg Ranch consists of approximately 668 acres, of which: (1) approximately 200 acres were planted with pistachios about seven years; (2) approximately 100 acres were planted with pistachios about a year ago; and (3) approximately 164 acres were planted with almonds earlier this year. Doc. #52. The debtor further provides that pistachios reach peak production approximately 8-10 years after planting and can produce indefinitely, which means that they do not have a limited life-span like almonds. Id. The debtor projects that this year approximately 1,000 pounds of pistachios can be harvested per acre, for a total of approximately 200,000 pounds of pistachios, which would give the debtor an estimated income of approximately $500,000 next year. Id. Supposedly, only 200 acres of pistachios are currently producing, but eventually the recently planted almonds and pistachios will begin to produce, providing additional revenue from Hamburg Ranch. Id. Additionally, pistachios supposedly have "on" and "off" years, and can produce up to 3,000 pounds per acre or more during "on" years, and the debtor projects revenue of approximately $1.5 million from the 200 acres during "on" years. Id. Therefore, the debtor argues, "[t]he income from the Hamburg Ranch will be essential to [the] reorganization plan." Id.

The movant disputes the income potential the debtor ascribes to Hamburg Ranch and argues that the debtor's potential reorganization is entirely dependent upon unsubstantiated assertions regarding the value of groundwater rights on the 4-S Property. Doc. #74. Further, the movant questions the speculative nature of the debtor's statements as to the agricultural operations on Hamburg Ranch, including whether the estimated income figure includes expenses. Finally, the movant contends that the debtor's failure to pay a percentage of its earnings on the two prior pistachio harvests is in direct contravention of the terms of the promissory note, further impugning Hamburg Ranch's revenue-producing capabilities. Id.

This matter is now deemed to be a contested matter. Pursuant to Federal Rule of Bankruptcy Procedure 9014(c), the federal rules of discovery apply to contested matters. The parties shall be prepared for the court to schedule upcoming events in this claim litigation.

Based on the record, the factual issues appear to include:

(1) The value of the 4-S Property;
(2) The value of Hamburg Ranch; and
(3) Whether the agricultural operations of Hamburg Ranch may realistically produce sufficient revenue for an effective reorganization.

The legal issues appear to include:

(1) Whether reorganization is possible within a reasonable time, if at all;
(2) Whether the movant and debtor have met their burdens of proof under §362 (g); and
(3) Whether a successful reorganization is plausible.

III. 11 U.S.C. § 362(e)(1)

11 U.S.C. § 362(e)(1) provides that thirty days after a request under § 362(d) for relief from the stay against property of the estate is terminated with respect to the party in interest making such a request, unless the court, after notice and a hearing, orders such a stay continued in effect pending the conclusion of, or as a result of, a final hearing and determination under this section. A hearing under this subsection may be a preliminary hearing, or may be consolidated with the final hearing under subsection (d). The court shall order such a stay continued in effect pending the conclusion of the final hearing under subsection (d) of this section if there is a reasonable likelihood that the party opposing relief from such stay will prevail at the conclusion of such final hearing. If the hearing under this subsection is a preliminary hearing, then such final hearing shall be concluded not later than thirty days after the conclusion of such preliminary hearing, unless the 30-day period is extended with the consent of the parties in interest or for a specific time which the courts finds is required by compelling circumstances.

Because of the current COVID-19 pandemic, it is unlikely a final hearing can be conducted within thirty days of this hearing. The court will ask if the parties will stipulate to a hearing schedule outside of the 30-day limit of § 362(e)(1). Absent a stipulation, the court may find compelling circumstances warrant an extension of the 30 day hearing requirement.

5. 18-11651-B-11 **IN RE: GREGORY TE VELDE**
MB-89

OBJECTION TO CLAIM OF ITC SERVICES, INC., CLAIM NUMBER 65
2-11-2020 [3125]

RANDY SUGARMAN/MV
MICHAEL COLLINS/ATTY. FOR DBT.
JOHN MACCONAGHY/ATTY. FOR MV.

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

DISPOSITION: Sustained.

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

The parties are advised that the Judicial Law Clerk for this Department, Mr. Leatham, has accepted a position with the Wanger Jones Helsley law firm. Mr. Riley Walter of that firm is special counsel to Randy Sugarman, the Chapter 11 Trustee and Plan Administrator. Mr. Leatham is screened from considering this and any other matter involving that firm until he is no longer employed by the court. The parties are urged to consult with their clients and determine whether they will ask the court to recuse from this matter notwithstanding the screening process involving Mr. Leatham.

This objection was set for hearing on 44 days' notice as required by Local Rule of Practice ("LBR") 3007-1(b)(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 amount of damages). Televideo Systems, 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.

This objection is SUSTAINED.

11 U.S.C. § 502(a) states that a claim or interest, evidenced by a proof filed under section 501, is deemed allowed, unless a party in interest objects.

Federal Rule of Bankruptcy Procedure 3001(f) states that a proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim. If a party objects to a proof of claim, the burden of proof

is on the objecting party. Lundell v. Anchor Constr. Specialists, Inc., 223 F.3d 1035, 1039 (9th Cir. BAP 2000).

Here, the Chapter 11 Trustee objects to claim no. 65 filed by claimant ITC Services, Inc. on November 5, 2018. Doc. #3125; claim #65. The movant has established: (1) the claim is late because it was filed after the claims bar date set for September 4, 2018; and (2) the claim includes improper post-petition interest. The debtor's Schedule F lists an undisputed claim from the creditor in the amount of $81,628.51. The claimant did not oppose.

Therefore, the objection is sustained and claim no. 65 filed by ITC Services, Inc. will be reduced and allowed in the amount of $81,628.51 only.

6. 18-11651-B-11 **IN RE: GREGORY TE VELDE**
MB-90

OBJECTION TO CLAIM OF BLUE MOUNTAIN HAY, LLC, CLAIM NUMBER 68
2-11-2020 [3129]

RANDY SUGARMAN/MV
MICHAEL COLLINS/ATTY. FOR DBT.
JOHN MACCONAGHY/ATTY. FOR MV.

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

DISPOSITION: Sustained.

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

The parties are advised that the Judicial Law Clerk for this Department, Mr. Leatham, has accepted a position with the Wanger Jones Helsley law firm. Mr. Riley Walter of that firm is special counsel to Randy Sugarman, the Chapter 11 Trustee and Plan Administrator. Mr. Leatham is screened from considering this and any other matter involving that firm until he is no longer employed by the court. The parties are urged to consult with their clients and determine whether they will ask the court to recuse from this matter notwithstanding the screening process involving Mr. Leatham.

This objection was set for hearing on 44 days' notice as required by Local Rule of Practice ("LBR") 3007-1(b)(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 amount of damages).

Televideo Systems, 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.

This objection is SUSTAINED.

11 U.S.C. § 502(a) states that a claim or interest, evidenced by a proof filed under section 501, is deemed allowed, unless a party in interest objects.

Federal Rule of Bankruptcy Procedure 3001(f) states that a proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim. If a party objects to a proof of claim, the burden of proof is on the objecting party. Lundell v. Anchor Constr. Specialists, Inc., 223 F.3d 1035, 1039 (9th Cir. BAP 2000).

Here, the Chapter 11 Trustee objects to claim no. 68 filed by claimant Blue Mountain Hay, LLC on December 31, 2018. Doc. #3129; claim #68. The movant has established that the claim is late because it was filed after the claims bar date set for September 4, 2018. The claimant did not oppose.

Therefore, the objection is sustained and claim no. 68 filed by Blue Mountain Hay, LLC will be disallowed in its entirety.

7. 18-11651-B-11 **IN RE: GREGORY TE VELDE**
MB-91

OBJECTION TO CLAIM OF LAW OFFICES OF SANTOS GOMEZ, CLAIM NUMBER 42
2-24-2020 [3144]

RANDY SUGARMAN/MV
MICHAEL COLLINS/ATTY. FOR DBT.
JOHN MACCONAGHY/ATTY. FOR MV.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: This matter will proceed as a scheduling conference.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The court will issue the order. The purported motion to ask the court to apply FRBP 7023 is denied for procedural reasons.

The parties are advised that the Judicial Law Clerk for this Department, Mr. Leatham, has accepted a position with the Wanger Jones Helsley law firm. Mr. Riley Walter of that firm is special counsel to Randy Sugarman, the Chapter 11 Trustee and Plan Administrator. Mr. Leatham is screened from considering this and any

other matter involving that firm until he is no longer employed by the court. The parties are urged to consult with their clients and determine whether they will ask the court to recuse from this matter notwithstanding the screening process involving Mr. Leatham. The court will inquire about this at the hearing.

This motion was set for hearing on 44 days' notice as required by Local Rule of Practice ("LBR") 3007-1(b)(1). The failure of the 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 3007-1(b)(1)(A) 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). Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Systems, Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). The debtor has opposed the motion. The default of all other responding parties is entered.

The Chapter 11 Trustee, Randy Sugarman ("Trustee"), objects to claim no. 42-1 filed by Law Offices of Santos Gomez ("Claimant") on August 29, 2018 in the amount of $2,000,000.00. Doc. #3144; claim #42-1.

The underlying claim arises from a class action lawsuit initiated by Claimant's clients, and entitled De Luna, et al. v. Gregory J. Te Velde, et al., Case No. 14C0070 in the Kings County Superior Court. In 2015, Claimant's clients, Manuel de Luna, Jesus Daniel Garay, Francisco J. Perez Hernandez, and Jose Antonio ("Class Plaintiffs"), filed a class action lawsuit against the debtor for failure to pay wages (minimum wage and overtime), failure to provide meal and rest breaks, failure to provide accurate wage statements, failure to pay wages upon termination, and violation of Cal. Bus. & Prof. § 17200 *et seq*. on behalf of more than 250 dairy workers. Doc. #3202. The class was certified by the Superior Court before this bankruptcy case was filed.

Trustee contends that the claim should be disallowed in its entirety on the grounds that (1) the Estate does not owe Claimant the sum of $2,000,000.00 or any other amount and the claim is therefore unenforceable against the debtor or the property of the debtor; (2) the claim is barred because it has not been qualified as a "Class Claim" pursuant to Federal Rules of Bankruptcy Procedure ("Rule") 9014(c) and 7023 and the claims bar date has lapsed; (3) there is no evidence that the debtor failed to pay his employees overtime wages and meal periods, and to provide accurate wage statements; (4) the damages are excessive; and (5) of the $2,000,000 claim, the sum of $787,100 are penalties which are not compensation for actual pecuniary loss, and therefore must be subordinated to the payment of all other allowed general unsecured claims under 11 U.S.C. §§ 1129(a)(7) and 727(a)(4).

Claimant opposed the objection, arguing that the class claim is proper under Rules 9014 and 7023 because the court may supposedly apply 7023 at any time. Doc. #3202. In support of this contention, Claimant proffered Gentry v. Siegel, wherein the Fourth Circuit authorized the application of Rule 7023 after an objection to claim had been filed. Gentry v. Siegel, 668 F.3d 83, 91 (4th Cir. 2012).

The Claimant additionally provided an unpublished decision where this same rule was applied in the Ninth Circuit. In re Sequoia Senior Sols., Inc., No. 16-11036, 2017 Bankr. LEXIS 1606 (N.D. Cal. June 9, 2017).

Applying these two cases, Claimant asserts that the claim was timely filed on August 29, 2018 and before the Proof of Claim deadline. The claimant further argues that until the objection was filed on February 24, 2020, Rule 9014 did not apply and therefore application of Rule 7023 was not needed.

The third section of Claimant's opposition to Trustee's objection to claim appears to be a motion for application of Rule 7023. Doc. #3202. This motion is DENIED WITHOUT PREJUDICE for failure to comply with the local rules.

LBR 9001-1 defines a "motion" as "all motions, applications, objections, or other requests made to the Court for orders or other judicial activity." LBR 9014-1(a) states that parties shall serve and set for hearing all contested matters, including motions, and other matters for which a hearing is necessary in accordance with the local rules and, Title 11 of the United States Code, and the Federal Rules of Bankruptcy Procedure. LBR 9014-1(b) requires that a party self-set a motion for hearing on the dates and times specified on each department's motion calendar.

LBR 9014-1(c)(1) requires that all filed motions, which includes counter-motions and other requests made to the Court for orders or other judicial activity under 9001-1, shall include a Docket Control Number ("DCN") by all parties immediately below the case number on all pleadings and other documents, including proofs of service, filed in support of or opposition to motions. LBR 9014-1(c)(4) states that ". . . counter motions shall be treated as separate motions with a new [DCN] assigned in the manner provided for above."

LBR 9014-1(d)(1) provides that all motions shall be comprised of a motion, notice, evidence, and a certificate of service.

LBR 9014-1(d)(3)(B) lists all of the requirements for the notice of hearing, of which Claimant has not complied.

The local and federal rules govern the procedure for proper submission of motions. Claimant must properly file and serve the motion, notice of hearing, and any other relevant documents upon interested parties before this court will consider its motion.

The court takes notice of Claimant's argument on the merits of the wage claim.

The Trustee timely responded to the Claimant's opposition. Doc. #3211.

This matter is now deemed to be a contested matter. Pursuant to Federal Rule of Bankruptcy Procedure 9014(c), the federal rules of discovery apply to contested matters.

The parties shall be prepared for the court to schedule upcoming events in this claim litigation. The parties shall be prepared to discuss whether this court can enter a final ruling in this matter under 28 U.S.C. § 157(b)(2)(B).

The threshold issue is whether this claim should be summarily disallowed. There is no dispute that the claim was filed by Mr. Gomez; not on behalf of the class representatives. Mr. Gomez has no cognizable claim against the estate on his own behalf. It also appears that the class representatives did receive notice of the bankruptcy and did not timely file a claim. So, there are at least two issues. First, is Mr. Gomez's claim timely and effective on behalf of the class? Second is the class claim appropriate since there was no request for this court to allow consideration of a class claim before the bar date?

11 U.S.C. § 501(a) as applicable here says "a creditor" may file a proof of claim. A "creditor" under the bankruptcy code is defined (in part) as an "entity that has a claim against the debtor that arose at the time of or before the order for relief concerning the debtor." 11 U.S.C. § 101(10)(A). A "claim" means "right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured . . . ." 11 U.S.C. § 101(5)(A). Rule 3001(b) provides that subject to exceptions not relevant here, a proof of claim shall be executed by the creditor or the creditor's agent.

The claim itself is unhelpful to claimant. It is filed by and on behalf of Mr. Gomez. Mr. Gomez signed the claim under penalty of perjury as a creditor; he is not. The claim attaches the Superior Court complaint and a Mandatory Settlement Conference Statement. Both documents establish Mr. Gomez and his firm are attorneys representing the class certified by the Superior Court; not claimants. Mr. Gomez did not file the claim as an agent but asserted his right as a creditor. He has no claim.

Notably, Gentry, In re Charter Co., 876 F.2d 866, 874 (11th Cir. 1989) and Birting Fisheries v. Lane (In re Birting Fisheries), 92 F.3d 939, 940 (9th Cir. 1996) all involved class claims asserted by class representatives - not counsel. See also Birting Fisheries v. Lane (In re Birting Fisheries), 178 B.R. 849 (W.D. Wash. 1995).

These issues are significant because the claim here has no *prima facie* validity since the claim was not executed and filed in accordance with the bankruptcy rules. Rule 3001 (f). That said, there appear to be two important undisputed facts: first, the class was certified pre-petition, and; second, notice of this bankruptcy case was not given to all class members in time for them to timely file claims. What is not established is whether allowance of a class claim as a *procedural* device before determining the merits would adversely affect administration of the estate. See, In re Musicland Holding Corp., 362 B.R. 644, 654 (Bankr. S.D.N.Y. 2007). This is complicated by the fact a plan is confirmed in this case. But that would not bind those without notice of the bankruptcy case. So, proof of whether permitting the class claim to be *procedurally*

allowed is consistent with the goals of bankruptcy is necessary. See, In re Motors Liquidation, 591 B.R. 501, 523 (Bankr. S.D.N.Y. 2018).

The facts are the confirmed plan is essentially a "pot" plan. The liquidation of assets will result in a "pot" from which allowed claims are paid. If the class claim is *procedurally* allowed, it will not affect creditor distributions. Only after the merits are considered, if they are considered, will other creditors be impacted. On the one hand, allowance of any claim will affect creditor distributions under this plan. On the other hand, the claim suffers significant defects militating against allowance.

The legal issues appear to include:

(1) Whether Claimant may file a class claim on behalf of the Class Claimants;

(2) Whether the Class Claimants were required to file individual claims;

(3) Whether the Class Claimants were properly notified of the Bankruptcy and the Claims Bar Date;

(4) Whether the Claimant is time-barred from seeking authorization to apply Rule 7023;

(5) Whether Claimant may convert its claim into a Class Claim;

(6) Whether allowance of the claim would prejudice the legitimate interests of other creditors;

(7) Whether the claimant is barred from asserting a Rule 7023 motion as untimely filed after the bar date;

(8) Whether the motion to certify a class claim after confirmation of the plan or reorganization; and

If the claim is not summarily disallowed, then the factual issues would include:

(1) The total amount of damages;

(2) The debtor's wage and overtime policies during the period of time in which the alleged labor violation was said to occur;

(3) Whether the debtor maintained accurate payroll records over the period of time in which the alleged labor violation was said to occur;

(4) Whether the debtor implemented a meal period policy that provided its employees an opportunity to take 30-minute duty-free meals during the period of time in which the labor violation was said to occur;

(5) Whether the debtors wage statements included all legally required information; if not, whether the debtor acted knowingly and intentionally; and if so, whether affected employees suffered injury as result of those inaccuracies and the extent of those injuries;

(6) Whether the debtor paid terminated employees all wages owed, and if not, whether it was willful;

(7) Whether the damages of $452,000 for penalties for inaccurate wage statements and $335,100 for "waiting time penalties" can be substantiated.

If the claim is not summarily disallowed, then the legal issues would also include:

(1) Whether the claim can be substantiated as to liability
(2) Whether the debtor met its burden of proving its employees were properly paid;
(3) Whether the debtor met its burden showing that it provides a policy to provide meal periods on a widespread basis;
(4) Whether the debtor's wage statements complied with the labor code;
(5) Whether 11 U.S.C. § 726(a)(4) is derivatively applicable to Chapter 11 cases; and
(6) Whether the portion of the claim consisting of penalties must be subordinated under 11 U.S.C. § 726(a)(4).

8. 18-13677-B-9 **IN RE: COALINGA REGIONAL MEDICAL CENTER, A CALIFORNIA LOCAL HEALTH CARE DISTRICT**
GMJ-1

CONTINUED MOTION FOR ADMINISTRATIVE EXPENSES
12-12-2019 [481]

FRESNO COUNTY PRIVATE SECURITY/MV
RILEY WALTER/ATTY. FOR DBT.
CHRISTOPHER SEYMOUR/ATTY. FOR MV.
WITHDRAWN

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

DISPOSITION: Dropped from calendar.

NO ORDER REQUIRED: Movant withdrew the motion on March 27, 2020. Doc. #531.

9. 19-15277-B-11 **IN RE: SVENHARD'S SWEDISH BAKERY**

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY PETITION
12-19-2019 [1]

DERRICK TALERICO/ATTY. FOR DBT.

NO RULING.

10. 17-13797-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
WJH-13

CONTINUED OMNIBUS OBJECTION TO CLAIMS
11-22-2019 [1718]

TULARE LOCAL HEALTHCARE DISTRICT/MV
RILEY WALTER/ATTY. FOR DBT.
CONTINUED TO 5/12/20 PER ECF STIPULATION AND ORDER #2103

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

DISPOSITION: Continued to May 27, 2020 at 9:30 a.m.

NO ORDER REQUIRED: The court already issued an order. Doc. #2103.

The parties are advised that the Judicial Law Clerk for this Department, Garrett Leatham, has accepted a post-clerkship position at Wanger Jones Helsley ("WJH"). As long as Mr. Leatham remains employed by the court, he will be screened from any matters where WJH is the counsel of record. Mr. Leatham was screened from this matter. Nevertheless, the court advises the parties to discuss with their clients whether they wish to ask the court to recuse itself on this or future matters.

The court previously approved the parties' stipulation to continue this matter to May 12, 2020 at 9:30 a.m. due to ongoing discussions. Doc. #2103. Opposition is due at least 14 days prior to the hearing, April 28, 2020, and a reply to the opposition is due May 5, 2020.

11. 17-13797-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
WJH-20

CONTINUED OBJECTION TO CLAIM OF WELLS FARGO VENDOR FINANCIAL, CLAIM NUMBER 162 AND/OR OBJECTION TO CLAIM OF WELLS FARGO VENDOR FINANCIAL, CLAIM NUMBER 163
1-8-2020 [1794]

TULARE LOCAL HEALTHCARE DISTRICT/MV
RILEY WALTER/ATTY. FOR DBT.
CONTINUED TO 5/27/20 PER ECF ORDER #2105

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

DISPOSITION: Continued to May 27, 2020 at 9:30 a.m.

NO ORDER REQUIRED: The court already issued an order. Doc. #2105.

The parties are advised that the Judicial Law Clerk for this Department, Garrett Leatham, has accepted a post-clerkship position at Wanger Jones Helsley ("WJH"). As long as Mr. Leatham remains employed by the court, he will be screened from any matters where WJH is the counsel of record. Mr. Leatham was screened from this matter. Nevertheless, the court advises the parties to discuss with

their clients whether they wish to ask the court to recuse itself on this or future matters.

The court previously approved the parties' stipulation to continue this matter to May 27, 2020 at 9:30 a.m. due to ongoing discussions. Doc. #2105. Opposition is due at least 14 days prior to the hearing, May 13, 2020, and a reply to the opposition is due May 20, 2020.

12. 17-13797-B-9 **IN RE: TULARE LOCAL HEALTHCARE DISTRICT**
WJH-37

CONTINUED OBJECTION TO CLAIM OF GRAHAM PREWETT, INC., CLAIM NUMBER 73
1-13-2020 [1901]

TULARE LOCAL HEALTHCARE DISTRICT/MV
RILEY WALTER/ATTY. FOR DBT.
WITHDRAWN

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

DISPOSITION: Withdrawn by moving party.

NO ORDER REQUIRED: Movant withdrew the motion. Doc. #2079.

13. 19-10423-B-12 **IN RE: KULWINDER SINGH AND BINDER KAUR**
MAS-1

MOTION TO APPROVE STIPULATION FOR RELIEF FROM THE AUTOMATIC STAY
4-6-2020 [220]

JOHN DEERE CONSTRUCTION AND FORESTRY COMPANY/MV
DAVID JOHNSTON/ATTY. FOR DBT.
MARK SERLIN/ATTY. FOR MV.
OST 4/6/20

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 will submit a proposed order after hearing.

This motion was filed and served pursuant to Local Rule of Practice ("LBR") 9014-1(f)(3) and an order shortening time (doc. #227) 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.

This motion is GRANTED and the stipulation is approved. The stipulation was entered into to resolve an objection that movant John Deere Construction & Forestry Company ("Deere") had made against debtors' motion to modify their chapter 12 plan. The stipulation provides that Deere will have stay relief effective April 15, 2020 at midnight if the agreed-upon payment is not made to Deere, inter alia.

11:00 AM

1. 20-10158-B-7 **IN RE: RINALDO/ANGELINA ORTEZ**

PRO SE REAFFIRMATION AGREEMENT WITH TD AUTO FINANCE LLC
3-16-2020 [26]

NO RULING.

2. 19-15265-B-7 **IN RE: MAYRA HERNANDEZ ALVAREZ**

PRO SE REAFFIRMATION AGREEMENT WITH JPMORGAN CHASE BANK, N.A.
3-20-2020 [28]

NO RULING.

1:30 PM

1. 19-12013-B-7 **IN RE: JUDITH GOODMON**
JES-2

MOTION FOR COMPENSATION FOR JAMES E. SALVEN, ACCOUNTANT(S)
3-16-2020 [38]

JAMES SALVEN/MV
DAVID JENKINS/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 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 amount of damages). Televideo Systems, 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 GRANTED. Trustee's accountant, James Salven, requests fees of $1,100.00 and costs of $274.29 for a total of $1,374.29 for services rendered from February 27, 2020 through March 14, 2020.

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . .[a] professional person" and "reimbursement for actual, necessary expenses." Movant's services included, without limitation: (1) Compiling tax basis data, (2)Inputting data into system, (3) Processing tax returns, and (4) Prompt determination letters. The court finds the services reasonable and necessary and the expenses requested actual and necessary.

Movant shall be awarded $1,100.00 in fees and $274.29 in costs.

2. 16-10521-B-7 **IN RE: ALAN ENGLE**
TMT-1

MOTION FOR COMPENSATION FOR TRUDI G. MANFREDO, CHAPTER 7 TRUSTEE
3-9-2020 [323]

TRUDI MANFREDO/MV
SUSAN HEMB/ATTY. FOR DBT.
GABRIEL WADDELL/ATTY. FOR MV.

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

DISPOSITION: Denied without prejudice.

ORDER: No appearance is necessary. The court will issue the order.

This motion is DENIED WITHOUT PREJUDICE for failure to comply with the Local Bankruptcy Rules ("LBR").

First, LBR 9004-2(a)(6), (b)(5), (b)(6), (e) and LBR 9014-1(c), (e)(3) are the rules about Docket Control Numbers ("DCN"). These rules require the 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.

A Motion for Compensation for Trudi Manfredo, Chapter 7 Trustee was previously filed on January 16, 2019. Doc. #264. The motion was never set for hearing. The DCN for that motion was TMT-1. This motion also has a DCN of TMT-1 and therefore does not comply with the local rules. Each separate matter filed with the court must have a different DCN.

Second, LBR 9004-2(c)(1) requires that motions, notices, *inter alia*, be filed as separate documents. Here, the motion, notice, and declaration were combined into one document and not filed separately. See doc. #323. Pursuant to the court's ruling in case no. 18-13218 on RH-2 (doc. #193), failure to comply with this rule in the future would result in the motion being denied without prejudice.

3. 13-12923-B-7 **IN RE: CESAR GUTIERREZ**
TOG-2

MOTION TO AVOID LIEN OF AMERICAN EXPRESS CENTURION BANK
3-9-2020 [29]

CESAR GUTIERREZ/MV
MARK HANNON/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 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 amount of damages). Televideo Systems, 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.

This motion is GRANTED. 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). § 522(f)(1); Goswami v. MTC Distrib. (In re Goswami), 304 B.R. 386, 390-91 (9th Cir. BAP 2003), quoting In re Mohring, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992), aff'd 24 F.3d 247 (9th Cir. 1994).

A judgment was entered against the debtor in favor of American Express Centurion Bank in the sum of $3,057.11 on June 10, 2010. Doc. #32. The abstract of judgment was recorded with Madera County on May 31, 2011. Id. That lien attached to the debtor's interest in a residential real property in Madera, CA. The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of $54,804.00 as of the petition date. Doc. #1. The unavoidable liens totaled $105,498.00 on that same date, consisting of a first deed of trust in favor of Wells Fargo Home Mortgage. Id. The debtor claimed an exemption pursuant to

Cal. Civ. Proc. Code § 703.140(b)(1) fully exempting the property. Id.

Movant has established the four elements necessary to avoid a lien under § 522(f)(1). After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtor's exemption of the real property and its fixing will be avoided subject to 11 U.S.C. § 349(b)(1)(B).

4. 20-10225-B-7 **IN RE: FERNANDO GONZALEZ-VARELA AND ANGELICA GONZALEZ**
PFT-1

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO APPEAR AT SEC. 341(A) MEETING OF CREDITORS
3-3-2020 [13]

ROSALINA NUNEZ/ATTY. FOR DBT.

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

DISPOSITION: Conditionally granted.

ORDER: The court will issue the order.

The chapter 7 trustee's motion to dismiss is CONDITIONALLY GRANTED.

The debtors shall attend the meeting of creditors rescheduled for April 27, 2020 at 9:00 a.m. Because of the COVID-19 pandemic, the continued § 341 meeting may not happen on that date. Regardless of when the § 341 meeting is continued to, debtors must appear. If the debtors fail to do so without substantial and justifiable excuse, the chapter 7 trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

The time prescribed in Rules 1017(e)(1) and 4004(a) for the chapter 7 trustee and the U.S. Trustee to object to the debtors' discharge or file motions for abuse, other than presumed abuse, under § 707, is extended to 60 days after the conclusion of the meeting of creditors.

5. 20-10930-B-7 **IN RE: DOUGLAS/KIMBERLY EURICH**
GT-1

MOTION TO COMPEL ABANDONMENT
3-12-2020 [9]

DOUGLAS EURICH/MV
GRISELDA TORRES/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 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 amount of damages). Televideo Systems, 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. § 554(b) provides that "on request of a party in interest and after notice and a hearing, the court may order the trustee to abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate." In order to grant a motion to abandon property, the bankruptcy court must find either that: (1) the property is burdensome to the estate or (2) of inconsequential value and inconsequential benefit to the estate. In re Vu, 245 B.R. 644, 647 (9th Cir. B.A.P. 2000). As one court noted, "an order compelling abandonment is the exception, not the rule. Abandonment should only be compelled in order to help the creditors by assuring some benefit in the administration of each asset . . . Absent an attempt by the trustee to churn property worthless to the estate just to increase fees, abandonment should rarely be ordered." In re K.C. Mach. & Tool Co., 816 F.2d 238, 246 (6th Cir. 1987). And in evaluating a proposal to abandon property, it is the interests of the estate and the creditors that have primary consideration, not the interests of the debtor. In re Johnson, 49 F.3d 538, 541 (9th Cir. 1995) (noting that the debtor is not mentioned in § 554). In re Galloway, No. AZ-13-1085-PaKiTa, 2014 Bankr. LEXIS 3626, at 16-17 (B.A.P. 9th Cir. 2014).

Debtor asks this court to compel the chapter 7 trustee to abandon the estate's interest in debtor's sole proprietorship realty business. Doc. #9. The assets include general office equipment and accounts receivable (if any) ("Business Assets").

The court finds that the Business Assets are of inconsequential value and benefit to the estate. The Business Assets were accurately scheduled and exempted in their entirety. Therefore, this motion is GRANTED.

The order shall include a specific list of the property abandoned.

6. 19-15140-B-7 **IN RE: VLADIMIR GASPARYAN AND LILIT YERNJAKYAN**
KDG-1

MOTION TO AVOID LIEN OF TWINWOOD, INC.
3-17-2020 [23]

VLADIMIR GASPARYAN/MV
JACOB EATON/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 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 amount of damages). Televideo Systems, 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.

This motion is GRANTED. 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). § 522(f)(1); Goswami v. MTC Distrib. (In re Goswami), 304 B.R. 386, 390-91 (9th Cir. BAP 2003), quoting In re Mohring, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992), aff'd 24 F.3d 247 (9th Cir. 1994).

Creditor Twinwood, Inc. recorded a Right to Attach Order and Order for Issuance of Writ of Attachment after Hearing and a Notice of Attachment Levy #17-58661 in Kern County the amount of $655,224.13 on May 12, 2017. Doc. #26. That lien attached to the debtor's interest in a residential real property in Bakersfield, CA. The motion will be granted pursuant to 11 U.S.C. § 522(f)(1)(A). The subject real property had an approximate value of $270,000.00 as of the petition date. Doc. #1. The unavoidable liens totaled $183,013.00 on that same date, consisting of a first deed of trust in favor of PHH Mortgage Servicing. Id. The debtor claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730(a)(3) in the amount of $175,000.00. Id.

Movant has established the four elements necessary to avoid a lien under § 522(f)(1). After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtor's exemption of the real property and its fixing will be avoided subject to 11 U.S.C. § 349(b)(1)(B).

7. 20-10843-B-7 **IN RE: VARINDER GREWAL**
HRH-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-31-2020 [13]

BMO HARRIS BANK N.A./MV
LAYNE HAYDEN/ATTY. FOR DBT.
RAFFI KHATCHADOURIAN/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.

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.

The movant, BMO Harris Bank N.A. ("Movant"), seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to two 2019 Hyundai Dry Vans ("Vehicles").

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 because debtor is eight payments past due in the amount of $11,629.76 plus late fees of $72.69. Doc. #15.

The court also finds that the debtor does not have any equity in the Vehicles and the Vehicles are not necessary to an effective reorganization because debtor is in chapter 7. Movant values the Vehicles at $50,000.00 and the amount owed to Movant is $71,752.10. Doc. #15.

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. No other relief is awarded.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because debtor has indicated in the Statement of Intention (doc. #1) that his intention is to surrender the Vehicles and the Vehicles are a depreciating asset.

8. 20-10351-B-7 **IN RE: ANAISABEL SANCHEZ**
PFT-1

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO APPEAR AT SEC. 341(A) MEETING OF CREDITORS
3-3-2020 [16]

SCOTT LYONS/ATTY. FOR DBT.

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

DISPOSITION: Conditionally granted.

ORDER: The court will issue the order.

The chapter 7 trustee's motion to dismiss is CONDITIONALLY GRANTED.

The debtor shall attend the meeting of creditors rescheduled for April 27, 2020 at 11:00 a.m. Because of the COVID-19 pandemic, the continued § 341 meeting may not happen on that date. Regardless of when the § 341 meeting is continued to, debtor must appear. If the debtor fails to do so without substantial and justifiable excuse, the chapter 7 trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

The time prescribed in Rules 1017(e)(1) and 4004(a) for the chapter 7 trustee and the U.S. Trustee to object to the debtor's discharge or file motions for abuse, other than presumed abuse, under § 707, is extended to 60 days after the conclusion of the meeting of creditors.

9. 20-10357-B-7 **IN RE: STEPHEN MEZA**
AP-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-17-2020 [18]

JPMORGAN CHASE BANK, N.A./MV
MARK ZIMMERMAN/ATTY. FOR DBT.
WENDY LOCKE/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 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 amount of damages). Televideo Systems, 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 movant, JP Morgan Chase Bank, N.A. ("Movant"), seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to a 2017 Chevrolet Silverado 1500 ("Vehicle"). Doc. #20.

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 because debtor has failed to make four pre-petition payments and at least two post-petition payments. The movant has produced evidence that debtors are delinquent at least $3,213.13. Doc. #20, #23.

The court also finds that the debtor does not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because debtor is in chapter 7. The Vehicle is valued at $34,225.00 and debtor owes $18,252.67. Doc. #20

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. No other relief is awarded.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because the Vehicle was repossessed pre-petition on December 23, 2019 and is in Movant's possession, and the Vehicle is a depreciating asset.

10. 20-10059-B-7 **IN RE: HEATHER/STEPHEN CLAY**
JES-1

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
3-11-2020 [16]

JAMES SALVEN/MV

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

DISPOSITION: Sustained.

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

This objection 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 sustaining of the objection. 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 Systems, 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.

This objection is SUSTAINED.

Federal Rule of Bankruptcy Procedure 4003(b) allows a party in interest to file an objection to a claim of exemption within 30 days after the § 341 meeting of creditors is held or within 30 days after any amendment to Schedule C is filed, whichever is later.

In this case, the § 341 meeting concluded on February 13, 2020 and this objection was filed and served on March 11, 2020, which is within the 30 day timeframe.

The Eastern District of California Bankruptcy Court in In re Pashenee, 531 B.R. 834, 837 (Bankr. E.D. Cal. 2015) held that "the debtor, as the exemption claimant, bears the burden of proof which requires her to establish by a preponderance of the evidence that [the property] claimed as exempt in Schedule C is exempt under [relevant California law] and the extent to which that exemption applies."

Trustee objects to the debtors' $1,500.00 exemption in a 2005 Trailbay Trailer under California Code of Civil Procedure § 704.010. Doc. #16. Debtors did not oppose this motion.

C.C.P. § 704.010 applies only to motor vehicles. "Motor vehicle" does not appear to be defined in this section of the code. However, a trailer does not have a motor, and therefore cannot logically be deemed a "motor vehicle." In the absence of any opposing authority, the court finds that the exemption is not allowed under C.C.P. § 704.010 and the objection is SUSTAINED.

11. 19-15262-B-7 **IN RE: JOE/CYNTHIA GARCIA**
UST-1

MOTION TO APPROVE STIPULATION TO DISMISS CHAPTER 7 CASE WITHOUT ENTRY OF DISCHARGE
3-5-2020 [18]

TRACY DAVIS/MV
SCOTT LYONS/ATTY. FOR DBT.
BOOKER CARMICHAEL/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 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 amount of damages). Televideo Systems, 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.

This motion is GRANTED. A debtor does not have an absolute right to dismiss a chapter 7 case voluntarily. Under 11 U.S.C. § 707(b), an individual chapter 7 consumer debtor's case may be dismissed for presumed abuse or where abuse is demonstrated by the debtor's bad faith and/or the totality of the circumstances of the debtor's financial situation. See 11 U.S.C. §§ 707(b)(1), 707(b)(2), and 707(b)(3). Dismissal of a chapter 7 case under 11 U.S.C. § 707(b) requires a motion, notice to the debtor, the panel trustee, the US Trustee, and any other entity as the court directs along with a hearing. See 11 U.S.C. § 707(b)(1), Fed. R. Bankr. P. 1017(a), 1017(e), 2002(a)(4), and 9014. 11.

The Debtors stipulated to dismissal of this chapter 7 bankruptcy case. See doc. #17. The Parties are not aware of any prepetition/pre-dismissal bad faith conduct and/or non 11 U.S.C. § 707(b) abuse of the bankruptcy process that would limit the Debtors' right to dismiss the case. As required, the US Trustee's Motion is scheduled for hearing on appropriate notice. And, the case trustee has not opposed the motion.

12. 20-10874-B-7 **IN RE: OLGA FLORES**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
3-25-2020 [19]

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: The minutes of the hearing will be the court's findings and conclusions.

ORDER: The court will issue an order.

This matter will proceed as scheduled. If the fees due at the time of the hearing have not been paid prior to the hearing, the case will be dismissed on the grounds stated in the OSC.

If the installment fees due at the time of hearing are paid before the hearing, the order permitting the payment of filing fees in installments will be modified to provide that if future installments are not received by the due date, the case will be dismissed without further notice or hearing.

13. 20-10280-B-7 **IN RE: RODNEY/AYESHA WALDEN**
RPZ-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-13-2020 [16]

FLAGSTAR BANK/MV
MARK ZIMMERMAN/ATTY. FOR DBT.
ROBERT ZAHRADKA/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 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 amount of damages). Televideo Systems, 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 movant, Flagstar Bank, FSB ("Movant"), seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to real property located at 352 Aqua Way, Brea, California 92821 ("Property"). Doc. #20.

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 because debtors have failed to make at least 15 combined pre and post-petition payments. The movant has produced evidence that debtors are delinquent at least $66,875.60, with an outstanding loan balance of $664,395.13. Id.

The court also finds that the debtors do not have any equity in the Property and the Property is not necessary to an effective reorganization because debtors are in chapter 7. The property is valued at $655,000.00 and debtor owes $664,395.13. Doc. #18.

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. No other relief is awarded.

The order shall also provide that the bankruptcy proceeding has been finalized for purposes of California Civil Code § 2923.5.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because debtors have failed to make at least 15 payments, both pre and post-petition to Movant.

14. 20-10481-B-7 **IN RE: STAR GATE TRANSPORT, INC.**
KAS-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-20-2020 [23]

TCF NATIONAL BANK/MV
NEIL SCHWARTZ/ATTY. FOR DBT.
KELSEY SEIB/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.

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.

The movant, TCF National Bank ("Movant"), seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to a 2019 Kenworth T680 Truck ("Vehicle"). The Vehicle was picked up by the repossession agency while attached to a trailer that was the subject of a prior motion for relief from stay which was granted in favor of Sumitomo Mitsui Finance and Leasing Co., Ltd. See doc. #25. Movant states (though it is likely hearsay) that the repossession agency represented "that it acted within the bounds of the California Business and Professions Code Section 7507.9 when it took the [Vehicle] along with [Sumitomo's trailer]." Doc. #23. Movant seeks relief to recover the Vehicle from the repossession agency.

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 because debtor is 4 payments past due in the amount of $14,117.44. Doc. #27.

The court also finds that the debtor does 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 $110,000.00 and the amount owed to Movant is $128,528.81. Id.

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. No other relief is awarded.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because debtor has failed to make at least one post-petition payment and the Vehicle is a depreciating asset. The vehicle was also repossessed by a third party.

15. 20-10388-B-7 **IN RE: DEMARQUIS DILLINGHAM**
DW-1

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-13-2020 [18]

AQUA FINANCE, INC./MV
DENNIS WINTERS/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 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 amount of damages). Televideo Systems, 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 movant, Aqua Finance, Inc. ("Movant"), seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to a 2020 Coleman RV/Trailer ("Vehicle"). Doc. #19.

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 because debtor has failed to make a payment since the Vehicle was purchased. The movant has produced evidence that debtor is delinquent at least $22,096.03. Doc. #19.

The court also finds that the debtor does not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because debtor is in chapter 7. Doc. #22. The Vehicle is valued at $27,999.00 and debtor owes $34,130.24. Id.

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. No other relief is awarded. According to the debtor's Statement of Intention, the Vehicle will be surrendered.

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 Movant has no evidence proper insurance coverage has been provided for the Vehicle.

16. 19-14997-B-7 **IN RE: ELEAZAR REYNOSO**
PFT-1

OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO APPEAR AT SEC. 341(A) MEETING OF CREDITORS
3-3-2020 [14]

MARK HANNON/ATTY. FOR DBT.

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

DISPOSITION: Conditionally granted.

ORDER: The court will issue the order.

The chapter 7 trustee's motion to dismiss is CONDITIONALLY GRANTED.

The debtor shall attend the meeting of creditors rescheduled for April 27, 2020 at 10:00 a.m. Because of the COVID-19 pandemic, the continued § 341 meeting may not happen on that date. Regardless of when the § 341 meeting is continued to, debtors must appear. If the debtor fails to do so without substantial and justifiable excuse, the chapter 7 trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

The time prescribed in Rules 1017(e)(1) and 4004(a) for the chapter 7 trustee and the U.S. Trustee to object to the debtors' discharge or file motions for abuse, other than presumed abuse, under § 707, is extended to 60 days after the conclusion of the meeting of creditors.

17. 20-10697-B-7 **IN RE: JESUS/SARA VERA**
EPE-1

MOTION TO COMPEL ABANDONMENT
3-2-2020 [8]

JESUS VERA/MV
ERIC ESCAMILLA/ATTY. FOR DBT.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

This motion is DENIED WITHOUT PREJUDICE for failure to comply with the Local Rules of Practice ("LBR").

The original notice, nor the amended notice, did not contain the language required under LBR 9014-1(d)(3)(B)(iii). See doc. #9,16. LBR 9014-1(d)(3)(B), which is about noticing requirements, requires movants to notify respondents that they can determine whether the matter has been resolved without oral argument or if the court has

issued a tentative ruling by checking the Court's website at www.caeb.uscourts.gov after 4:00 p.m. the day before the hearing.