

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

Honorable Fredrick E. Clement  
Bankruptcy Judge

2500 Tulare Street, Fifth Floor  
Department A, Courtroom 11  
Fresno, California

**WEDNESDAY**

**APRIL 16, 2014**

**PRE-HEARING DISPOSITIONS**

**GENERAL DESIGNATIONS**

Each pre-hearing disposition is prefaced by the words "Final Ruling," "Tentative Ruling" or "No Tentative Ruling." Except as indicated below, matters designated "Final Ruling" will not be called and counsel need not appear at the hearing on such matters. Matters designated "Tentative Ruling" or "No Tentative Ruling" will be called.

**MATTERS RESOLVED BEFORE HEARING**

If the court has issued a final ruling on a matter and the parties directly affected by a matter have resolved the matter by stipulation or withdrawal of the motion before the hearing, then the moving party shall, not later than 4:00 p.m. (PST) on the day before the hearing, inform the following persons by telephone that they wish the matter to be dropped from calendar notwithstanding the court's ruling: (1) all other parties directly affected by the motion; and (2) Kathy Torres, Judicial Assistant to the Honorable Fredrick E. Clement, at (559) 499-5860.

**ERRORS IN FINAL RULINGS**

If a party believes that a final ruling contains an error that would, if reflected in the order or judgment, warrant a motion under Federal Rule of Civil Procedure 52(b), 59(e) or 60, as incorporated by Federal Rules of Bankruptcy Procedure, 7052, 9023 and 9024, then the party affected by such error shall, not later than 4:00 p.m. (PST) on the day before the hearing, inform the following persons by telephone that they wish the matter either to be called or dropped from calendar, as appropriate, notwithstanding the court's ruling: (1) all other parties directly affected by the motion; and (2) Kathy Torres, Judicial Assistant to the Honorable Fredrick E. Clement, at (559) 499-5860. Absent such a timely request, a matter designated "Final Ruling" will not be called.

9:00 a.m.

1. [13-10103](#)-A-7 JO ANN RODRIGUES MOTION TO SELL  
JES-2 3-13-14 [[32](#)]  
JAMES SALVEN/MV

RAYMOND ISLEIB/Atty. for dbt.  
JAMES SALVEN/Atty. for mv.

**Tentative Ruling**

**Motion:** Sell Property  
**Notice:** LBR 9014-1(f)(1); written opposition required  
**Disposition:** Granted  
**Order:** Prepared by moving party

**Property:** Vehicles

**Buyer:** Debtor

**Sale Price:**

-2002 PT Cruiser: \$3,725 (\$1,000 cash plus \$2,725 exemption credit)  
-1992 Dodge D-150 truck: \$1000 cash

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

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

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

2. [13-17712](#)-A-7 RUBEN OLVERA AND GLORIA MOTION TO EXTEND TIME TO FILE  
SAS-1 CHAVEZ OBJECTION TO GRANTING OF  
SHERYL STRAIN/MV DEBTORS' DISCHARGE  
3-11-14 [[20](#)]

THOMAS GILLIS/Atty. for dbt.  
SHERYL STRAIN/Atty. for mv.

**Final Ruling**

**Motion:** Extend Deadline for Objecting to Discharge under § 727(a)  
**Notice:** LBR 9014-1(f)(1); written opposition required  
**Disposition:** Granted  
**Order:** Prepared by moving party

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before

the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

A party in interest may bring a motion for an extension of the deadline for objecting to discharge under § 727, but the motion must be filed before the original time to object to discharge has expired. Fed. R. Bankr. P. 4004(b). The deadline may be extended for "cause." *Id.*

Based on the motion and supporting papers, the court finds that cause exists to extend the deadline for the trustee and any creditor or party in interest to object to discharge under § 727(a). This deadline to object to discharge will be extended through May 6, 2014.

3. [13-17712](#)-A-7 RUBEN OLVERA AND GLORIA MOTION TO CONVERT CASE FROM  
TOG-4 CHAVEZ CHAPTER 7 TO CHAPTER 13  
RUBEN OLVERA/MV 3-6-14 [[13](#)]  
THOMAS GILLIS/Atty. for dbt.  
RESPONSIVE PLEADING

**No tentative ruling.**

4. [13-13924](#)-A-7 BOGHOS/HELEN KRIKORIAN CONTINUED MOTION TO AVOID LIEN  
KDG-3 OF BETTY EGAN  
BOGHOS KRIKORIAN/MV 1-9-14 [[92](#)]  
BOGHOS KRIKORIAN/Atty. for mv.  
PENDING SETTLEMENT

**Final Ruling**

The court will continue the hearing on this matter to May 28, 2014, at 9:00 a.m. No later than May 14, 2014, the parties will file a joint status report.

5. [13-13924](#)-A-7 BOGHOS/HELEN KRIKORIAN OBJECTION TO DEBTOR'S CLAIM OF  
LDM-3 EXEMPTIONS  
BETTY EGAN/MV 1-30-14 [[98](#)]  
LARRY MILLER/Atty. for mv.  
PENDING SETTLEMENT

**Final Ruling**

**Objection:** Debtors' Claim of Exemptions

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

**Disposition:** Continued to May 28, 2014, at 9:00 a.m.

**Order:** Civil minute order

The court will continue the hearing on this matter to May 28, 2014, at 9:00 a.m. No later than May 14, 2014, the parties will file a joint status report.

6. [14-10627](#)-A-7 DAVID/ROSEMARY GUERRA CONTINUED ORDER TO SHOW CAUSE -  
FAILURE TO PAY FEES  
2-26-14 [[16](#)]

MARCIA RANDLE/Atty. for dbt.  
\$306 FILING FEE PAID

**No tentative ruling.**

7. [14-10230](#)-A-7 ARIEL CLEOFAS OBJECTION TO DEBTOR'S CLAIM OF  
EXEMPTIONS

JES-1  
JAMES SALVEN/MV  
3-4-14 [[13](#)]  
JAMES SALVEN/Atty. for mv.  
RESPONSIVE PLEADING

**Tentative Ruling**

**Objection:** Objection to Claim of Exemptions for Failure to File  
Spousal Waiver

**Disposition:** Overruled as moot

**Order:** Civil minute order

The debtor has claimed exemptions under section 703.140(b) of the California Code of Civil Procedure. The trustee objected to the debtor's claim of exemption because the debtor had not filed the required spousal waiver in writing of the right to claim the exemptions allowed under applicable provisions of Chapter 4 of Part 2, Title 9, Division 2 of the California Code of Civil Procedure other than the exemptions allowed under section 703.140(b). See Cal. Civ. Proc. Code §§ 703.140(a)(2), (b). However, the debtor filed the spousal waiver after the trustee's objection. The objection will be overruled as moot.

RICHARD BAMBL/Atty. for dbt.

### **Tentative Ruling**

**Motion:** Dismiss Case and Extend Deadlines

**Notice:** LBR 9014-1(f)(1); written opposition required or case dismissed without hearing

**Disposition:** If the trustee has had notice of the Notice of Hearing and Opposition to the Trustee's Motion filed by the debtor on March 20, 2014, then the court will rule as follows on the trustee's motion: "Conditionally denied in part, granted in part"

**Order:** Prepared by chapter 7 trustee

*If the trustee has had notice of the Notice of Hearing and Opposition to the Trustee's Motion filed by the debtor on March 20, 2014, then the court will rule as follows on the trustee's motion:*

The Chapter 7 trustee has filed a Motion to Dismiss for Failure to Appear at the § 341(a) Meeting of Creditors and Motion to Extend Deadlines for Filing Objections to Discharge. The debtor opposes the motion.

The court will conditionally deny the motion in part to the extent it requests dismissal of the case. The court will deny the motion to dismiss subject to the condition that the debtor attend the continued meeting of creditors. But if the debtor does not appear at the continued meeting of creditors, the case will be dismissed on the trustee's ex parte declaration.

The court will grant the motion in part to the extent it requests extension of certain deadlines. Such deadlines will be extended so that they run from the continued date of the § 341(a) meeting of creditors rather than the first date set for the meeting of creditors. The continued date of the meeting of creditors is April 25, 2014, at 8:30 a.m. The deadline for objecting to discharge under § 727 is extended to 60 days after this continued date. See Fed. R. Bankr. P. 4004(a). The deadline for bringing a motion to dismiss under § 707(b) or (c) for abuse, other than presumed abuse, is extended to 60 days after such date. See Fed. R. Bankr. P. 1017(e).

9. [12-11035](#)-A-7 MARIA LEMUS  
AGG-1  
MARIA LEMUS/MV

MOTION FOR ORDER CONFIRMING  
THAT ANY LOAN MODIFICATION  
GIVEN BY WELLS FARGO BANK WOULD  
NOT CONSTITUTE A VIOLATION OF  
THE DISCHARGE INJUNCTION  
3-18-14 [[29](#)]

ALBERT GARCIA/Atty. for dbt.

### **Tentative Ruling**

**Motion:** Approval of Mortgage Loan Modification in Chapter 7 Case

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

**Disposition:** Denied

**Order:** Civil minute order

The debtor requests declaratory relief that a mortgage loan modification entered into after the debtor's discharge will not violate the discharge injunction. The debtor states that the proposed loan modification with Wells Fargo Home Mortgage / Wells Fargo Bank ("Wells Fargo") is necessary so that Wells Fargo will give her the loan modification she seeks. The debtor did not, however, enter a reaffirmation agreement with Wells Fargo prior to the entry of her discharge.

Mortgage loan modifications made before the granting of a bankruptcy discharge are essentially reaffirmations to the extent that they affect a debtor's personal liability. See *In re Roderick*, 425 B.R. 556, 563-565 (Bankr. E.D. Cal. 2010). Unless the debt secured by a mortgage is nonrecourse, "[a] mortgage modified before the discharge preserves the personal liability of the debtor. A mortgage modified after the discharge is entered can only modify the terms under which the lien will be released." *Id.* at 565.

The Declaratory Judgment Act provides that federal courts may grant declaratory relief "whether or not further relief is or could be sought" but only if the relief is sought "[i]n a case of actual controversy within its jurisdiction." 28 U.S.C. § 2201(a). The Supreme Court has recognized the potential for declaratory relief to present a non-justiciable case that "fall[s] outside the constitutional definition of a 'case' in Article III." *Calderon v. Ashmus*, 523 U.S. 740, 746 (1998). A party may not seek declaratory relief that would constitute "an opinion advising what the law would be upon a hypothetical state of facts." *Id.* (quoting *Aetna Life Ins. Co. v. Haworth*, 300 U.S. 227, 241 (1937)).

Under constitutional-ripeness principles, therefore, courts must preclude "federal-court litigants from seeking by declaratory judgment to litigate a single issue in a dispute that must await another lawsuit for complete resolution." *Id.* at 748. "The issues presented must be definite and concrete, not hypothetical and abstract. Where a dispute hangs on future contingencies that may or may not occur, it may be too impermissibly speculative to present a justiciable controversy." *Educ. Credit Mgmt. Corp. v. Coleman (In re Coleman)*, 560 F.3d 1000, 1005 (9th Cir. 2009) (citations omitted) (internal quotation marks omitted). "The constitutional ripeness of a declaratory judgment action depends upon whether the facts alleged, under all the circumstances, show that there is a substantial controversy, between parties having adverse legal interests, of sufficient immediacy and reality to warrant the issuance of a declaratory judgment." *Id.* (quoting *United States v. Braren*, 338 F.3d 971, 975 (9th Cir. 2003) (internal quotation marks omitted)).

The debtor essentially seeks to decide the issue of whether (i) the debt owed to Wells Fargo has been discharged, and (ii) whether a loan modification would violate the discharge injunction. No facts have been presented showing whether the mortgage or deed of trust was recourse or non-recourse.

But even if the mortgage loan were recourse debt, so that the discharge eliminated the personal liability of the debtor, the debtor's motion seeks declaratory relief that the court cannot grant. No dispute appears to be actually present between the debtor and Wells Fargo about whether the discharge injunction would be violated by the proposed mortgage loan modification. This presents a question in the absence of a definite and concrete dispute. The question presented for resolution has many future contingencies before it would become an immediate, definite and concrete dispute. Such contingencies include whether the modification is effectuated and whether a proceeding to enforce the discharge violation is brought in response to such modification.

10. [14-11243](#)-A-7 KARINA CABRERA MOTION FOR WAIVER OF THE  
CHAPTER 7 FILING FEE OR OTHER  
FEE  
3-14-14 [[5](#)]  
KARINA CABRERA/MV  
KARINA CABRERA/Atty. for mv.

**No tentative ruling.**

11. [13-10545](#)-A-7 MICKMICHAEL/SOMICHT REYNA MOTION TO COMPEL ABANDONMENT  
ACW-1 3-13-14 [[41](#)]  
MICKMICHAEL REYNA/MV  
ANDY WARSHAW/Atty. for dbt.  
RESPONSIVE PLEADING

**Tentative Ruling**

**Motion:** Compel Abandonment of Property of the Estate

**Notice:** LBR 9014-1(f)(1); trustee has filed written opposition

**Disposition:** Granted in part, denied in part

**Order:** Prepared by moving party pursuant to the instructions below

**FACTS**

The debtors have moved to compel abandonment of two real properties and a number of items of personal property. The trustee has opposed the motion only to the extent it requests abandonment of the "the Texas Rental property."

The court reads the trustee's opposition to mean specifically that the trustee opposes any abandonment at this time of the real property located at 9550 Deering Street #307, Houston, Texas ("Deering property"). The trustee has not opposed an order compelling abandonment of the real property located at 6941 N. Lake Rd., Merced, California ("Merced property"), and the personal property described in the motion.

## **LEGAL STANDARDS**

Property of the estate may be abandoned under § 554 of the Bankruptcy Code if property of the estate is "burdensome to the estate or of inconsequential value and benefit to the estate." See 11 U.S.C. § 554(a)-(b). Upon request of a party in interest, the court may issue an order that the trustee abandon property of the estate if the statutory standards for abandonment are fulfilled.

## **ANALYSIS**

### Merced Property and Personal Property

The Merced property and all personal property described in the motion except for the business checking account (described below) is either burdensome to the estate or of inconsequential value to the estate. An order compelling abandonment of such property warranted.

### Deering Property

The trustee wishes to continue marketing the property until May 2014. The court does not intend to disturb the trustee's business judgment at this time, and will allow the property to be marketed until May 31, 2014. At such time, the trustee will file a Notice of Intent to Abandon the Deering property if he does not intend to sell it. The motion is denied without prejudice as to the abandonment of the Deering property.

### Business Checking Account

The debtors request an order compelling abandonment of a "business checking account" in addition to other bank accounts. Mot. at ¶ 24, ECF No. 41. The court does not find a business checking account on Schedules B and C, the contents of which the court takes judicial notice. Moreover, the motion only lists the balances of the checking account, savings account but not the business checking account. Accordingly, the motion is denied without prejudice as to abandonment of the business checking account.

## **INSTRUCTIONS FOR ORDER**

The order shall state that any exemptions claimed in the real or personal property abandoned may not be amended without leave of court given upon request made by motion noticed under Local Bankruptcy Rule 9014-1(f)(1).



12. [10-17858](#)-A-7 LLOYD/ALICE MORELOCK MOTION TO SELL  
JES-2 3-18-14 [[70](#)]  
JAMES SALVEN/MV  
GABRIEL WADDELL/Atty. for dbt.  
JAMES SALVEN/Atty. for mv.

**Final Ruling**

**Motion:** Sell Property

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

**Disposition:** Granted (but no compensation is awarded for the auctioneer because no request was included in this motion)

**Order:** Prepared by moving party

**Property:** Personal property described in the notice of hearing

**Sale Type:** Public auction

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

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

13. [13-17561](#)-A-7 STACY/SUSAN ATKINS CONTINUED MOTION AGAINST  
UST-1 MELODIE FURTADO FOR FINES AND  
TRACY DAVIS/MV PAYMENT TO DEBTORS  
2-6-14 [[28](#)]  
ROBIN TUBESING/Atty. for mv.  
DISMISSED

**Final Ruling**

The matter resolved by stipulation and order, the hearing is dropped as moot.

14. [11-12264](#)-A-7 GENEAL CHIMA  
WW-3  
GENEAL CHIMA/MV

MOTION TO DISMISS MOTION FOR  
SANCTIONS FOR VIOLATION OF THE  
AUTOMATIC STAY AND MOTION FOR  
SANCTIONS FOR VIOLATION OF THE  
DISCHARGE INJUNCTION  
3-14-14 [[197](#)]

JEFF REICH/Atty. for dbt.  
RESPONSIVE PLEADING

**No tentative ruling.**

15. [10-12470](#)-A-7 FRANK/MARIE SANCHEZ  
DRJ-1  
FRANK SANCHEZ/MV  
DAVID JENKINS/Atty. for dbt.

MOTION TO COMPEL ABANDONMENT  
4-2-14 [[94](#)]

**Tentative Ruling**

**Motion:** Compel Abandonment of Property of the Estate

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

**Disposition:** Granted only as to the business and such business assets  
described in the motion

**Order:** Prepared by moving party pursuant to the instructions below

**Business Description:** Sole proprietorship business that manufactures  
orthodontic devices

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

Property of the estate may be abandoned under § 554 of the Bankruptcy  
Code if property of the estate is "burdensome to the estate or of  
inconsequential value and benefit to the estate." See 11 U.S.C. §  
554(a)-(b); Fed. R. Bankr. P. 6007(b). Upon request of a party in  
interest, the court may issue an order that the trustee abandon  
property of the estate if the statutory standards for abandonment are  
fulfilled.

The business described above is either burdensome to the estate or of  
inconsequential value to the estate. An order compelling abandonment  
of such business is warranted.

The order will compel abandonment of the business and the assets of  
such business only to the extent described in the motion. The order  
shall state that any exemptions claimed in the abandoned business or  
the assets of such business may not be amended without leave of court  
given upon request made by motion noticed under Local Bankruptcy Rule  
9014-1(f)(1).

16. [10-15473](#)-A-7 ISAIAS/SANDY RASCON  
SL-4  
ISAIAS RASCON/MV  
SCOTT LYONS/Atty. for dbt.

MOTION TO AVOID LIEN OF  
DISCOVER BANK  
4-1-14 [[61](#)]

### **Tentative Ruling**

**Motion:** Avoid Lien that Impairs Exemption

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Liens Plus Exemption:** \$183,147.87

**Property Value:** \$130,000

**Judicial Lien Avoided:** \$9556.87

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

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of—(i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

The responding party's judicial lien, all other liens, and the exemption amount together exceed the property's value by an amount greater than or equal to the debt secured by the responding party's lien. As a result, the responding party's judicial lien will be avoided entirely.

17. [10-15473](#)-A-7 ISAIAS/SANDY RASCON  
SL-5  
ISAIAS RASCON/MV  
SCOTT LYONS/Atty. for dbt.

MOTION TO AVOID LIEN OF CREDIGY  
RECEIVABLES INC.  
4-1-14 [[66](#)]

### **Tentative Ruling**

**Motion:** Avoid Lien that Impairs Exemption

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Liens Plus Exemption:** \$2126.65

**Property Value:** \$130,000

**Judicial Lien Avoided:** \$2126.65

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

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of—(i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

The responding party's judicial lien, all other liens, and the exemption amount together exceed the property's value by an amount greater than or equal to the debt secured by the responding party's lien. As a result, the responding party's judicial lien will be avoided entirely.

18. [13-16682](#)-A-7 RICHARD/BARBARA GRENINGER MOTION TO SELL  
JES-2 3-19-14 [[22](#)]  
JAMES SALVEN/MV  
BRIAN HADDIX/Atty. for dbt.  
JAMES SALVEN/Atty. for mv.

**Final Ruling**

**Motion:** Sell Property

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

**Disposition:** Granted (but no compensation is awarded to the auctioneer because no request was included in this motion)

**Order:** Prepared by moving party

**Property:** 1975 Monark boat and 2000 Spencer trailer

**Sale Type:** Public auction

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

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

19. [13-16682](#)-A-7 RICHARD/BARBARA GRENINGER MOTION TO SELL  
JES-4 3-19-14 [[30](#)]  
JAMES SALVEN/MV  
BRIAN HADDIX/Atty. for dbt.  
JAMES SALVEN/Atty. for mv.

**Final Ruling**

**Motion:** Sell Property

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

**Disposition:** Granted (but no compensation is awarded to the auctioneer)

**Order:** Prepared by moving party

**Property:** 2007 Ford F-150

**Sale Type:** Public auction

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court

considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

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

20. [13-13989](#)-A-7 VALLEY WIDE LABOR MOTION TO SELL  
PFT-1 SERVICES, INC. 3-5-14 [[16](#)]  
PETER FEAR/MV  
HAGOP BEDOYAN/Atty. for dbt.  
PETER FEAR/Atty. for mv.

### **Tentative Ruling**

**Motion:** Sell Property

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Property:** 2006 Chevrolet Silverado 1500

**Buyer:** Debtor (but not to an undisclosed nominee who is not acting as an agent of the debtor to purchase the vehicle for the debtor)

**Sale Price:** \$3000

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

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

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

21. [13-15593](#)-A-7 ROBERT/LYNN KELLEY  
JES-1  
JAMES SALVEN/MV  
PETER BUNTING/Atty. for dbt.  
JAMES SALVEN/Atty. for mv.

MOTION TO SELL  
3-12-14 [[33](#)]

**Tentative Ruling**

**Motion:** Sell Property

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Property:** Vehicles

**Buyer:** Debtors

**Sale Price:**

-2005 Toyota CE Sedan: \$6798 (\$2000 cash plus \$2900 exemption credit and the sale is subject to lien securing a debt of \$1898)

-1989 Chevy pickup: \$500 cash

-1979 MG Midget: \$500 cash

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

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

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

22. [14-10893](#)-A-7 JERALD/ROXY SCHMIDT  
SBS-1  
JERALD SCHMIDT/MV  
STEVEN SIEVERS/Atty. for dbt.

MOTION TO COMPEL ABANDONMENT  
3-24-14 [[15](#)]

**Tentative Ruling**

**Motion:** Compel Abandonment of Property of the Estate

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

**Disposition:** Granted only as to the business and such business assets described in the motion

**Order:** Prepared by moving party pursuant to the instructions below

**Business Description:** Schmidt Tractor Repair

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the responding party is entered. The court considers the record,

accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Property of the estate may be abandoned under § 554 of the Bankruptcy Code if property of the estate is "burdensome to the estate or of inconsequential value and benefit to the estate." See 11 U.S.C. § 554(a)-(b); Fed. R. Bankr. P. 6007(b). Upon request of a party in interest, the court may issue an order that the trustee abandon property of the estate if the statutory standards for abandonment are fulfilled.

The business described above is either burdensome to the estate or of inconsequential value to the estate. An order compelling abandonment of such business is warranted.

The order will compel abandonment of the business and the assets of such business only to the extent described in the motion. The order shall state that any exemptions claimed in the abandoned business or the assets of such business may not be amended without leave of court given upon request made by motion noticed under Local Bankruptcy Rule 9014-1(f)(1).

23. [13-17594](#)-A-7 JOSE HERNANDEZ MOTION TO SELL  
TMT-1 3-7-14 [[23](#)]  
TRUDI MANFREDO/MV  
GEORGE LOGAN/Atty. for dbt.  
TRUDI MANFREDO/Atty. for mv.

### **Tentative Ruling**

**Motion:** Sell Property

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Property:** Vehicles

**Buyer:** Debtors

**Sale Price:**

-2003 Chevrolet Tahoe: \$7552 (\$4652 cash plus \$2900 exemption credit)

-1991 Buick Century: \$469 cash

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

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

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



will grant the motion. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

24. [14-11197](#)-A-7 LORENA OCHOA MOTION FOR WAIVER OF THE  
CHAPTER 7 FILING FEE OR OTHER  
LORENA OCHOA/MV FEE  
3-12-14 [[5](#)]  
RALPH AVILA/Atty. for dbt.

**No tentative ruling.**

25. [14-11199](#)-A-7 ROSA SILVA AND JOSE SILVA MOTION FOR WAIVER OF THE  
- AYALA CHAPTER 7 FILING FEE OR OTHER  
ROSA SILVA/MV FEE  
3-12-14 [[5](#)]  
RALPH AVILA/Atty. for dbt.

**No tentative ruling.**

26. [14-11299](#)-A-7 ELVIA ALMONTE MOTION TO EXTEND AUTOMATIC STAY  
EA-1 4-7-14 [[22](#)]  
ELVIA ALMONTE/MV  
ELVIA ALMONTE/Atty. for mv.

**Tentative Ruling**

**Motion:** Extend the Automatic Stay

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

**Disposition:** Granted except as to any creditor without proper notice of this motion

**Order:** Prepared by moving party pursuant to the instructions below

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

Upon request of a party in interest, the court may extend the automatic stay where the debtor has had one previous bankruptcy case that was pending within the 1-year period prior to the filing of the current bankruptcy case but was dismissed. See 11 U.S.C. § 362(c)(3)(B). Procedurally, the automatic stay may be extended only "after notice and a hearing *completed* before the expiration of the 30-day period" after the filing of the petition in the later case. *Id.* (emphasis added). To extend the stay, the court must find that the filing of the *later case* is in good faith as to the creditors to be stayed, and the extension of the stay may be made subject to conditions or limitations the court may impose. *Id.*

For the reasons stated in the motion and supporting papers, the court finds that the filing of the current case is in good faith as to the

creditors to be stayed. The motion will be granted except as to any creditor without proper notice of this motion.

If this case was filed under Chapter 13 of title 11, the court will extend the automatic stay subject to the condition that all plan payments are timely made to the Chapter 13 trustee for the next six months, and the order shall provide that (i) the debtor shall make such timely payments for the next six months to the Chapter 13 trustee, (ii) if the debtor fails to make any such monthly payment, the Chapter 13 trustee may file a certification of noncompliance with the order on this motion along with a proposed order, and (iii) upon the filing of such certification, the court may then dismiss the case without further notice or a hearing.

27. [14-11603](#)-A-7 RICHARD/JOANN BISHOP MOTION TO COMPEL ABANDONMENT  
MAZ-4 4-7-14 [[24](#)]  
RICHARD BISHOP/MV  
MARK ZIMMERMAN/Atty. for dbt.  
OST 4/8

#### **Tentative Ruling**

**Motion:** Compel Abandonment of Property of the Estate

**Notice:** LBR 9014-1(f)(3) and order shortening time; no written opposition required

**Disposition:** Granted only as to the business and such business assets described in the motion

**Order:** Prepared by moving party pursuant to the instructions below

**Business Description:** Richard Bishop General Contractor

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

Property of the estate may be abandoned under § 554 of the Bankruptcy Code if property of the estate is "burdensome to the estate or of inconsequential value and benefit to the estate." See 11 U.S.C. § 554(a)-(b); Fed. R. Bankr. P. 6007(b). Upon request of a party in interest, the court may issue an order that the trustee abandon property of the estate if the statutory standards for abandonment are fulfilled.

The business described above is either burdensome to the estate or of inconsequential value to the estate. An order compelling abandonment of such business is warranted.

The order will compel abandonment of the business and the assets of such business only to the extent described in the motion. The order shall state that any exemptions claimed in the abandoned business or the assets of such business may not be amended without leave of court given upon request made by motion noticed under Local Bankruptcy Rule 9014-1(f)(1).

28. [14-11468](#)-A-7 SUKHBIR/SUKIRAT BAINS  
RLF-1  
SUKHBIR BAINS/MV  
JEFF REICH/Atty. for dbt.  
OST 4/8

MOTION TO COMPEL ABANDONMENT  
4-7-14 [[12](#)]

### **Tentative Ruling**

**Motion:** Compel Abandonment of Property of the Estate

**Notice:** LBR 9014-1(f)(3) and order shortening time; no written opposition required

**Disposition:** Granted only as to the business and such business assets described in the motion

**Order:** Prepared by moving party pursuant to the instructions below

**Business Description:** Bains Motors, a business that purchases and sells motor vehicles

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

Property of the estate may be abandoned under § 554 of the Bankruptcy Code if property of the estate is "burdensome to the estate or of inconsequential value and benefit to the estate." See 11 U.S.C. § 554(a)-(b); Fed. R. Bankr. P. 6007(b). Upon request of a party in interest, the court may issue an order that the trustee abandon property of the estate if the statutory standards for abandonment are fulfilled.

The business described above is either burdensome to the estate or of inconsequential value to the estate. An order compelling abandonment of such business is warranted.

The order will compel abandonment of the business and the assets of such business only to the extent described in the motion. The order shall state that any exemptions claimed in the abandoned business or the assets of such business may not be amended without leave of court given upon request made by motion noticed under Local Bankruptcy Rule 9014-1(f)(1).

29. [14-11169](#)-A-7 ROBERT REYNOSO  
SL-1  
ROBERT REYNOSO/MV  
STEPHEN LABIAK/Atty. for dbt.  
OST 4/9  
NON-OPPOSITION

MOTION TO COMPEL ABANDONMENT  
4-9-14 [[23](#)]

### **Tentative Ruling**

**Motion:** Compel Abandonment of Property of the Estate

**Notice:** LBR 9014-1(f)(3) and order shortening time; no written opposition required

**Disposition:** Granted only as to the business and such business assets described in the motion

**Order:** Prepared by moving party pursuant to the instructions below

**Business Description:** Celebrity Image Limo

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

Property of the estate may be abandoned under § 554 of the Bankruptcy Code if property of the estate is "burdensome to the estate or of inconsequential value and benefit to the estate." See 11 U.S.C. § 554(a)-(b); Fed. R. Bankr. P. 6007(b). Upon request of a party in interest, the court may issue an order that the trustee abandon property of the estate if the statutory standards for abandonment are fulfilled.

The business described above is either burdensome to the estate or of inconsequential value to the estate. An order compelling abandonment of such business is warranted.

The order will compel abandonment of the business and the assets of such business only to the extent described in the motion. The order shall state that any exemptions claimed in the abandoned business or the assets of such business may not be amended without leave of court given upon request made by motion noticed under Local Bankruptcy Rule 9014-1(f)(1).

9:15 a.m.

1. [10-61605](#)-A-7 VINCENTE BERNABE  
[11-1016](#)  
ESPINOSA V. BERNABE  
BENJAMIN SIMINOU/Atty. for pl.  
RESPONSIVE PLEADING

CONTINUED STATUS CONFERENCE RE:  
AMENDED COMPLAINT  
11-7-12 [[91](#)]

### **Final Ruling**

In light of the parties' representation of settlement that needs to be memorialized, the status conference is continued to July 2, 2014, at 9:15 a.m. If a dismissal of action has not been entered, not later than 14 days prior to the continued hearing, the parties shall file a joint status report.

2. [10-61605](#)-A-7 VINCENTE BERNABE CONTINUED STATUS CONFERENCE RE:  
[11-1018](#) AMENDED COMPLAINT  
HALEY V. BERNABE 11-7-12 [[90](#)]  
BENJAMIN SIMINOU/Atty. for pl.  
RESPONSIVE PLEADING

**Final Ruling**

In light of the parties' representation of settlement that needs to be memorialized, the status conference is continued to July 2, 2014, at 9:15 a.m. If a dismissal of action has not been entered, not later than 14 days prior to the continued hearing, the parties shall file a joint status report.

3. [10-61605](#)-A-7 VINCENTE BERNABE CONTINUED STATUS CONFERENCE RE:  
[11-1019](#) AMENDED COMPLAINT  
STEVENS V. BERNABE 11-7-12 [[89](#)]  
BENJAMIN SIMINOU/Atty. for pl.  
RESPONSIVE PLEADING

**Final Ruling**

In light of the parties' representation of settlement that needs to be memorialized, the status conference is continued to July 2, 2014, at 9:15 a.m. If a dismissal of action has not been entered, not later than 14 days prior to the continued hearing, the parties shall file a joint status report.

4. [13-17411](#)-A-7 CARLOS FALCON, JR. STATUS CONFERENCE RE: COMPLAINT  
[14-1023](#) 2-15-14 [[1](#)]  
FALCON, JR. V. CITIBANK, N.A.  
DAVID JENKINS/Atty. for pl.  
NOTICE OF DISMISSAL

**Final Ruling**

The adversary proceeding dismissed, the status conference is concluded.

5. [13-17820](#)-A-7 ANDRE EDMONDS STATUS CONFERENCE RE: COMPLAINT  
[14-1019](#) 2-10-14 [[1](#)]  
EDMONDS V. VISALIA MEDICAL  
CLINIC  
STEPHEN LABIAK/Atty. for pl.  
RESPONSIVE PLEADING

**No tentative ruling.**

10:00 a.m.

1. [14-10202](#)-A-7 RENE RODRIGUEZ MOTION FOR RELIEF FROM  
PPR-1 AUTOMATIC STAY  
BANK OF AMERICA, N.A./MV 3-11-14 [[19](#)]  
SCOTT LYONS/Atty. for dbt.  
JEANNETTE MARSALA/Atty. for mv.

**Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Subject:** 1969 Weyrich Street, Tulare, California

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

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

2. [14-10407](#)-A-7 MATHEW/ELIZABETH BEJARANO MOTION FOR RELIEF FROM  
ASW-1 AUTOMATIC STAY  
SUNTRUST MORTGAGE, INC./MV 3-7-14 [[14](#)]  
KENNETH JORGENSEN/Atty. for dbt.  
JOELY BUI/Atty. for mv.

**Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Subject:** 4203 South University Street, Visalia, California

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

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

3. [12-11617](#)-A-7    NICHOLAS/JESSICA ESCOBEDO    MOTION FOR RELIEF FROM  
PD-1    AUTOMATIC STAY  
WELLS FARGO BANK, N.A./MV    3-3-14 [[58](#)]  
THOMAS ARMSTRONG/Atty. for dbt.  
JONATHAN CAHILL/Atty. for mv.

**Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Subject:** 7059 North Barcus Avenue, Fresno, California

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

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

4. [13-15922](#)-A-7 ANDRES/OFELIA MARTINEZ MOTION FOR RELIEF FROM  
KAZ-1 AUTOMATIC STAY  
CITIMORTGAGE, INC./MV 3-11-14 [[32](#)]  
GARY HUSS/Atty. for dbt.  
KRISTIN ZILBERSTEIN/Atty. for mv.  
DISCHARGED  
RESPONSIVE PLEADING

**No tentative ruling.**

5. [14-10722](#)-A-7 STEVEN/NICOLE FERNANDES MOTION FOR RELIEF FROM  
APN-1 AUTOMATIC STAY  
NISSAN - INFINITI, LT/MV 3-18-14 [[9](#)]  
MARIO LANGONE/Atty. for dbt.  
AUSTIN NAGEL/Atty. for mv.

**Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted in part, denied in part as to attorneys' fees and all other relief not specified in this ruling

**Order:** Prepared by moving party

**Subject:** 2013 Nissan Pathfinder

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

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

The debtors are obligated to make monthly payments to the moving party pursuant to a lease agreement by which the debtors lease the vehicle described above. The debtors have defaulted under such lease agreement with the moving party, and 1 postpetition payment and 3 prepetition payments are past due. The moving party's interest in the vehicle is not being adequately protected due to the debtors' postpetition default.

Therefore, cause exists to grant relief under § 362(d)(1). The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.



6. [14-10722](#)-A-7 STEVEN/NICOLE FERNANDES MOTION FOR RELIEF FROM  
APN-2 AUTOMATIC STAY  
NISSAN - INFINITI, LT/MV 3-18-14 [[15](#)]  
MARIO LANGONE/Atty. for dbt.  
AUSTIN NAGEL/Atty. for mv.

**Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted in part, denied in part as to attorneys' fees and all other relief not specified in this ruling

**Order:** Prepared by moving party

**Subject:** 2013 Infiniti G37

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

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

The debtors are obligated to make monthly payments to the moving party pursuant to a lease agreement by which the debtors lease the vehicle described above. The debtors have defaulted under such lease agreement with the moving party, and 1 postpetition payment and 3 prepetition payments are past due. The moving party's interest in the vehicle is not being adequately protected due to the debtors' postpetition default.

Therefore, cause exists to grant relief under § 362(d)(1). The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

7. [14-10732](#)-A-7 JESSE CANALES MOTION FOR RELIEF FROM  
EGS-1 AUTOMATIC STAY  
BAYVIEW LOAN SERVICING, LLC/MV 3-25-14 [[25](#)]  
EDWARD SCHLOSS/Atty. for mv.  
WITHDRAWN

**Final Ruling**

The case dismissed and the motion withdrawn, the matter is dropped as moot.

8. [14-10438](#)-A-7 MARIA DINIZ MOTION FOR RELIEF FROM  
SMK-1 AUTOMATIC STAY  
GREEN TREE SERVICING LLC/MV 3-7-14 [[32](#)]  
ALBERT GARCIA/Atty. for dbt.  
SHERI KANESAKA/Atty. for mv.

**Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Subject:** 1989 Fleetwood Sandalwood II M.H.

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

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

9. [14-10665](#)-A-7 CYNTHIA ARELLANO MOTION FOR RELIEF FROM  
MDE-1 AUTOMATIC STAY  
NATIONSTAR MORTGAGE LLC/MV 3-17-14 [[14](#)]  
TYSON TAKEUCHI/Atty. for dbt.  
MARK ESTLE/Atty. for mv.

**Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Subject:** 5430 East Heaton Avenue, Fresno, California

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

Section 362(d)(2) authorizes stay relief if the debtor lacks equity in the property and the property is not necessary to an effective reorganization. 11 U.S.C. § 362(d)(2). Chapter 7 is a mechanism for liquidation, not reorganization, and, therefore, property of the estate is never necessary for reorganization. *In re Casgul of Nevada, Inc.*, 22 B.R. 65, 66 (B.A.P. 9th Cir. 1982). In this case, the aggregate amount due all liens exceeds the value of the collateral and the debtor has no equity in the property. The motion will be granted, and Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

10. [14-11471](#)-A-7 DONNA NAVA MOTION FOR RELIEF FROM  
MET-1 AUTOMATIC STAY  
MILESPEED INVESTMENT, LLC/MV 4-1-14 [[14](#)]  
MARY TANG/Atty. for mv.  
DISMISSED

**Final Ruling**

The case dismissed, the matter is denied as moot.

11. [14-10886](#)-A-7 MARCOS RAMIREZ MOTION FOR RELIEF FROM  
RDN-1 AUTOMATIC STAY  
U.S. BANK TRUST, N.A./MV 3-14-14 [[16](#)]  
RANDALL NAIMAN/Atty. for mv.

**Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Subject:** 5270 East Grant Avenue, Fresno, California

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

Section 362(d)(1) authorizes stay relief for cause shown. Cause includes the debtor's pre-petition loss of real property by way of foreclosure. In this case, the debtor's interest in the property was extinguished prior to the petition date by a foreclosure sale. The motion will be granted. The moving party may take such actions as are authorized by applicable non-bankruptcy law, including prosecution of an unlawful detainer action (except for monetary damages), to obtain possession of the subject property. The motion will be granted, and Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

10:30 a.m.

1. [14-10600](#)-A-7 SHANE/CRYSTAL BOEWER PRO SE REAFFIRMATION AGREEMENT  
WITH CAPITAL ONE AUTO FINANCE  
3-31-14 [[15](#)]

No tentative ruling.

2. [13-17889](#)-A-7 NOEL/ROSALBA CORONEL PRO SE REAFFIRMATION AGREEMENT  
WITH BMW FINANCIAL SERVICES NA,  
LLC  
3-21-14 [[30](#)]

No tentative ruling.

11:00 a.m.

1. [11-12264](#)-A-7 GENEAL CHIMA CONTINUED MOTION FOR SANCTIONS  
WW-1 FOR VIOLATION OF THE AUTOMATIC  
GENEAL CHIMA/MV STAY AND/OR MOTION FOR  
SANCTIONS FOR VIOLATION OF THE  
DISCHARGE INJUNCTION  
7-11-13 [[122](#)]

JEFF REICH/Atty. for dbt.  
RESCHEDULED TO 5/28/14 BY  
ORDER

**Final Ruling**

Pursuant to an order entered March 17, 2014, ECF No. 203, the hearing is continued to May 28, 2014, at 9:00 a.m.

1:30 p.m.

1. [12-10503](#)-A-11 GAIL MOORE

NOTICE OF INTENT TO CLOSE  
CHAPTER 11 CASE  
2-21-14 [[370](#)]

T. BELDEN/Atty. for dbt.  
RESPONSIVE PLEADING

**Final Ruling**

This matter is continued to May 14, 2014, at 1:30 p.m. Not later than 14 days prior to the continued hearing, the debtor shall service notice of the continued hearing on all creditors and on the United States Trustee.

2. [10-12709](#)-A-11 ENNIS COMMERCIAL  
LRP-8 PROPERTIES, LLC  
DAVID STAPLETON/MV  
PETER FEAR/Atty. for dbt.  
JENNIFER BROOKS/Atty. for mv.

MOTION TO EMPLOY STAPLETON  
GROUP AS LEASING AGENT  
3-28-14 [[1188](#)]

**No tentative ruling.**

3. [10-12709](#)-A-11 ENNIS COMMERCIAL  
LRP-9 PROPERTIES, LLC  
DAVID STAPLETON/MV  
PETER FEAR/Atty. for dbt.  
JENNIFER BROOKS/Atty. for mv.

MOTION TO EMPLOY CUSHMAN AND  
WAKEFIELD PACIFIC AS BROKER(S)  
3-28-14 [[1194](#)]

**No tentative ruling.**

4. [10-62315](#)-A-11 BEN ENNIS  
LRP-12  
DAVID STAPLETON/MV  
RILEY WALTER/Atty. for dbt.  
MICHAEL GOMEZ/Atty. for mv.

MOTION TO EMPLOY PACCOM REALTY  
ADVISORS INC. AS BROKER(S)  
3-28-14 [[1458](#)]

**No tentative ruling.**

5. [10-62315](#)-A-11 BEN ENNIS  
LRP-15  
DAVID STAPLETON/MV  
RILEY WALTER/Atty. for dbt.  
MICHAEL GOMEZ/Atty. for mv.

MOTION TO EMPLOY THE STAPLETON  
GROUP AS LEASING AGENT  
3-28-14 [[1464](#)]

**No tentative ruling.**

6. [13-17136](#)-A-11 BHAVIKA'S PROPERTIES, CONTINUED MOTION TO VALUE  
EVN-7 LLC COLLATERAL OF CNA PROPERTIES  
BHAVIKA'S PROPERTIES, LLC/MV LLC AND/OR MOTION FOR ADEQUATE  
PROTECTION  
1-15-14 [[79](#)]

ELAINE NGUYEN/Atty. for dbt.  
HEARING CONTINUED TO 5/14/14  
BY ORDER

**Final Ruling**

Having been continued to May 14, 2014 at 1:30 p.m. by stipulation and order, this hearing is dropped as moot.

7. [13-17136](#)-A-11 BHAVIKA'S PROPERTIES, MOTION FOR COMPENSATION FOR  
EVN-8 LLC HIRAMATSU & ASSOCIATES, INC.,  
FINANCIAL ADVISOR(S).  
3-19-14 [[103](#)]

ELAINE NGUYEN/Atty. for dbt.  
RESPONSIVE PLEADING

**Tentative Ruling**

**Application:** Interim Compensation and Expense Reimbursement

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

**Disposition:** Approved

**Order:** Prepared by applicant

**Applicant:** Hiramatsu & Associates, Inc.

**Compensation approved:** \$10,840.00

**Costs approved:** \$0.00

**Aggregate fees and costs approved:** \$10,840.00

**Retainer held:** \$5,000.00

**Amount to be paid as administrative expense:** \$5,840.00

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by counsel for the debtor in possession in a Chapter 11 case and for "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis, providing that no payment may be made from funds that are the cash collateral of CNA Properties, without the consent of CNA or other order of this court. 11 U.S.C. § 363(c)(2),(e). Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure. The moving party is authorized to draw on any retainer held.

8. [13-17136](#)-A-11 BHAVIKA'S PROPERTIES, MOTION FOR COMPENSATION BY THE  
EVN-9 LLC LAW OFFICE OF WEINTRAUB &  
SELTH, APC FOR ELAINE V.  
NGUYEN, DEBTOR'S ATTORNEY(S).  
3-19-14 [[109](#)]

ELAINE NGUYEN/Atty. for dbt.  
RESPONSIVE PLEADING

### **Tentative Ruling**

**Application:** Interim Compensation and Expense Reimbursement

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

**Disposition:** Approved

**Order:** Prepared by applicant

**Applicant:** Weintraub & Selth, APC.

**Compensation approved:** \$41,685.00

**Costs approved:** \$1,419.96

**Aggregate fees and costs approved:** \$43,104.96

**Retainer held:** \$8,693.70

**Amount to be paid as administrative expense:** \$34,411.26

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by counsel for the debtor in possession in a Chapter 11 case and for "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis, providing that no payment may be made from funds that are the cash collateral of CNA Properties or the Small Business Administration without the consent of CNA or the Small Business Administration or other order of this court. 11 U.S.C. § 363(c)(2),(e). Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure. The moving party is authorized to draw on any retainer held.

9. [13-17444](#)-A-11 A & A TRANSPORT, CO., MOTION FOR COMPENSATION BY THE  
HAR-11 INC. LAW OFFICE OF MCCORMICK,  
HILTON RYDER/MV BARSTOW, SHEPPARD, WAYTE AND  
CARRUTH LLP FOR HILTON A.  
RYDER, DEBTOR'S ATTORNEY(S),  
FEE: \$8,437.50, EXPENSES:  
\$1,394.05  
3-13-14 [[70](#)]

HILTON RYDER/Atty. for dbt.

### **Final Ruling**

**Application:** Interim Compensation and Expense Reimbursement

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

**Disposition:** Approved

**Order:** Prepared by applicant

**Applicant:** McCormick, Barstow, Sheppard, Wayte & Carruth, LLP  
**Compensation approved:** \$8,437.50  
**Costs approved:** \$1,394.05  
**Aggregate fees and costs approved:** \$9,831.55  
**Retainer held:** \$21,335.99  
**Amount to be paid as administrative expense:** \$0.00

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

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by counsel for the debtor in possession in a Chapter 11 case and for "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on an interim basis. Such amounts shall be perfected, and may be adjusted, by a final application for compensation and expenses, which shall be filed prior to case closure. The moving party is authorized to draw on any retainer held.

10. [14-10851](#)-A-11 JOHN/BETTY VAN DYK

CHAPTER 11 STATUS CONFERENCE  
RE: VOLUNTARY PETITION  
2-25-14 [[1](#)]

RILEY WALTER/Atty. for dbt.

**No tentative ruling.**

11. [13-11766](#)-A-11 500 WHITE LANE LP

CONTINUED STATUS CONFERENCE RE:  
VOLUNTARY PETITION  
3-15-13 [[1](#)]

D. GARDNER/Atty. for dbt.

**No tentative ruling.**



12. [13-11766](#)-A-11 500 WHITE LANE LP  
DMG-10  
D. GARDNER/Atty. for dbt.  
RESPONSIVE PLEADING

CONTINUED CHAPTER 11 PLAN  
1-24-14 [[208](#)]

**Tentative Ruling**

**Motion:** Motion to Confirm "Debtor's Chapter 11 Plan of Reorganization Dated January 24, 2014 as Modified April 2, 2014"

**Notice:** Continued date of hearing

**Disposition:** Plan confirmed

**Order:** Prepared by plan proponent

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

Chapter 11 confirmation is governed by 11 U.S.C. §§ 1123 and 1129. The plan proponent bears the burden of producing evidence and of persuasion that, either (1) its plan of reorganization meets all of the confirmation requirements under § 1129(a), or (2) if only the requirement under § 1129(a)(8) is not met, the plan satisfies the "cram down" alternative under § 1129(b), which requires that the plan not "discriminate unfairly" against and is "fair and equitable" towards each impaired, rejecting class. *In re Ambanc La Mesa Limited Partnership*, 115 F.3d 650, 653 (9th Cir. 1997). For the standard of proof, the plan proponent bears the burden of proving the confirmation requirements by a preponderance of the evidence. *Id.*

Here, the court finds that the debtor has met the requirements for confirmation, including those under § 1129(a) (other than § 1129(a)(8)) and under § 1129(b) (by reason of satisfying the new value exception to the absolute priority rule), and the court will approve confirmation of the plan.

13. [13-11766](#)-A-11 500 WHITE LANE LP  
DMG-11  
500 WHITE LANE LP/MV

CONTINUED MOTION TO EMPLOY N12  
INVESTMENTS INC. AS BROKER(S)  
AND/OR MOTION FOR COMPENSATION  
FOR N12 INVESTMENTS INC.,  
BROKER(S), FEE: \$51,000.00,  
EXPENSES: \$0.00  
2-13-14 [[226](#)]

D. GARDNER/Atty. for dbt.  
RESPONSIVE PLEADING

**No tentative ruling.**

14. [14-11595](#)-A-11 RAY FISHER PHARMACY,  
AMK-1 INC.  
RAY FISHER PHARMACY, INC./MV  
ALAN KINDRED/Atty. for dbt.

CONTINUED MOTION TO USE CASH  
COLLATERAL  
3-31-14 [[5](#)]

**No tentative ruling.**

**3:00 p.m.**

1. [12-10802](#)-A-7 TERENCE MOORE  
[12-1135](#)  
MOORE V. MOORE

CONTINUED TRIAL RE: (67  
(DISCHARGEABILITY - 523(A)(4),  
FRAUD AS FIDUCIARY,  
EMBEZZLEMENT, LARCENY)), (14  
(RECOVERY OF MONEY/PROPERTY -  
OTHER))  
8-1-12 [[1](#)]

RANDOLF KRBECHER/Atty. for pl.

**No tentative ruling.**